



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: September 9, 2011
BOARD MEETING DATE: October 4, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jean S. Fraser, Chief, Health System
Susan Ehrlich, MD, MPP, Chief Executive Officer
San Mateo Medical Center

SUBJECT: Agreement with California Emergency Physicians Medical Group

RECOMMENDATION:

Adopt a Resolution authorizing the:

- A) President of the Board to execute an Agreement with California Emergency Physicians Medical Group to provide Emergency Medical Services and Correctional Health Services for the term July 1, 2011 through June 30, 2014, for a maximum obligation of \$12,270,000; and
- B) Chief of the Health System or designee to execute contract amendments which modify the County's maximum fiscal obligation by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions

BACKGROUND:

California Emergency Physicians Medical Group (CEP) has provided the physician and physician assistant staff for the Emergency Department (ED) at the San Mateo Medical Center (SMMC) for over twenty years and provides ED coverage at sixty four other California hospitals. This group offers the hospital the benefits of a large practice with diverse specialization and administrative support.

DISCUSSION:

SMMC conducted a Request for Proposals (RFP) in order to gauge the value proposition of the ED contract for the hospital and Correctional Health. CEP was selected as the provider of choice based upon performance metrics (quality of care) and competitive pricing.

CEP will continue to provide Board Certified ED physicians twenty-four hours a day, seven days a week. They will also provide coverage for the Health System's Correctional Health Division and have agreed to increase, over the prior contract,

overall ED coverage by augmenting the number of annual patient visits by an additional 3,911 ED visits, to a total of 40,776 patient visits per year (increasing from 101 to 112 ED visits per day). This is necessary to accommodate the increase in ED patient volume. In addition, CEP will continue to provide medical supervision for Psychiatric Emergency Services (PES) residents and restraint authority for PES patients in the absence of on-site psychiatry attending staff.

Delay in submission of this Agreement to the Board is the result of prolonged negotiations. This Agreement is listed on the Continuing Resolution.

The Agreement and Resolution have been reviewed and approved by County Counsel as to form. The Contractor’s insurance has been reviewed and approved by Risk Management.

The Contractor has assured compliance with the County’s Contractor Employee Jury Service Ordinance, as well as all other contract provisions that are required by County ordinance and administrative memoranda, including but not limited to insurance, hold harmless, non-discrimination and equal benefits.

This Agreement contributes to the Shared Vision 2025 outcome of a Healthy Community by providing ED services to residents of San Mateo County. It is anticipated that 100% of all ED services provided will adhere to the infection control standards as defined by the Joint Commission and Title 22 of the State of California Code of Regulations, which will result in reduced risk of healthcare-associated infections.

Performance Measure:

Measure	FY 2010-11 Actual	FY 2011-12 Projected
Reduce the risk of healthcare-associated infections and adhere to infection control standards as defined by Joint Commission, Title 22, and other applicable standards	100%	100%

FISCAL IMPACT:

The term of this Agreement is July 1, 2011 through June 30, 2014. The maximum fiscal obligation is \$12,270,000. This contract for SMMC ED services is \$526,488 less per year than the 2010-11 cost for ED and Urgent Care services and \$10,000 per year less for Correctional Health services. In addition, CEP will treat an additional 3,911 patients per year (valued at \$101 per visit) at no additional cost due to effective negotiations. Funds in the amount of \$209,000 are included in the Correctional Health FY 2011-12 Adopted Budget. Funds in the amount of \$3,881,000 are included in the SMMC FY 2011-12 Adopted Budget. Similar arrangements will be made for future budget years.

Expenses at SMMC are covered by fees for services or third-party payors whenever possible. The portion of expenses for services provided to the medically indigent or to those covered by programs that do not meet the full costs of care are covered by the County’s General Fund contribution to SMMC.

Request for Proposal Matrix

1.	General Description of RFP	<p>Correctional Health Services – Contractor to provide a physician, board certified in Emergency Medicine, to serve as onsite Medical Director to the Correctional Health Services (Jail). This Medical Director will provide administrative, clinical, and program support, and shall be a physician for the Correctional Center.</p> <p>Emergency Department (ED) Services - Contractor to provide emergency services in the SMMC Department of Surgery, Division of Emergency Services. ED shall be staffed 24 hours a day with physicians working a maximum of 12 hour shifts. The physicians assigned to SMMC shall be board certified in Emergency Medicine. Contractor staffing shall be consistent with the patient demand for services.</p>
2.	List key evaluation criteria	
3.	Where advertised	Internet
4.	In addition to any advertisement, list others to whom RFP was sent	<p>California Emergency Physicians Medical Group Concord Medical Group Dephi Healthcare Partners, Inc. EmCare Emergency Consultants Emergency Medicine Physicians Emergency Staffing Solutions ER-One Locum Tenens.Com Schumacher Group Sheridan Healthcare Staff Care Team Health</p>
5.	Total number sent to prospective proposers	13
6.	Number of proposals received	4

7.	Who evaluated the proposals	<p>C. J. Kunnappilly, MD, Chief Medical Officer Robert Lewis, Director, Payor/Provider Contracting John Thomas, Chief Operating Officer Susan Kole, Clinical Services Manager., Correctional Health Julie Griffiths, Clinical Services Manager, ED Steve Cummings, MD Diana Douglass, MD Sylvia Espinoza, MD Steve Hassid, MD Scott Oesterling, MD</p>
8.	In alphabetical order, names of proposers (or finalists, if applicable) and location	<p>California Emergency Physicians Medical Group 2100 Powell Street, Suite 920 Emeryville, CA 94608</p> <p>EmCare 850 S. Palafox St., Suite 101 Pensacola, FL 32502</p> <p>TeamHealth 265 Brookview Center Way, Suite 400 Knoxville, TN 37919</p> <p>LocumTenens.com 2655 Northwinds Parkway Alpharetta, GA 30009</p>

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION AUTHORIZING THE: A) PRESIDENT OF THE BOARD TO EXECUTE AN AGREEMENT WITH CALIFORNIA EMERGENCY PHYSICIANS MEDICAL GROUP TO PROVIDE EMERGENCY MEDICAL SERVICES AND CORRECTIONAL HEALTH SERVICES FOR THE TERM JULY 1, 2011 THROUGH JUNE 30, 2014, FOR A MAXIMUM FISCAL OBLIGATION OF \$12,270,000; AND B) CHIEF OF THE HEALTH SYSTEM OR DESIGNEE TO EXECUTE CONTRACT AMENDMENTS WHICH MODIFY THE COUNTY'S MAXIMUM FISCAL OBLIGATION BY NO MORE THAN \$25,000 (IN AGGREGATE), AND/OR MODIFY THE CONTRACT TERM AND/OR SERVICES SO LONG AS THE MODIFIED TERM OR SERVICES IS/ARE WITHIN THE CURRENT OR REVISED FISCAL PROVISIONS

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the County has a need for emergency medical and correctional health services; and

WHEREAS, the County and California Emergency Physicians Medical Group (CEP) wish to enter into an Agreement whereby CEP will provide such emergency medical and correctional health services for the term July 1, 2011 through June 30, 2014, for a maximum fiscal obligation of \$12,270,000; and

WHEREAS, this Board has been presented with a form of such Agreement and has examined and approved it as to both form and content and desires to enter into it.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the President of this

Board of Supervisors be and is hereby authorized and directed to execute said Agreement for and on behalf of the County of San Mateo, and the Clerk of the Board shall attest the President's signature thereto.

BE IT FURTHER RESOLVED that the Chief of the Health System or designee is authorized to execute contract amendments which modify the County's maximum fiscal obligation by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

* * * * *

**Professional Services Agreement
Between the County of San Mateo and
California Emergency Physicians Medical Group
For Emergency and Correctional Health Services**

THIS PROFESSIONAL SERVICES AGREEMENT is entered into by and between the County of San Mateo, San Mateo Health System (“County”) and California Emergency Physicians Medical Group (“Contractor”).

W I T N E S S E T H:

WHEREAS, County operates health care facilities collectively known as “San Mateo Medical Center” (SMMC); and

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of performing professional services described in this Agreement for SMMC; and

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

WHEREAS, Contractor desires to provide such services all upon the terms and conditions stated below, and this Agreement is entered into for the purpose of defining the parties’ respective rights and responsibilities.

NOW, THEREFORE, in consideration of the mutual agreements set out below, the parties agree as follows:

Section 1: Contractor’s Obligations

1.1 Organizational Status

A partnership, professional services corporation, or association duly organized and validly existing under the laws of the State of California and authorized to engage in the profession of emergency medicine in the State of California.

1.2 Contractor’s Representatives

1.2.1 The term “Contractor” shall include all Contractor’s representatives, employees, shareholders, partners, subcontractors, and agents providing services in San Mateo County under this Agreement; i.e., every member of a medical

group that contracts with the County shall be considered a “Contractor” for purposes of complying with this Agreement.

- 1.2.2 Where Contractor represents more than one individual, Contractor will designate a “Lead Contractor”. This Lead Contractor will be the contact person for the County when dealing with issues affecting both parties, including but not limited to enforcement of this Agreement, in cases where direct discussion with the contractor fails to adequately resolve this issue.

1.3 Qualifications

The following indicate qualifications that must be satisfied by each Contractor as a condition of providing services under this Agreement:

- 1.3.1 Must be accepted by the Chief Executive Officer of SMMC or his/her designee; said acceptance may be withdrawn immediately at any time with written notice to Contractor at the reasonable discretion of the Chief Executive Officer of SMMC, his/her designee, the County’s Chief, Health System, or his/her designee.
- 1.3.2 Shall at all times keep and maintain a valid license to engage in the practice of medicine in the State of California and active Medical Staff membership and/or privileges as may be required under the Bylaws of County for Contractor’s representatives to provide the services contemplated by this Agreement.
- 1.3.3 Contractor’s representatives shall be certified by the appropriate state-recognized board in California (or eligible for certification by such board by virtue of having successfully completed all educational and residency requirements required to sit for the board examinations).
- 1.3.4 Contractor is not currently excluded, debarred, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; nor has Contractor been convicted of a criminal offense.
- 1.3.5 Contractor agrees to participate in the County’s Organized Health Care Arrangement (OHCA), as described by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractors who choose to opt out of OHCA agree to advise the SMMC Medical Staff Office in writing and will provide their

own Notice of Privacy Practice (NPP).

1.4 Services to be Performed by Contractor

In consideration of the payments hereinafter set forth, Contractor, under the general direction of the Chief Executive Officer of SMMC or his/her designee, with respect to the product or results of Contractor's services, shall provide medical services as described in **EXHIBIT A**, attached hereto and incorporated by reference herein. Such services shall be provided in a professional and diligent manner.

1.5 Payments

1.5.1 Maximum Amount

In full consideration of Contractor's performance of the services described in **EXHIBIT A**, the amount that County shall pay for services rendered under this Agreement shall not exceed that specified in **EXHIBIT B**.

1.5.2 Rate of Payment

The rate and terms of payment shall be as specified in **EXHIBIT B**, attached hereto and incorporated herein. Any rate increase is subject to the approval of the Chief, Health System or his/her designee and shall not be binding on County unless so approved in writing. Each payment shall be conditioned on the Contractor's performance of the provisions of this Agreement, to the full satisfaction of the Chief, Health System, Chief Executive Officer of SMMC, or either of their designees.

1.5.3 Time Limit for Submitting Invoices

Contractor shall submit an invoice for services to County for payment in accordance with the provisions of **EXHIBIT B**. County shall not be obligated to pay Contractor for the services covered by any invoice if Contractor presents the invoice to County more than one hundred eighty (180) days after the date Contractor renders the services, or more than ninety (90) days after this Agreement terminates, whichever is earlier.

1.6 Substitutes

Contractor shall provide, at Contractor's sole cost and expense, a substitute for any Contractor who is unable to provide services

required under this Agreement. As a condition of providing services under this Agreement, any such substitute shall first be approved by the Chief Executive Officer of SMMC or his/her designee and shall otherwise satisfy all qualification requirements applicable to the Contractor, including but not limited to being covered under Contractor's insurance or submitting separate insurance issued by a company under such terms and limitations as County shall reasonably approve.

1.7 General Duties of Contractor

1.7.1 Administrative and Miscellaneous Duties and Responsibilities

Contractor will cooperate with the administration of the Medical Center. Such cooperation shall include but not be limited to the following: maintaining medical records in a timely fashion (including the appropriate use of dictation or other technology, as required by County), billing, peer review, and County's compliance programs. To the extent applicable, Contractor shall provide appropriate supervision and review of services rendered by physician assistants and other non-physicians involved in the direct medical care of County's patients.

1.7.2 Billing and Compliance

Contractor shall prepare such administrative and business records and reports related to the service in such format and upon such intervals as County shall reasonably require. Contractor agrees to keep accurate and complete records. To the extent that billing is discussed in more detail in Exhibits to this Agreement, Contractor shall comply with those billing-related requirements.

1.7.3 Compliance with Rules and Regulations

Contractor agrees to abide by rules, regulations, and guidelines of County. County may from time to time amend, add, or delete rules, regulations, or guidelines at County's sole discretion, and such amendment will not affect the enforceability or terms of this Agreement.

1.7.4 Managed Care Contracts

Contractor is obligated to participate in and observe the provisions of all managed care contracts which County may enter into on behalf of Contractor for health care services with

managed care organizations, including but not limited to Health Maintenance Organizations (HMOs), Independent Practice Associations (IPAs), Preferred Provider Organizations (PPOs), Medical Service Organizations (MSOs), Integrated Delivery Systems (IDSs), and Physician-Hospital Organizations (PHOs).

1.7.5 Requirement of Physician to Notify County of any Detrimental Professional Information or Violation of Contract Rules or Policies

During the term of this Agreement, Contractor shall notify County immediately, or as soon as is possible thereafter, in the event that:

- A. Contractor's license to practice in any jurisdiction is suspended, revoked, or otherwise restricted;
- B. A complaint or report concerning Contractor's competence or conduct is made to any state medical or professional licensing agency;
- C. Contractor's privileges at any hospital or health care facility or under any health care plan are denied, suspended, restricted, terminated, or under investigation for medical disciplinary cause or reason;
- D. Contractor's controlled substance registration certificate (issued by the Drug Enforcement Administration), if any, is being or has been suspended, revoked, or not renewed;
- E. Contractor's participation as a Medicare or Medi-Cal provider is under investigation or has been terminated;
- F. There is a material change in any of the information the Contractor has provided to County concerning Contractor's professional qualification or credentials; or
- G. Contractor is convicted of a crime.

Contractor must also notify County within thirty (30) days of any breach of this Agreement, of violation of any of County's rules or regulations, whether by others or by the Contractor himself/herself, or if the Contractor is subject to or a participant in any form of activity which could be characterized as

discrimination or harassment.

1.7.6 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 fewer than five (5) 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.

1.8 **Citizenship Duties of Contractor**

- A. Contractor will make all reasonable efforts to participate in coordination and optimization of services, including but not limited to participation in quality improvement and utilization management efforts.
- B. Contractor will make all reasonable efforts to communicate effectively and coordinate care and services with primary care providers, including but not limited to direct contact with individual providers where clinically indicated.
- C. Contractor will conduct himself/herself with professionalism at all times, which includes but is not limited to courteous and respectful conduct toward, and reasonable cooperation with, all County employees.
- D. To the extent that citizenship duties are discussed in more detail in Exhibits to this Agreement, Contractor shall comply with those additional duties and requirements.

1.9 **Provision of Records for County**

Contractor shall furnish any and all information, records, and other documents related to Contractor's services hereunder which County may reasonably request in furtherance of its quality assurance, utilization review, risk management, and any other plans and/or programs adopted by County to assess and improve the quality and efficiency of County's services. As reasonably requested, Contractor shall participate in one or more of such plans and/or programs.

1.10 **Cooperation with County in Maintaining Licenses**

Contractor shall assist County in obtaining, achieving, and/or maintaining any and all licenses, permits, other authorization, and/or accreditation standards which are dependent upon, or applicable to, in whole or in part, Contractor's services under this Agreement.

1.11 Contractor's Conflict of Interest

Contractor shall inform County of any other arrangements which may present a professional, financial, Stark Law, or any other state or federal conflict of interest or materially interfere in Contractor's performance of its duties under this Agreement. In the event Contractor pursues conduct which does, in fact, constitute a conflict of interest or which materially interferes with (or is reasonably anticipated to interfere with) Contractor's performance under this Agreement, County may exercise its rights and privileges under Section 3 below.

1.12 Non-Permitted Uses of County Premises

Contractor agrees not to use, or permit any of Contractor's representatives to use, any County facility or service for any purpose other than the performance of services under this Agreement. Without limiting the generality of the foregoing, Contractor agrees that no part of the premises of County shall be used at any time as an office for private practice or delivery of care for non-County patients.

1.13 No Contract in County Name

Contractor shall not have the right or authority to enter into any contract in the name of County or otherwise bind County in any way without the express written consent of County.

1.14 Regulatory Standards

Contractor shall perform all services under this Agreement in accordance with any and all regulatory and accreditation standards applicable to County and the relevant medical service, including, without limitation, those requirements imposed by the Joint Commission, the Medicare/Medi-Cal conditions of participation, and any amendments thereto.

1.15 Availability of Records for Inspection

As and to the extent required by law, upon written request of the Secretary of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, Contractor shall make

available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available for up to four (4) years after the rendering of such services. If Contractor carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, Contractor agrees to include this requirement in any such subcontract. This section is included pursuant to and is governed by the requirements of 42 U.S.C. Section 1395x(v)(1) and the regulations thereto. No attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by County, Contractor, or any Contractor's representative by virtue of this Agreement.

1.16 Professional Standards

Contractor shall perform his or her duties under this Agreement in accordance with the rules of ethics of the medical profession. Contractor shall also perform his/her duties under this Agreement in accordance with the appropriate standard of care for his/her medical profession and specialty.

Section 2: Change of Circumstances

In the event either (i) Medicare, Medi-Cal, or any third party payor or any federal, state, or local legislative or regulative authority adopts any law, rule, regulation, policy, procedure, or interpretation thereof which establishes a material change in the method or amount of reimbursement or payment for services under this Agreement; or (ii) any or all such payors/authorities impose requirements which require a material change in the manner of either party's operations under this Agreement and/or the costs related thereto; then, upon the request of either party materially affected by any such change in circumstances, the parties shall enter into good faith negotiations for the purpose of establishing such amendments or modifications as may be appropriate in order to accommodate the new requirements and change of circumstance while preserving the original intent of this Agreement to the greatest extent possible. If, after thirty (30) days of such negotiations, the parties are unable to reach an agreement as to how or whether this Agreement shall continue, then either party may terminate this Agreement upon thirty (30) days prior written notice.

Section 3: Term and Termination

3.1 Term

This Agreement shall commence on July 1, 2011, and shall continue for three (3) years. Unless terminated sooner, this Agreement shall expire and be of no further force and effect as of the end of business on June 30, 2014.

3.2 Extension of Term

The term of the Agreement may be extended by mutual written, signed agreement by both parties.

3.3 Termination

3.3.1 Termination

This agreement may be terminated by either party at any time upon ninety (90) days written notice to the County or the Contractor.

The County may immediately terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon (1) unavailability of Federal, State, or County funds or (2) closure of the County, SMMC, or the department of SMMC at which Contractor is to provide services, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding or closure.

3.3.2 Automatic Termination

This Agreement shall be immediately terminated as follows:

- A. Upon Contractor's loss, restriction, or suspension of his or her professional license to practice medicine in the State of California;
- B. Upon Contractor's suspension or exclusion from the Medicare or Medi-Cal Program;
- C. If the Contractor violates the State Medical Practice Act;
- D. If the Contractor's professional practice imminently jeopardizes the safety of patients;
- E. If Contractor is convicted of a crime;
- F. If Contractor violates ethical and professional codes of

conduct of the workplace as specified under state and federal law;

- G. Upon revocation, cancellation, suspension, or limitation of the Contractor's medical staff privileges at the County;
- H. If Contractor has a guardian or trustee of its person or estate appointed by a court of competent jurisdiction;
- I. If Contractor becomes disabled so as to be unable to perform the duties required by this Agreement;
- J. If Contractor fails to maintain professional liability insurance required by this Agreement;
- K. Upon County's loss of certification as a Medicare and/or Medi-Cal provider; or
- L. Upon the closure of the County, SMMC, or the medical service at SMMC in relation to which the Contractor is providing services.

3.3.3 Termination for Breach of Material Terms

Either party may terminate this Agreement at any time in the event the other party engages in an act or omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement shall provide the breaching party with no fewer than thirty (30) days advance written notice specifying the nature of the breach. The breaching party shall then have thirty (30) days from the date of the notice (or such longer period as is specified in the notice) in which to remedy the breach and conform its conduct to this Agreement. If such corrective action is not taken within the time specified, this Agreement shall terminate at the end of the notice and cure period (typically sixty (60) days) measured from the date of initial notice without further notice or demand. Upon breach of the terms of this Agreement by an individual contractor's representative, County shall have the option of withdrawing its acceptance of that individual contractor's representative, as described in Section 1.3.1, without terminating this Agreement. Upon withdrawal of acceptance, Contractor must replace said contractor representative as specified in Section 1.6 of this Agreement. Withdrawal of acceptance of an individual contractor's representative will not, of itself, constitute grounds

for termination of this Agreement by either party.

3.3.4 Patient Records Upon Termination and Notice to Patients

All original patient records shall be property of the County. Upon termination of this Agreement, Contractor shall return any such records as may be in Contractor's possession to County, subject to Contractor's right to copies of records.

Section 4: Insurance and Indemnification

4.1 Insurance

Contractor shall not commence work under this Agreement until all insurance required under this Section has been obtained and such insurance has been approved by the County. Contractor shall furnish County with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These Certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

4.1.1 Violation of This Section or Decrease/Cancellation of Coverage

In the event of either (1) violation of any provision of Section 4 of this Agreement or (2) receipt of notice by the County that any insurance coverage required under Section is will be diminished or cancelled, County at its option may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

4.1.2 Workers' Compensation and Employer Liability Insurance

Contractor shall have in effect during the entire life of this Agreement workers' compensation and employer liability insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to

undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

4.1.3 Liability Insurance

Contractor shall take out and maintain during the life of this Agreement such bodily injury liability and property damage liability insurance as shall protect him or her, while performing work covered by this Agreement, from any and all claims for property damage which may arise from Contractor's operations or actions under this Agreement, whether such operations/ actions are done by himself or herself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage coverage for each occurrence and shall not be less than the amount specified below.

Such insurance shall include:

- A. Comprehensive general liability insurance... \$1,000,000
- B. Motor vehicle liability insurance..... \$-0-
- C. Professional liability insurance..... \$1,000,000/
\$3,000,000

4.1.4 County Adjustment of Insurance Coverage

If this Agreement remains in effect more than one (1) year from the date of its original execution, County may, at its sole discretion, require an increase in the amount of liability insurance to the level then customary in similar County agreements by giving (60) days notice to Contractor.

Contractor must obtain such increased amount of coverage by the end of that notice period.

4.1.5 County as Certificate Holder

County and its officers, agents, employees, and servants shall be named as Certificate Holder on any such policies of general liability insurance. Such policies shall also contain a provision that the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess

insurance only. Said certificate(s) of insurance is (are) attached hereto.

4.2 Tail Coverage

If Contractor obtains one or more claims-made insurance policies to fulfill its obligations, Contractor will: (i) maintain coverage with the same company during the term of this Agreement and for at least three (3) years following termination of this Agreement; or (ii) purchase or provide coverage that assures protection against claims based on acts or omissions that occur during the period of this Agreement which are asserted after the claims-made insurance policy expired.

4.3 Hold Harmless

Contractor shall indemnify and hold harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description brought for or on account of: (i) injuries or death of any person, including Contractor; (ii) damage to any property of any kind whatsoever and to whomsoever belonging; (iii) any failure to withhold and/or pay to the government income and/or employment taxes from earnings under this agreement; (iv) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or (v) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damages for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of the Contractor to indemnify and save harmless as set forth herein shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

Contractor shall indemnify, defend, and hold County harmless from and against any and all claims for wages, salaries, benefits, taxes, and all other withholdings and charges payable to, or in respect to, Contractor's representatives for services provided under this Agreement.

Section 5: Miscellaneous Provisions

5.1 Notice Requirements

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below; and (2) either deposited in the United State mail, postage prepaid, certified or registered mail, return receipt requested -or- deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt, for transmittal, charges prepaid, addressed to the address below. In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

If to County: Chief Executive Officer
San Mateo Medical Center
222 W 39th Avenue
San Mateo, CA 94403
Facsimile: 650/573-2950

With Copy to: County Counsel's Office
400 County Center
Redwood City, CA 94063
Facsimile: 650/363-4034

If to Contractor: Mark Spiro, MD, Vice President of Operations
California Emergency Physicians
2100 Powell Street, Suite 920
Emeryville, CA 94608-1903
Facsimile: 510/879-9112

5.2 Merger Clause, Amendment, and Counterparts

This Agreement, including the Exhibits and Attachments 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, whether written or otherwise, are not binding. All subsequent modifications shall be in writing and signed by the parties.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.3 Partial Invalidity

In the event any provision of this Agreement is found to be legally invalid or unenforceable for any reason, the remaining provisions of the Agreement shall remain in full force and effect provided that the fundamental rights and obligations remain reasonably unaffected.

5.4 Assignment

Because this is a personal service contract, Contractor may not assign any of its rights or obligations hereunder without the prior written consent of County. County may assign this Agreement to any successor, to all or substantially all of County's operating assets, or to any affiliate of County. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

5.5 Independent Contractor

Contractor and all Contractor's representatives are performing services and duties under this Agreement as independent contractors and not as employees, agents, or partners of or joint ventures with County. County does retain responsibility for the performance of Contractor and Contractor's representatives as and to the extent required by law and the accreditation standards applicable to County. Such responsibility, however, is limited to establishing the goals and objectives for the service and requiring services to be rendered in a competent, efficient, and satisfactory manner in accordance with applicable standards and legal requirements. Contractor shall be responsible for determining the manner in which services are provided and ensuring that services are rendered in a manner consistent with the goals and objectives referenced in this Agreement.

5.6 Regulatory Requirements

The parties expressly agree that nothing contained in this Agreement shall require Contractor or Contractor's representatives to refer or admit any patients to or order any goods or services from County. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party will knowingly or intentionally conduct himself or herself in such a manner as to violate the prohibition against fraud

and abuse in connection with the Medicare and Medi-Cal programs.

5.7 Alternate Dispute Resolution and Venue

The parties firmly desire to resolve all disputes arising hereunder without resort to litigation in order to protect their respective reputations and the confidential nature of certain aspects of their relationship. Accordingly, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be mediated. If mediation is unsuccessful, the parties may take the dispute to Superior Court in San Mateo County.

5.8 Third Party Beneficiaries

This Agreement is entered into for the sole benefit of County and Contractor. Nothing contained herein or in the parties' course of dealings shall be construed as conferring any third party beneficiary status on any person or entity not a party to this Agreement, including, without limitation, any Contractor's representative.

5.9 Governing Law

This Agreement shall be governed by the laws of the State of California.

5.10 Non-Discrimination

Section 504. 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.

Contractor shall assure compliance with Section 504 of the Rehabilitation Act of 1973 by submitting as part of this Agreement a signed letter of assurance of compliance (EXHIBIT C) to this Agreement). Contractor shall be prepared to submit a self-evaluation and compliance plan to County upon request within one (1) year of the execution of this Agreement.

General Non-Discrimination. Contractor agrees that no person shall, on the grounds of race, color, religion, ancestry, gender, age, national origin, medical condition, 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.

Contractor shall comply with the County admission and treatment policies, which provide that patients are accepted for care without discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, age, handicap, or political affiliation.

Equal Employment Opportunity. Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.

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

- A. Termination of this Agreement;
- B. Disqualification of Contractor from bidding or being awarded a County contract for a period of up to three (3) years;
- C. Liquidated damages of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) per violation; and/or
- D. Imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of these paragraphs, the County Manager shall have the authority to:

- A. Examine Contractor's employment records with respect to compliance with this paragraph; and
- B. Offset all or any portion of the amount described in this paragraph against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

Within thirty (30) days, Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and

Housing Commission, or any other entity charged with the investigation of allegations, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notifications shall include the name of the complainant, a copy of such complaint, and description of the circumstance. Contractor shall provide County with a copy of its response to the complaint when filed/submitted.

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

Compliance with Federal Regulations. 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.

5.11 General Standards

Contractor shall maintain its operations in compliance with all applicable laws and rules relating to licensure and certification, including but not limited to: Title XXII of the California Administrative Code; those necessary to participate in the Medicare and Medi-Cal programs under Title VIII and Title XIX, respectively, of the Social Security Act; and those required by the Joint Commission. Contractor shall provide satisfactory evidence of such licenses and certificates. Contractor shall inform County of any notice of any incident within its operations which may affect any license or certification held by Contractor.

5.12 Confidentiality of Patient Information and Compliance With Laws

Contractor shall keep in strictest confidence and in compliance with all applicable state and federal laws any patient information. Contractor shall not disclose such information except as permitted by law.

All services to be performed by Contractor pursuant to this Agreement shall be performed (1) 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, as amended, 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 and, if applicable, (2) in compliance with the Business Associate requirements set forth in **Attachment H**, if attached hereto. 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.

5.13 Non-Disclosure of Names

Notwithstanding any other provision of this Agreement, names of patients receiving public social services hereunder are confidential and are to be protected from unauthorized disclosure in accordance with Title 42, Code of Federal Regulations, Section 431.300 *et seq.* and Section 14100.2 of the California Welfare and Institutions Code and regulations adopted thereunder.

For the purpose of this Agreement, all information, records, data, and data elements collected and maintained for the operation of the Agreement and pertaining to patients shall be protected by Contractor from unauthorized disclosure.

With respect to any identifiable information concerning a Medi-Cal patient that is obtained by Contractor, Contractor: (i) will not use any such information for any purpose other than carrying out the express terms of this Agreement; (ii) will promptly submit to California Department of Public Health (CDPH) and the applicable Medi-Cal plan all requests for disclosure of such information; (iii) will not disclose, except as otherwise specifically permitted by this Agreement, any such information to any party other than CDPH and the applicable Medi-Cal plan without prior written authorization specifying that the information is releasable under Title 42, CFR, Section 431.300 *et seq.*, under Section 14100.2 of the Welfare and Institutions Code and regulations adopted thereunder, or as ordered by a court or tribunal of competent jurisdiction; and (iv) will, at the expiration or termination of this Agreement, return all such information to CDPH and the applicable Medi-Cal Plan or maintain such information according to written procedures sent to health plan by CDPH and the applicable Medi-Cal plan for this purpose.

5.14 Disclosure of Records

Contractor agrees to provide upon reasonable notice to County, to any federal or state department having monitoring or reviewing authority, to County's authorized representatives, and/or to their appropriate audit agencies access to and the right to examine and audit all records and documents necessary to determine compliance with this Agreement, to determine compliance with relevant federal, state, and local statutes, ordinance, rules, and regulations, and to evaluate the quality, appropriateness, and timeliness of services performed under this Agreement. Contractor shall comply with all provisions of the Omnibus Budget Reconciliation Act of 1980 regarding access to books, documents, and records.

Without limiting the foregoing, Contractor shall maintain such records and provide such information to County and to government officials as may be necessary for compliance by County with all applicable provisions of all state and federal laws governing County. Upon request, County and government officials shall have access to and be given copies of, at reasonable times at the Contractor's place of business (or such other mutually agreeable location in California), the medical records, books, charts, business records, and papers relating to the Contractor's provision of health care services to patients, the cost of such services, payments received by the Contractor from patients (or from others on their behalf), and the financial condition of Contractor. Such records described herein shall be maintained at least four (4) years from the end of the contract term.

All records of Contractor shall be maintained in accordance with the general standards applicable to such book or record keeping and shall be maintained during any governmental audit or investigation.

5.15 Exhibits and Attachments

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

Exhibit A—Services
Exhibit B—Payments
Exhibit C—ED Performance Metrics
Exhibit E—Corporate Compliance SMMC Code of Conduct (Third Parties)

Attachment I—§ 504 Compliance

[Signatures on the following page]

IN WITNESS WHEREOF, County and Contractor have duly executed this Agreement as of the dates set out beneath their respective signatures.

CONTRACTOR:

(signature)

By: _____

Title: _____

Date: _____

COUNTY:

(signature)

By: _____

President, Board of Supervisors
County of San Mateo

Date: _____

Attest:

By: _____

Clerk of Said Board

EXHIBIT A

SERVICES

In consideration of the payments specified in **EXHIBIT B**, Contractor shall perform the services described below under the general direction of the San Mateo Medical Center (SMMC) Chief Medical Officer (CMO).

I. Correctional Health Services

Effective July 1, 2011 through June 30, 2014, Contractor will provide a physician, board-certified in Emergency Medicine, to serve as onsite Medical Director to the Correctional Health Services. This Medical Director will provide administrative, clinical, and program support, and shall be a physician for the Correctional Center and have, prior to the initiation of this contract, approval by the Correctional Health Services Manager and jail administration. The physician assigned as Medical Director for Correctional Health Services will be responsible for the following:

A. Administrative Responsibilities

1. Collaborate with all designated County managers to plan and further develop health care programs in the County's correctional facilities.
2. Review and approve policies and procedures in coordination with designated County managers, including nursing, physician, pharmacy, and ancillary services.
3. Review and approve standardized procedures for the nursing staff employed at the County's correctional facilities.
4. Supervise the medical aspects of the Quality Management Program.
5. Meet on a regular basis with the emergency physicians at SMMC and in Public Health to discuss common medical issues and perform peer review.
6. Participate in health education programs for inmates and staff.
7. Supervise the clinical practice of nurse practitioner(s) employed at the County's correctional facilities.
8. Arrange for peer review, at least quarterly. This review must be done by physicians not affiliated with Contractor, and using SMMC medical staff resources. Notice of this review will be submitted quarterly, in writing, to the SMMC Chief Medical Officer (CMO) or designee.
9. Review Correctional Health Services formulary annually, and attend, at

least quarterly, the Pharmacy and Therapeutics Committee meetings.

B. Clinical Activities

1. Responsible for clinical services in the County's correctional facilities.
2. Provide direct clinical services for inmates, including health history, physical assessment and treatment plans.
3. Assist the County managers with supervision and recruitment of contract physicians.
4. Provide medical consultative services to all Correctional Health clinical staff.
5. Review and co-sign standardized orders written in medical records by nursing staff.
6. Review cases with nurse practitioners on a scheduled basis each week.
7. Review, approve, and co-sign all consult requests.
8. Provide on-call service for telephone consultation between 8:00 a.m. and 9:00 p.m., Monday through Friday. In the absence of the onsite Medical Director, emergency physicians employed by Contractor at the SMMC ED will provide telephone consultation.
9. In conjunction with the Correctional Health Services Manager, the onsite Medical Director may negotiate a schedule. The schedule will include, on average, three (3) eight (8) hour days per week in which the Medical Director is on site.
10. Provide oversight to the self-medication program.
11. Monitor the care of inmates hospitalized at any outside hospital, ensure appropriate medical care, and facilitate return to custody when indicated.
12. Review and co-sign health appraisals done by nursing staff.

II. Emergency Department (ED) Services

- A. Contractor shall provide emergency services in the SMMC Department of Surgery, Division of Emergency Services. ED shall be staffed twenty-four (24) hours a day with physicians working a maximum of twelve (12) hour shifts. The staffing schedule for each month shall be posted in the SMMC ED prior to the beginning of each month. The physicians assigned to SMMC shall be board certified in

Emergency Medicine (American Board of Emergency Medicine).

To facilitate care of patients in the Department, Contractor may hire physician assistants or nurse practitioners in addition to the Contractor's physicians. Physician assistants and nurse practitioners shall be supervised at all times by a physician employed by the Contractor. Contractor shall comply with written guidelines, approved by County, that limit the scope of services performed by a physician assistant or nurse practitioner to those which may be performed permissibly by physician assistants and nurse practitioners. Contractor shall observe the requirement (except in emergencies) that patients be informed that medical services shall be rendered by physician assistants or nurse practitioners. Physician assistants and nurse practitioners shall apply to and be approved by the medical staff of SMMC before providing services under this Agreement, and shall comply with the medical staff bylaws and related hospital policies governing physician assistants. All salaries, wages, taxes, insurance, workers' compensation insurance, retirement and other fringe benefits, and expenses of any kind or character incident to their employment shall be, and remain, the responsibility and obligation of Contractor.

- B. Contractor shall participate in such teaching and/or training programs as are, or may be, established by the medical staff at SMMC. Each individual's participation in continuing education shall be documented and considered at the time of reappointment to the medical staff and/or renewal or revision of individual clinical privileges.
- C. Contractor shall fulfill those requirements for active staff membership set forth in Articles 3 and 4.2 of SMMC's Medical Staff Bylaws, Rules, and Regulations, and maintain such active staff status as a condition of this Agreement.
- D. Contractor shall attend regularly and serve, without additional compensation, on committees responsible for peer review activities, quality assurance, and utilization review as outlined in the Medical Staff Bylaws, Rules, and Regulations. Contractor shall participate in weekly utilization review of radiology services, laboratory services, and ambulance services, as requested by the SMMC CMO or designee.
- E. Contractor shall provide direct supervision of the Department of Emergency Services, assuring overall efficiency in day-to-day operations. Contractor shall serve as Chief of Emergency Services through appointment by the Medical Executive Committee (MEC). Contractor will select a Medical Director for operations and management of the ED. Chairman of the ED will be elected by the ED medical staff who may convey the wishes of the group on medical matters to the medical staff via MEC. The duties of the Medical Director shall include, but are not limited to, the following:
 - 1. Monthly meetings with the Chief Operating Officer (COO), and/or designee,

to discuss ongoing patient flow issues, standard of care, quality assurance initiatives, diagnostic imaging and other testing, utilization review, patient transfer criteria, patient grievances, maintenance of electronic medical records (EMRs), review charge description master (CDM), compliance, policy issues, productivity, and other topics, as appropriate.

2. Accountability for all professional and administrative activities within the Department.
 3. Ongoing monitoring of the professional performance of all individuals who have clinical privileges in the ED.
 4. Assure the quality and appropriateness of patient care provided within the ED is monitored daily and evaluated quarterly. This will be accomplished through the collection of information about key aspects of patient care provided by the ED, and about the clinical performance of its members, as reported to the Department of Surgery and MEC meetings.
 5. Respond in writing to issues raised by SMMC administration within a reasonable period of time commensurate with the nature of the issue. Where there is a serious question of quality assurance, a written response will be required within seven (7) days.
 6. Attend and/or delegate attendance at meetings in compliance with SMMC Medical Staff Bylaws, Rules, and Regulations.
 7. Be available by pager or telephone, or designate "on-call" alternative when necessary as determined by Contractor.
 8. Assist SMMC Administration in developing and updating departmental rules, polices and regulations.
 9. Complete Quality Assurance reports on a monthly basis through appropriate medical staff reporting channels.
- F. Contractor shall also provide other administrative services not directly related to the medical care of patients as mutually agreed to by Contractor and the SMMC, CEO, CMO or designee. Such administrative services may include, but are not limited to, teaching, administration, supervision of professional or technical staff, quality control activities, committee work, and attending conferences.
- G. Contractor will provide the following essential administrative services for its own personnel, and County shall have no responsibility for these matters or functions:
1. Recruiting of its own physicians, physician assistants, and nurse practitioners to ensure its ability to provide staff needed to comply with the

terms of this Agreement.

2. Medical Group credentialing.
 3. Orientation of clinical staff to clinical operations and use of the Emergency Department Information Systems (EDIS).
 4. Management of ED medical staff benefit programs (i.e. medical, dental, life and disability insurance; retirement benefits).
 5. Payroll and withholding taxes.
 6. Scheduling.
 7. Backup for sick call and vacation.
 8. Leadership training.
 9. Patient satisfaction surveys, in consultation with the SMMC COO and/or his designees.
- H. Provide medical staff administrative support to SMMC in meeting Surgical and Anesthesia Standards as defined by the Joint Commission, Title XXII, and other applicable standards.
- I. Respond to telephone calls from Correctional Health Services for telephonic and telemedicine evaluation and management of inmates on a full time basis – seven (7) days per week, twenty-four (24) hours per day.
- J. Respond to SMMC clinical laboratory, imaging and other ancillary services for the evaluation and management of critical laboratory, pathology, and imaging results for primary care patients between the hours of 1700 and 0900.
- K. Manage and stabilize cardiac arrest and other medical or surgical emergencies on the premises of SMMC in the absence of an available medical or surgical attending physician.
- L. Respond to telephone calls from commercial payor members regarding medical necessity.
- M. Provide medical supervision for Psychiatric Emergency Services (PES) post-graduate year one (PGY1) residents and restraint authority for PES patients in the absence of on-site psychiatry attending staff.
- N. Contractor will meet or exceed the following clinical metrics of service in the ED. These metrics are more fully described in Exhibit C to this Agreement and, to the

extent of any conflict between the description of the metrics in this Exhibit A and in Exhibit C, the text of Exhibit C shall control. The metrics will be measured daily and evaluated quarterly:

1. Patients who arrive at the SMMC ED and leave before being seen by a provider – Left Without Being Seen (LWBS) will average five percent (5%) or less for the first year, four percent (4%) or less for the second year and three percent (3%) or less for the third year measured during each quarter of each year of the contract.
2. The Patient Satisfaction Score will be in the top eightieth (80th) percentile at the end of each quarter or improve by 2.5% per quarter until the 80th percentile level is reached or exceeded.
3. Length of ED Patient Stay:
 - Discharge Home:
 - a. One hundred seventy (170) minutes or less from ED provider to discharge order.
 - To Admission Decision:
 - a. Two hundred fifty (250) minutes or less from ED provider to hospital admission decision by MD for the first year of the Agreement's term.
 - b. Two hundred thirty (230) minutes or less from ED provider to hospital admission decision by MD for the second year of the Agreement's term.
 - c. Two hundred ten (210) minutes or less from ED provider to hospital admission decision by MD for the third year of the Agreement's term.
4. Achievement of greater than ninety percent (90%) compliance with CMS and Joint Commission Core Measures that are related to ED physician ordering and provision of services.
5. Compliance with the ED provider portion of the sepsis screening protocols and resuscitation bundles of greater than ninety percent (90%).

EXHIBIT B

PAYMENTS

Correctional Health and Emergency Department (ED) Services

In consideration of the services provided by Contractor in EXHIBIT A, County will pay Contractor based on the following fee schedule:

1. Correctional Health

- A. For the period July 1, 2011 through June 30, 2014, Contractor shall invoice the County on a monthly basis at the rate of SEVENTEEN THOUSAND, FOUR HUNDRED AND SEVENTEEN DOLLARS (\$17,417) per month, not to exceed TWO HUNDRED NINE THOUSAND, FOUR DOLLARS (\$209,004) for each one year period of this three year Agreement.
- B. The Correctional Health Services Manager shall approve all invoices for payment. The physician assigned to Correctional Health shall be on site three (3) days per week for at least eight (8) hours each day and on call until 9:00 p.m., Monday through Friday. The monthly payments described in Paragraph I.A of Exhibit B to this Agreement shall also cover these on call services. At other times the SMMC ED physician on duty will, by telephone or by telemedicine imaging, manage the Correctional Health patients or direct the transfer of patients to the SMMC ED for further evaluation.

II. Emergency Department

- A. For the period July 1, 2011 through June 30, 2014, Contractor shall provide County with a minimum of one physician on duty in the ED at all times, twenty-four (24) hours per day, 365 days a year. Services include those described in EXHIBIT A, including telephone and telemedicine backup for Correctional Health, and meeting or exceeding the five (5) metrics outlined in Section N of EXHIBIT A, SERVICES. This Agreement is based on Contractor serving 40,776 SMMC ED patient visits per year or an average of 112 patient ED visits per day.
- B. Clinical ED services will be paid at the rate of TWO HUNDRED NINETY ONE THOUSAND SEVENTY FIVE DOLLARS (\$291,075) per month during each month of the term of the Agreement.

In order to ensure that Contractor meets SMMC quality standards set forth in Exhibit A, there will be a monthly withhold of ten percent (10%) of \$323,416 which is equal to THIRTY TWO THOUSAND THREE HUNDRED FORTY ONE DOLLARS (\$32,341) or \$97,023 per quarter. A maximum of NINETY SEVEN THOUSAND TWENTY THREE DOLLARS (\$97,023) will be paid to Contractor

each quarter, based evenly on the achievement of each of the five metrics listed in Section N of EXHIBIT A, which each metric being weighted equally.. Specifically, each quarter, for each metric achieved, Contractor will be paid NINETEEN THOUSAND FOUR HUNDRED FOUR DOLLARS AND SIXTY CENTS (\$19,404.60). The metric listed in Exhibit A, Section II, Letter N, Item Number 3, Length of Stay, has two component parts and each component that is met shall entitle Contractor to be paid at one-half of the amount allocated to the full value of the metric (i.e., \$9,702.30 per component part).

- C. Contractor compensation under this Agreement will be based on an average daily visit value of 112 visits (patients seen) for a projected volume of 40,776 patient visits per annum. If the contract terms of service are amended such that the current numbers in this EXHIBIT B are changed, the projected patient visit volume and corresponding compensation shall be adjusted accordingly.

The average monthly visits for the ED (based on 40,776 annual visits) will be evaluated in January and July of each contract year. If the overall volume for the six (6) months of any contract year preceding each evaluation is greater than 22,427 visits, which represents a projected ten percent (10%) increase in annual volume*, the compensation metric will be reviewed, discussed, and increased, if appropriate, by the Chief Medical Officer, to reflect the proportional variation between the total semi-annual visits and projected semi-annual volume of 20,388 visits at \$95.18 per visit. For the purposes of this Agreement, each six (6) month period shall be defined as July 1 through December 31 and January 1 through June 30 for each period from July 1, 2011 through June 30, 2014. If the overall annual volume in any year during the Agreement is greater than 44,854 visits, which represents a ten percent (10%) increase in annual volume, the compensation metric will be reviewed, discussed and increased, if appropriate, by the Chief Medical Officer to reflect the proportional variation between the total annual visits and the projected volume of 40,776 visits at \$95.18 per visit, less any additional volume payments made for the first six (6) months of that contract year. For the purposes of this Agreement, each year period shall be defined as July 1, through June 30 for each period from July 1, 2011 through June 30, 2014.

To illustrate this volume baseline calculation, if the baseline number of visits is 40,776, a ten percent (10%) increase would equal 44,854 annual visits. Therefore, if Contractor is at or above 22,427 ED visits at the end of the first six (6) months, Contractor would get an incentive payment equal to actual volume minus 20,388 times \$95.18.

If Contractor ED visits are below 22,427 visits at the end of the six (6) month period, no additional payment is made.

If at the end of each one year period of the Agreement's term, visit volume is above the total of 44,854 visits, Contractor would get actual visit volume minus

40,776 times \$95.18, minus any volume-related payment made at the half yearly point (i.e. December 31). If Contractor ED visits are below 44,854 at the end of each year, no additional payment is forthcoming (although any prior payment remitted in the first six (6) months is not taken back).

*NOTE: Each six (6) month period is defined as July 1 – December 31 and January 1 – June 30 for each period from July 1, 2011 through June 30, 2014.

- D. In full consideration of Contractor's performance of the services described in EXHIBIT A and EXHIBIT C, the amount that County shall be obligated to pay for services rendered under this Agreement shall not exceed TWELVE MILLION TWO HUNDRED SEVENTY THOUSAND DOLLARS (\$12,270,000) for the Agreement term July 1, 2011 through June 30, 2014.

EXHIBIT C

PERFORMANCE METRICS

- A. Both County and Contractor acknowledge the need for a partial withhold reimbursement model based on mutually acceptable units of measurement. As discussed in Exhibits A and B to this Agreement, amounts withheld will be paid quarterly on the basis of the following metrics:
1. Patients who arrive at the SMMC ED and leave before being seen by a provider (LWBS) will average:
 - a. Year one, five percent (5%) or less for the quarter.
 - b. Year two, four percent (4%) or less for the quarter.
 - c. Year three, three percent (3%) or less for the quarter.
 2. The Patient Satisfaction score from Press Ganey will be in the top eightieth percentile (80th) of the scores reported by the SMMC tool, measuring patient satisfaction, focused on the physician/physician assistant provider. If, however, the Press Ganey score is below the 80th percentile, Contractor will nevertheless be deemed to have satisfied this metric if Contractor shows at least a two and one-half percent (2.5%) improvement over the prior quarterly score.
 3. Length of Stay:

Discharge Home:

 - a. 170 minutes or less from ED provider to disposition (sign off) for discharge.

To Admission Decision:

 - a. 250 minutes or less from ED provider to hospital admission, for year one.
 - b. 230 minutes or less from ED provider to hospital admission, for year two.
 - c. 210 minutes or less from ED provider to hospital admission, for year three.
 4. Achievement of greater than 90% compliance with CMS and Joint Commission Core Measures that are related to ED physician ordering and provision of services.

5. Compliance with the provider portion of the SMMC sepsis screening protocols and resuscitation bundles of greater than ninety percent (90%).

Contractor will provide the SMMC CMO or designee with the ED provider data for initiated measures (Items 1-5 above) from the PICIS data system within two weeks after the start of each subsequent quarter.

Compliance is measured by meeting or exceeding each of the metrics listed in Exhibit A, Section N.

Contractor will receive earned income up to NINETY SEVEN THOUSAND TWENTY THREE DOLLARS (\$97,023) for meeting or exceeding all metrics each quarter. Each metric is valued at \$19,404.60 per each quarter.

- B. Both the County and Contractor acknowledge Contractor cannot achieve metrics detailed in Section A of this EXHIBIT C, without assistance and cooperation from the County and at times there are conditions present the Contractor has no control over. Therefore, the County must meet the following operational conditions, and failure to do so will have the consequences describe below:
 1. The SMMC ED space will be under construction for renovation during the first two quarters of the term of this Agreement (July 1, 2011 to December 31, 2011). Due to the disruption that the parties agree may occur, all portions of the withhold related to operational efficiency (specifically, EXHIBIT C, Section A, metrics 1 through 3) for Quarter One and Quarter Two of the first year of the Agreement will be paid to Contractor (equivalent to a maximum of \$116,427.60). Metrics 4 and 5 from Exhibit C, Section A, related to quality of care, remain in place.
 2. Laboratory testing for troponin, CBC with automated differential, lactate and basic metabolic panel from time of order to result will not exceed an 80 minute turn around time for STAT orders, and this standard will be met at least 85% of the time. There will be easy access to data regarding compliance with this condition on a quarterly basis by both County and Contractor.
 3. County is responsible for providing nursing staffing in the ED This metric will be calculated by counting the number of ED shifts not adequately staffed due to insufficient nurse staffing in the ED. For purposes of this Agreement, an ED shift shall be deemed "inadequately staffed" if any nurse scheduled to work that ED shift fails to report for work during the shift in question. If the statistics gathered for the quarter in question establish that more than fifteen percent of the ED shifts during that quarter were inadequately staffed, the County will have failed to comply with this operational condition during such quarter.

4. County will implement an ED registration policy. The ED registration process (registration initiation to Triage initiation) will not exceed an average of fifteen (15) minutes in duration for ninety percent (90%) of the patients registered. .

5. In the event that the County fails to meet any of the conditions listed in Subsections B.2. through B.4 of this Exhibit C during any quarterly period during the term of this Agreement, Contractor shall be entitled to receive one third of the withhold amount for that quarter for each condition that the County fails to achieve during that quarter. Thus, the amount that Contractor receives in payments from the withhold amount in each quarter may be affected by Contractor's meeting or failing to meet the metrics described in Section A of this Exhibit C to the Agreement, as well as County's ability or inability to meet conditions set forth in Section B of this Exhibit C to the Agreement. . By way of example, the calculation of the amount to be paid to Contractor out of the withhold amount each quarter would follow this logic: If Contractor fails to achieve 2 out of 5 metrics, Contractor shall be entitled to receive 60% of quarterly withhold (20% times the three metrics achieved). If, however, in the same quarter, the County fails to achieve one of its three conditions, Contractor shall be entitled to receive an additional amount equal to one third of the withhold amount (i.e., 33.3% times the one condition missed). $60\% \text{ of } \$97,023 = \$58,213.80$, plus $33.33\% \text{ of } \$97,023 = \$32,337.77$ for a total incentive payment out of the withhold of $\$90,551.57$. However, under no circumstances shall Contractor ever receive during a quarter any amount greater than the total quarterly withhold amount of $\$97,023$.

EXHIBIT E

CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

The person/entity listed below (the "Undersigned") recognizes and is fully dedicated to advancing SMMC's commitment to full compliance with all Federal, State, and other governmental health care program requirements, including its commitment to prepare and submit accurate claims consistent with such requirements.

The Undersigned will comply with all Federal, State or other governmental health care program requirements and with SMMC's policies and procedures relating to SMMC's Corporate Compliance Program, including the requirements set forth in the Corporate Integrity Agreement (CIA) to which SMMC is a party (available online at http://oig.hhs.gov/fraud/cia/agreements/the_county_of_san_mateo_03062009.pdf).

The Undersigned, to the extent its contractual duties require it to submit the reports covered in this paragraph, will promptly submit accurate information for Federal health care cost reports including, but not limited to, the requirement to submit accurate information regarding acute available bed count for Disproportionate Share Hospital (DSH) payment.

The Undersigned will report to the SMMC Compliance Officer any suspected violation of any Federal health care program requirements or of SMMC's Compliance Program policies and procedures.

The Undersigned has the right to use the SMMC Disclosure Program by calling the Compliance Hotline or reporting incidents to the Compliance Officer. SMMC is committed to non-retaliation and will maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

The Undersigned understands that non-compliance with Federal health care program requirements and SMMC's Compliance Program policies and procedures, and failing to report such violations, could result in termination of the Agreement and/or any other penalties permitted by law.

The Undersigned is responsible for acquiring sufficient knowledge to recognize potential compliance issues applicable to the duties outlined in the Agreement and for appropriately seeking advice regarding such issues.

The Undersigned will not offer, give or accept any bribe, payment, gift, or thing of value to any person or entity with whom SMMC has or is seeking any business or regulatory relationship in relation to said business or regulatory relationship (other than payments authorized by law under such relationships). The Undersigned will promptly report the offering or receipt of such gifts to the SMMC Compliance Officer.

The Undersigned will not engage in any financial, business, or other activity which competes with SMMC/County business which may interfere or appear to interfere with the performance of the duties under the Agreement or that involve the use of SMMC/County property,

facilities, or resources, except to the extent consistent with the SMMC/County Incompatible Activities and Outside Employment policy and the Agreement.

The Undersigned will cooperate fully and honestly with internal audits and monitoring programs to help assure that SMMC's compliance is maintained with all applicable federal/state regulations, the Joint Commission standards, and hospital system-wide policies.

TO REPORT VIOLATIONS, CALL THE COMPLIANCE HOT LINE: (800) 965-9775

The Undersigned hereby certifies by signing below that an authorized representative has received this Code of Conduct, understands it, has authority to commit the Undersigned to this Code of Conduct, and hereby commits the Undersigned to comply with this Code of Conduct.

Name of Person/Entity (the "Undersigned")

Signature and Printed Name

Date