

Professional Services Contract for Health Officer Services

This Professional Services contract ("Contract") is between the County of San Benito ("County"), a political subdivision of the State of California, and Martin Fenstersheib, MD, a licensed physician ("Contractor").

1. **Services to be Performed:** Contractor agrees to provide County with Health Officer services as described in Attachment "A", Scope of Services.

2. **Term:** This Contract shall begin on July 1, 2019, and end on June 30, 2020, unless sooner terminated as specified in Section 19, Termination.

3. **Compensation:** Contractor shall be paid at a base rate of two thousand (\$2,000.00) per week for services as Health Officer, prorated for partial weeks. Total contract amount shall not exceed one hundred four thousand dollars (\$104,000).

4. **Method of Payment:** Contractor shall be paid on a monthly basis one month in arrears.

5. **Professional Ability of Contractor and Standards of Performance:** Contractor represents that he is qualified and licensed to perform the services to be done as required in this Contract. County relies upon the representations of Contractor regarding professional training, licensing, and ability to perform the services as a material inducement to enter into this Contract.

A. Services shall be provided by Contractor without the advice, control or supervision of County. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

B. Acceptance of work or payment of invoice by County does not operate to release Contractor from any responsibility to perform work to professional standards.

6. **Contractor's Books and Records:** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to County for a minimum period of five (5) years following audit, or from the date of final payment to Contractor under this Contract, whichever is later.

A. Contractor shall maintain all documents and records which demonstrate performance under this Contract for a minimum period of five (5) years following audit, or from the date of termination or completion of this Contract.

B. Any records or documents required to be maintained pursuant to this Contract shall be made available for inspection or audit at any time during regular business hours, upon written request by County Counsel or the Director of Health and Human Services. Copies of such documents shall be provided to County for inspection at the office of the requesting county officer unless it is impractical to do so; in which case the records shall be made available at Contractor's address indicated for receipt of notices in this Contract.

C. Where County has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of Contractor's business, County may, on written request, require that custody of the records be given to County and that the records and documents be maintained by County at the Board of Supervisors offices. Access to such records and documents shall be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

7. **Independent Contractor:** Contractor is an independent contractor, not an employee of County. Nothing contained in this Contract, or any document executed in connection with this Contract, shall be construed to create an employer-employee, partnership or joint venture relationship between County and Contractor nor to allow County to exercise discretion or control over the manner in which Contractor performs the work or services that are the subject matter of this Contract; provided, however, the work or services to be provided by Contractor shall be provided in a manner consistent with reaching County's objectives in entering this Contract.

8. **Indemnity and Liability:** Each party shall indemnify, defend, and hold the other party and its directors, officers, employees, and agents harmless against any claims of any kind, arising or alleged to arise out of the willful misconduct, negligent acts, omissions, or violations of law by the party.

9. **Insurance:** The parties at their own cost agree to maintain, for the duration of this Contract, the following insurance policies with insurers possessing a Best's rating of no less than A:

A. **Automobile Liability Coverage:** Contractor shall maintain personal automobile liability insurance covering bodily injury and property damage for all activities of the contractor arising out of or in connection with the work to be performed under this Contract.

B. **Professional Liability Insurance (Medical Malpractice):** County will add Contractor to its professional liability insurance for the term of this contract and only for work performed under this contract.

C. Each party shall provide notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.

D. The required coverage shall be maintained in effect throughout the term of this contract.

E. **Proof of Coverage:** At the time of execution of this contract, parties shall furnish each other with copies of its insurance policies and endorsements affecting coverage required by this Contract.

10. **Performance Standards:** Contractor shall use the standard of care in its profession and comply with all applicable federal, state and local laws, codes, ordinances and regulations.

11. **Licenses:** Contractor represents and warrants to County that it has all licenses and qualifications of whatsoever nature which are legally required of Contractor to practice its trade and/or profession. Contractor represents and warrants to County that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract, any licenses which are legally required of Contractor to practice its trade and/or profession.

12. **Controlling Law Venue:** This Contract is made in the County of San Benito, State of California. The parties specifically agree to submit to the jurisdiction of the Superior Court of California for the County of San Benito.

13. **Written Notification:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

Contract Administrator for County :

Cynthia Larca, Deputy Director
Health & Human Services Agency
1111 San Felipe Road, Suite 206
Hollister, CA 95023
(831) 634-4908

Contract Administrator for Contractor:

Martin Fenstersheib, MD
295 Tillman Avenue
San Jose, Ca. 95126
(408) 930-5447

14. **Entire Contract:** This Contract constitutes the complete and exclusive statement of contract between County and Contractor. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Contract.

15. **Amendments :** This Contract may be modified or amended only by a written document executed by both Contractor and County and approved as to form by the County Counsel.

16. **Waiver:** No failure on the part of either party to exercise any right or remedy provided for by this Contract shall operate as a waiver of any other right or remedy that party may have.

17. **Execution:** This Contract may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties.

18. **Assignment & Subcontracting:** The parties recognize that a substantial inducement to County for entering into this Contract is the professional reputation, experience, and competence of Contractor. Assignments of any or all rights, duties or obligations of Contractor under this Contract will be permitted only with the express consent of County. Contractor shall not subcontract any portion of the work to be performed under this Contract without the written authorization of County. If County consents to such subcontract, Contractor shall be fully

responsible to County for all acts or omissions of the subcontractor. Nothing in this Contract shall create any contractual relationship between County and subcontractor nor shall it create any obligation on the part of County to pay any monies due to any such subcontractor unless otherwise required by law.

19. **Termination** : This Contract may be terminated for the following reasons:

- A. Immediately for cause if either party violates any of the terms or provisions of this Contract; or
- B. By either party without cause upon thirty (30) days written notice of termination.

20. **Partial Invalidity.** If any provision of this Contract is held to be invalid, void, or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall not be affected or invalidated.

21. **Attachments:** All attachments referred to are incorporated and made part of the Contract. Attachments include: Attachment "A" Scope of Services and Attachment "B" Payment Schedule.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on this _____ day of _____.

SIGNATURES

APPROVED BY COUNTY:

APPROVED BY CONTRACTOR:

Name: _____

Name: _____

Chair, San Benito County Board of Supervisors

Title: _____

Date: _____

Date: _____

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By:  _____

Date: 6-14-2019 _____

ATTACHMENT A

Scope of Services

The Contractor shall be primarily responsible for serving as the Interim Public Health Officer and Interim Registrar on a temporary basis for the County of San Benito while the Public Health Officer position is vacant. Pursuant to California Health & Safety Code section 101005, the County Health Officer shall be a graduate of a medical college of good standing and repute. His or her compensation shall be determined by the Board of Supervisors. At the times when the Contractor is providing services under this contract, Contractor shall be empowered to act as the Health Officer for San Benito County.

Services provided by Contractor may include but are not limited to:

1. Consultation to department PHNs (Public Health Nurses) and private providers regarding diagnosis, treatment, source investigation, reporting, response and management of TB and other communicable disease cases. Management of communicable disease outbreaks in the community.
2. Provision of clinical services for communicable disease patients, consisting of new patient evaluations, development of medication schedule and treatment plans, prescription of medicines and on-going monitoring of patients.
3. Consultation and assistance to the Emergency Preparedness Coordinator on urgent issues. Response as Interim Health Officer during a declared incident or emergency including, as appropriate, declaration of a Public Health Emergency.
4. Answering of media questions.
5. Support and oversight to the Vital Registration Unit including answering questions regarding causes of death.
6. Consultation to the Environmental Health Department in the event of a hazardous waste spill or other environmental health threat.
7. Consultation with Animal Control regarding rabies questions and other potential diagnosis.
8. Support and guidance to the Chronic Disease prevention programs.
9. Any other activities to support the department as requested and appropriate for the Health Officer position.

END OF ATTACHMENT A

ATTACHMENT B
Payment Schedule

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis:

- ☒ One month in arrears.
- ☐ Upon the complete performance of the services specified in Attachment A.
- ☒ The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (check one)

- ☐ a total lump sum payment of \$_____, or
- ☒ a total sum not to exceed \$104,000 (One Hundred Four thousand dollars), for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

B-4. SPECIAL COMPENSATION TERMS: (check one)

- ☐ There are no additional terms of compensation.
- ☒ The following specific terms of compensation shall apply: (Specify)

- a) Public Health Officer shall submit monthly invoices for coverage at the rate of \$2,000 per week with partial weeks to be prorated at \$286.00 per day of actual coverage.

Accounting contact for COUNTY:

Name: Casey Estorga
Title: Fiscal Officer

Address:

111 San Felipe Rd Ste 206
Hollister, California 95023
E-Mail: cestorga@cosb.us
Telephone No.: 831-630-5179
Fax No.: 831-636-9754

Accounting contact for CONTRACTOR:

Name: Martin Fenstersheib
Title: MD

Address:

295 Tillman Avenue
San Jose, CA 95126
E-Mail: doctormarty1@gmail.com
Telephone No.: 408-930-5447
Fax No.: NA

END OF ATTACHMENT B