



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: October 3, 2011
BOARD MEETING DATE: November 1, 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 San Mateo Multispecialty Physicians

RECOMMENDATION:

Adopt a Resolution authorizing the:

- A) President of the Board to execute an Agreement with San Mateo Multispecialty Physicians to provide internal medicine, cardiology, subspecialty and hospitalist services for the term October 1, 2011 through September 30, 2014, for a maximum obligation of \$14,527,923; 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:

San Mateo Multispecialty Physicians (SMMP), formerly Associated Medical Specialists (AMS) has provided inpatient and outpatient internal medicine services and the management and supervision of those services at San Mateo Medical Center (SMMC) since 1975. Previous agreements with this provider were negotiated using a fee-for-service payment model based primarily on Relative Based Resource Value Work Units (Work RVUs) with significant provisions for bonuses. This model was changed to a model that provided physician compensation based on regional benchmarks and included adjustments for benefits provided by SMMP to its employees. The current agreement with SMMP which expired September 30, 2011, continued this model but restructured the types of services provided by adding more hospitalists and subspecialists.

DISCUSSION:

This new Agreement is based on performance metrics and productivity with

compensation withholds to focus care on quality metrics. SMMP will provide services at an even greater level of accountability than in previous agreements. This Agreement restructures the types of services provided by converting moonlighters to hospitalists and further defining hours for nurse practitioner support. The amount of compensation SMMP will receive is directly related to how well the performance metrics are met. The performance measures are tied to compliance in such areas as use of the San Mateo County Mental Assessment and Referral Team (SMART) referral system, Electrocardiogram (EKG's) being read electronically, sepsis screening protocols and Medi-Cal access patient requirements.

A longer than expected negotiation process delayed submission of this Agreement. County Administrative Memorandum B-1 provides that contracts for physicians are exempt from the Request for Proposals process.

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 access to internal medicine, subspecialty and hospitalist services to residents of San Mateo County. It is anticipated that 100% of all medical 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 October 1, 2011 through September 30, 2014. The maximum fiscal obligation is \$14,527,923. Funds in the amount of \$3,631,981 are included in the SMMC FY 2011-12 Adopted Budget and \$4,842,641 will be included in the SMMC FY 2012-13 Recommended 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.

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 SAN MATEO MULTISPECIALTY PHYSICIANS TO PROVIDE INTERNAL MEDICINE, CARDIOLOGY, SUBSPECIALTY AND HOSPITALIST SERVICES FOR THE TERM OCTOBER 1, 2011 THROUGH SEPTEMBER 30, 2014, FOR A MAXIMUM OBLIGATION OF \$14,527,923; 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 of San Mateo has a continuing need for internal medicine, cardiology, subspecialty and hospitalist services; and

WHEREAS, the County and San Mateo Multispecialty Physicians (SMMP) wish to enter into an Agreement whereby SMMP will provide such services for the term October 1, 2011 through September 30, 2014, for a maximum fiscal obligation of \$14,527,923; 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
San Mateo Multispecialty Physicians
For Internal Medicine, Cardiology and Hospitalist Services**

THIS PROFESSIONAL SERVICES AGREEMENT is entered into by and between the County of San Mateo, San Mateo Health System (“County”) and San Mateo Multispecialty Physicians (“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

Contractor represents and warrants that Contractor is:

A partnership, professional services corporation, or association duly organized and validly existing under the laws of the State of California and that the physicians providing services at SMMC pursuant to this Agreement shall be duly licensed, certified, accredited or otherwise duly authorized to practice internal medicine, cardiology, and hospitalist services 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 the requirements set forth below and 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

Each party who is a Contractor under this Agreement 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, completing time studies as required by California and Federal reimbursement regulations, 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, each party defined as a Contractor under this Agreement 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 October 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 September 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 By County

This agreement may be terminated by County at any time upon ninety (90) days written notice to 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 provided, however, that if any individual defined as a Contractor under this Agreement suffers such a loss, restriction or suspension of his or her professional license, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;
- B. Upon Contractor's suspension or exclusion from the

Medicare or Medi-Cal Program provided, however, that if any individual defined as a Contractor under this Agreement is suspended or excluded from the Medicare or Medi-Cal Program, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;

- C. If the Contractor violates the State Medical Practice Act provided, however, that if any individual defined as a Contractor under this Agreement violates the State Medical Practice Act, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;
- D. If the Contractor's professional practice imminently jeopardizes the safety of patients provided, however, that if the professional practice of any individual defined as a Contractor under this Agreement imminently jeopardizes the safety of patients, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;
- E. If Contractor is convicted of a crime that, in the judgment of the County, affects Contractor's ability to provide the services set forth in the Agreement, and provided, however, that if any individual defined as a Contractor under this Agreement is convicted of such a crime, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;
- F. If Contractor violates ethical and professional codes of conduct of the workplace as specified under state and federal law provided, however, that if the conduct of any individual defined as a Contractor under this Agreement violates any ethical or professional codes of conduct of the workplace, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;
- G. Upon revocation, cancellation, suspension, or limitation of the Contractor's medical staff privileges at the County

provided, however, that if the medical staff privileges of any individual defined as a Contractor under this Agreement are revoked, cancelled, or suspended, the County may, at its discretion, terminate the Agreement as to that individual Contractor while allowing the remainder of the Agreement to remain in effect;

- 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 bodily injury liability or 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: San Mateo Multispecialty Physicians
222 W. 39th Avenue
San Mateo, CA 94403

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 (Attachment I 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—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
San Mateo County

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 SMMC Chief Medical Officer.

- I. Provide professional internal medicine, non-invasive cardiology and hospitalist services in the SMMC's Division of Internal Medicine, Department of Medicine, including Inpatient, ambulatory and emergency care. Contractor shall provide physician full time equivalents (FTEs) in the specialties and quantities as listed below:

PHYSICIAN SPECIALTY	FTE
Cardiology – non invasive	2.0
Pulmonology	1.0
Gastroenterology	1.4
Oncology	1.5
Hospitalist	4.5
Endocrinology	.5
Rheumatology	1.0
Total	11.9 FTE

Additional Services: In addition to the foregoing services, Contractor shall provide the following additional services

Nurse Practitioners	550 hours per month
Cordilleras and Psych	As needed and requested by County Health System

- II. Except for physicians who, pursuant to the terms of this Agreement, provide care on a prorated or part-time status, physicians are to devote themselves full time to the business of the County. All FTE contracted physicians shall each devote a minimum of forty (40) hours per full week to providing services at County's patient care facilities. Only services provided at SMMC facilities or other facilities operated by San Mateo County shall be considered in determining Contractor's compliance with the terms of this Agreement. Services provided at other locations will not be considered in determining whether Contractor complies with the hour or RVU requirements of this Agreement.
- III. During this contract period, October 1, 2011 through September 30, 2014, Contractor shall transition from using moonlighters to provide services during evening and weekend hours to meet patient medical needs for the Emergency Department and in patient referrals. Rather, during the term of this Agreement, Contractor will cease the use of moonlighters and will employ physicians on a full or part time basis to provide such services.

- IV. Contractor will provide uninterrupted call coverage for internal medicine and cardiology services. Such coverage shall include hospitalist coverage seven (7) days per week, twenty-four (24) hours per day, three hundred sixty-five (365) days per year, as well as telephone "on call" coverage weekdays from 5:00 p.m. to 8:00 a.m., twenty-four (24) hours on weekends, and holidays. Participation in such scheduled coverage of service will be as mutually arranged and agreed upon by members of the Department of Medicine under the supervision of the SMMP Medical Director.

Contractor shall develop schedule for "on-call" and/or "emergency-call" status during other than scheduled times and for twenty-four (24) hours each Saturday, Sunday, or holiday. "On-call" and "emergency-call" are defined as being available by telephone or pager to the hospital medical staff, nursing supervisor, and administrator on call as needed. In addition, Contractor must adhere to the guidelines of the San Mateo County Trauma System by being immediately available by telephone and must make every reasonable effort to be present at the hospital at the time of the patient's arrival.

It is expressly understood that Contractor and subcontractors for internal medicine services are subject to these conditions, that all will accept equal scheduling for "on-call" status, and that each will be responsible for his/her portion of "on-call" time. All physicians who take calls for internal medicine services must have San Mateo Medical Center (SMMC) privileges.

- V. 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 is documented and will be considered at the time of reappointment to the medical staff and/or renewal or revision of individual clinical privileges.
- VI. Contractor shall fulfill those requirements for active staff membership set forth in Articles 3 and 4.2 of the SMMC Medical Staff Bylaws, Rules and Regulations and maintain such active staff status as a condition of the Agreement.
- VII. 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 SMMC Medical Staff Bylaws, Rules and Regulations.
- VIII. Contractor shall provide medical staff administrative support to all SMMC departments in meeting conscious sedation and infection control standards as defined by the Joint Commission, Title 22 of the California Code of Regulations, and other applicable standards.

EXHIBIT B

PAYMENTS

In consideration of the services specified in Exhibit A, County will pay Contractor based on the following:

- I. Contractor shall be paid at rates set forth herein to include the complete professional component associated with internal medicine, hospitalist, and cardiology services.
- II. Payment shall be calculated in a manner consistent with reimbursement for internal medicine, subspecialty and hospitalist services. Contractor compensation for services to County will be based on The 2011 Medical Group Management Association (MGMA) Physician Compensation and Productivity Survey, Western United States Median values. The source of physician services based units is the current Medicare Resource-Based Relative Value Scale (RBRVS) Relative Value Work Units (RVUs).
- III. Contractor shall be paid monthly in equal installments of the annual compensation set forth below. Monthly payments shall be calculated as reimbursement for the actual number of existing physician FTEs and associated costs for the current month, and shall be paid no later than the 20th day of the following month. These payments will be subject to the performance metrics that are set forth in Exhibit C to this Agreement and Contractor's compensation may be reduced due to a failure to meet the performance metrics in a prior quarter, as described in Section II of Exhibit C.
- IV. Contractor compensation for SMMP internal medicine, cardiology, and hospitalist services will be based on an RVU base work unit value for a projected volume of 52,703 RVU work units per annum. If the contract terms of service are amended such that the number and/or mix of providers in Exhibit A is changed, the projected volume of RVU work units and corresponding compensation shall be adjusted to reflect the amended number of providers and RVU units performed.

If the average monthly work units for Contractor (based on 52,703 annual units) are more than fifteen percent (15%) above or below this baseline for a six (6) month period, the Chief Medical Officer or designee will review and discuss the compensation metric with Contractor, and it may be changed to reflect the variance between the baseline and RVUs actually worked.

FTE	Specialty	2011 RVU's Per FTE	Total RVUs
1.4	Gastroenterologist	7,431	10,403
4.5	Hospitalist	3,881	17,464
1.0	Pulmonologist	4,008	4,008
1.0	Rheumatologist	4,543	4,543
2.0	Cardiologist – non invasive	6,255	12,510
1.5	Oncologist	4,979	7,468
.5	Endocrinologist	4,326	2,163
11.9	Total RVUs		58,559

Smart Referral = .10 x Total RVUs

Budgeted Annual RVU's = 52,703

- V. Contractor agrees to partner with SMMC administration in ensuring appropriate use of resources and timely access to care. This includes but is not limited to participation in the upcoming “SMART” referral process whereby contractors will review incoming referrals for appropriateness and completeness. Contractor agrees to provide referring providers with constructive, timely feedback when appropriate. This “SMART” process is expected to require ten percent (10%) of the overall patient care effort. Therefore, the number of budgeted RVUs are reduced to 52,703.
- VI. Failure of Contractor to perform the listed services in any given month constitutes a material breach of this Agreement, and in such circumstances the County, at its option, may withhold payment for any portion of services not rendered, terminate the Agreement pursuant to the termination provisions above, work with the Contractor to reach a schedule for returning the Contractor to performance under this Agreement, revise this Agreement pursuant to the terms of this Agreement, pursue any remedy available at law, or any combination of these options. The Contractor is not entitled to payment for non-performance of services listed by this Agreement.
- VII. Exhibit A, Section III of this Agreement discusses the conversion of moonlighters to hospitalists during the term of this Agreement.

Both County and Contractor acknowledge the need to convert, through the hiring process, moonlighters to hospitalists.

The timeline for this conversion is as follows:

- A. During the first year of this Agreement at least one FTE moonlighter will be hired as a hospitalist by SMMP prior to September 30, 2012.
- B. During the second year of this Agreement at least one additional FTE moonlighter will be hired as a hospitalist by SMMP prior to September 30, 2013.
- C. During the third year of the Agreement at least .5 FTE moonlighter will be hired

as a hospitalist by SMMP prior to September 30, 2014.

Contractor is expected to move toward full hospitalist services as soon as possible. This conversion will eliminate the non-emergency use of moonlighters at SMMC.

- VIII. If the conversion of moonlighters to hospitalists does not occur based on the timeline outlined above, there will be a meeting between a representative(s) of the Contractor and the Chief Medical Officer or designee to discuss the metric with the Contractor to determine what changes, if any, should be made to meet the needs of the County.
- IX. Total payment for services performed under this Agreement will not exceed FOURTEEN MILLION FIVE HUNDRED TWENTY SEVEN THOUSAND NINE HUNDRED TWENTY THREE DOLLARS (\$14,527,923).
- X. The term of this Agreement is October 1, 2011 through September 30, 2014, as stated in Section 3.1 of the Agreement.

The total amount to be paid annually for the number of FTEs required under this Agreement, as listed below, and for all other costs under this Agreement shall not exceed \$4,842,641. As indicated elsewhere in the Agreement, the annual allocations for different physicians, other employees of the Contractor, and other line items listed below is determined at Contractor's discretion and is listed only for purposes of administering this Agreement (e.g., for determining the fixed benefit costs per hospitalist per year to be used in Section IX above, or for negotiating the amount to be paid for Contractor to secure malpractice insurance.

Provider Compensation	FTE	Annual Amount
Cardiologist – non invasive	1.0	\$ 344,359
Cardiologist – non invasive	1.0	324,671
Gastroenterologist	.9	389,134
Gastroenterologist	.5	216,185
Oncologist	1.0	359,420
Oncologist	.5	179,710
Pulmonologist	1.0	276,472
Rheumatologist	1.0	225,814
Endocrinologist	.5	105,739
Hospitalist – existing	2.0	427,874
Hospitalists - new	2.5	534,906
PHYSICIAN TOTAL	11.9	\$ 3,384,283
SMMP MD Benefits – 20%		\$ 676,857
Malpractice Insurance		110,400
Nurse Practitioners	3.2	512,763
Physician - Cordilleras		72,000

Acct/ADP/WC	36,338
Medical Director Fee	50,000
	\$ 4,842,641

Acct = Accounting
ADP = Payroll Service
WC = Worker's Compensation Insurance

EXHIBIT C

PERFORMANCE METRICS

- I. Both County and Contractor acknowledge the need for a pay for performance reimbursement model based on mutually acceptable units of measurement. Amounts at risk will be charged quarterly to Contractor on the basis of the following metrics.
 - A. Core Measure Compliance of greater than ninety percent (90%) for those measures relevant to medical providers.
 - B. Meet the SMMC Medical Executive Committee (MEC)/Medi-Cal access requirements for specialty evaluation, within thirty (30) days, in eighty-five percent (85%) of the cases referred from primary care.
 - C. Ninety-five percent (95%) or greater compliance with SMART referral once the program has been established and is in place for at least three (3) months.
 - D. Ninety-five percent (95%) or greater compliance with electrocardiogram (EKG's) read electronically once the tracemaster system is established and is in place for at least three (3) months.
 - E. Compliance with the provider portion of the SMMC sepsis screening protocols and Central Line Insertion Practices (CLIP) protocols of greater than ninety percent (90%)

Compliance is measured by meeting or exceeding each of the metrics listed in this Exhibit C, Section I.

Contractor will be docked earned income up to SIXTY THOUSAND FIVE HUNDRED THIRTY SEVEN DOLLARS SIXTY CENTS (\$60,537.60) for not meeting or exceeding all metrics each quarter. Each metric is valued at \$12,107.52, each quarter.

- II. Both the County and Contractor acknowledge Contractor cannot achieve the metrics detailed in Section I of this Exhibit C, without assistance and cooperation from the County and, at times, there are conditions the Contractor cannot control. Therefore, the County must meet the following operational conditions, and failure to do so will have the consequences described below in Exhibit C, Section II.C:
 - A. Ninety five percent (95%) of the patients seen in specialty clinic by SMMP physicians have been seen by a primary care physician or should be scheduled for a primary care appointment within two (2) weeks of the SMMP specialty care clinic visit. Patients referred from the community or are not Access and Care for Everyone Program (ACE) or ACE eligible patients are not part of this calculation.
 - B. eClinical Works (eCW) will not be in down time procedures more than five

percent (5%) of the time.

- C. Ninety five percent (95%) of the patients seen in specialty clinics by SMMP physicians with a SMART referral will meet the referral guidelines established by each specialty.
- D. Using the period October 1, 2010 through September 30, 2011, as the baseline (on a quarterly basis, i.e., October 1, 2010 – December 31, 2010) new patient visits for the Contractor will not exceed an increase of fifteen percent (15%) of the same quarter from the baseline year.
- E. In the event that the County fails to meet any of the conditions listed in Subsections II.A through II.C of this Exhibit C during any quarterly period during the term of this Agreement, Contractor shall be entitled to a credit of \$12,107.52 for that quarter for each condition that the County failed to achieve during that quarter which may be offset against any payments to which the County would otherwise be entitled due to the Contractor's failure to meet performance metrics during the same quarter. Thus, whether the Contractor is required to make payments to the County for failure to meet performance metrics is affected by whether Contractor actually meets or fails to meet the metrics described in Section I of this Exhibit C to the Agreement, as well as whether County meets the conditions set forth in Section II of this Exhibit C to the Agreement. By way of example, the calculation of the amount not charged to Contractor each quarter would follow this logic:

If Contractor fails to achieve 2 out of 5 metrics during a given quarter, Contractor shall be subject to a penalty equal to two fifths ($2/5^{\text{th}}$) of the \$60,537.60 total that is at risk for failure to meet all five of the metrics set forth in this Exhibit C (i.e., \$24,215.04). Contractor would, however, be entitled to retain the three fifths ($3/5^{\text{th}}$) of the \$60,537.60 that corresponds to the three performance metrics achieved during that quarter (i.e., \$36,322.56). If, however, in the same quarter the County fails to achieve one of its four operational conditions, Contractor shall be entitled to receive an additional amount equal to one quarter (25%) of the \$60,537.60 performance incentive amount at risk during the quarter (i.e., \$15,134.40). Therefore, in this example, where Contractor has failed to achieve two of the five performance operational conditions, the Contractor shall be subject to a penalty of \$24,215.04, corresponding to the two performance metrics that the Contractor failed to achieve, less \$15,134.40, corresponding to the one operational condition that the County failed to achieve).

The County's failure to achieve operational conditions in any

given quarter shall only be considered in determining whether the Contractor is entitled to an offset for the Contractor's failure to achieve performance metrics under this Agreement and under no circumstances shall County's failure to achieve operational standards result in Contractor receiving compensation beyond that set forth in Exhibit B to this Agreement.

However, under no circumstances shall Contractor ever receive during a quarter any amount greater than the total quarterly incentive amount of \$60,537.60. For this Agreement funds will not be withheld. Rather, once the calculation of Contractor compliance with performance metrics is complete following each quarter, any "penalty" assessed from the calculation of the quarter will be withheld from the monthly payment immediately following the date upon which County informs Contractor of the extent of its compliance with the performance metrics for the preceding quarter.

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