

Professional Services Contract

This Professional Services contract ("Contract") is between the County of San Benito ("County"), a political subdivision of the State of California, and David Godley, 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 February 18, 2020, and end on June 30, 2021, unless sooner terminated as specified in Section 19, Termination.

3. **Compensation:** CONTRACTOR shall be paid according to the terms and conditions set forth in Attachment A.

4. **Method of Payment:** CONTRACTOR agrees to bill the State of California for all services rendered to the California Children's Services program. This compensation includes any and all reimbursements due to the CONTRACTOR for duties performed pursuant to this agreement as requested by the COUNTY, including reimbursement for materials needed to perform these services.

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 :

Tracey Belton, Director
Health & Human Services Agency
1111 San Felipe Road, Suite 206
Hollister, CA 95023
(831) 636-9754

Contract Administrator for Contractor:

David Robert Godley, MD
513 Poppy Hill Road
Watsonville, CA 95076
(408) 757-7510

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

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on this ___ day of January, 2020.

SIGNATURES

APPROVED BY COUNTY:

APPROVED BY CONTRACTOR:

Name: _____

Chair, San Benito County Board of Supervisors

Date: _____

Name: David R. Goble MD

Title: MD

Date: 1-29-20

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By:  2-7-2020

ATTACHMENT A

Scope of Services Duties & Compensation

Background:

California Children's Services (CCS) is a statewide program that treats children with certain physical limitations and chronic health conditions or diseases. CCS authorizes and pays for specific medical services and equipment provided by CCS-approved specialists. The Medical Therapy Program (MTP) is a special program within CCS that includes Occupational Therapy (OT) and Physical Therapy (PT) for children with eligible conditions. Therapy services are provided at rehabilitation units located in public schools. These units are called "Medical Therapy Units" (MTU.)

A physician is always required for the management of the child's therapy needs and prescriptions in conjunction with the OT & PT evaluations. Evaluations are completed on the child and reviewed with the physician and parents to develop a Medical Therapy Plan tailored to the child's specific therapy needs. OT and/or PT is approved and prescribed by the physician and are provided at the MTU. The physician makes the final determination of the child's Medical Therapy Conference (MTC) plan of care. The physician's goal is to assure that the Medical Therapy Program provides the child with appropriate medical intervention to allow the child the opportunity to reach maximum physical function.

1. DUTIES:

CONTRACTOR agrees to exercise special skills to accomplish the following results:

Provide skilled professional medical consultant services in accordance with State requirements, guidelines, policy and protocols governing the Children's Medical Services (CMS) program, with special reference to the California Children's Services (CCS) Medical Therapy Program.

Review of the child's medical and therapy history, confirmation of Medical Therapy Program (MTP) eligible condition through examination and documentation of clinical findings, development of prescriptions, identification of need for specialty referrals, and communication with care providers. The physician is the key MTC resource for medical information to be provided to the family and other team members. In addition, the physician provides dispute resolution and oversight of the prescriptions from private physicians.

BEFORE THE MTC

- Confirm date and time with the COUNTY for the MTC
- Review materials or patient records which need attention prior to meeting with the MTC team

DURING THE MTC

- Review all concerns (family, child, therapist, nurse, nutritionist, social worker, school and input from appropriate agencies)
- Review the child's medical status, medications, therapy activity (including attendance), and functional status
- Examine the patient
- Discuss with the team the child's medical status, the effect of the MTP eligible condition on the child's functional level, the child's rehabilitation potential and the proposed therapy plan
- Answer questions from and discuss proposed plan with the family and other team members.
- Document findings, discussion with family and other team members
- Determine the overall MTP plan of care
- Identify need for referral to other appropriate medical provider, such as county mental health plan, social worker, nutritionist, audiologist, or physician specialists
- Review the proposed therapy plan, make necessary modifications and sign the approved therapy plan
- Identify follow up recommendations (chart review, x-ray review, brace check, etc.) including return date to MTC

AFTER MTC

- Be available to MTP staff for consultation by phone to provide clarification of specific child related therapy concerns
- Provide communication with other medical specialists when necessary
- Sign each child's MTC team report (team findings, medical evaluation and recommendations)

2. COMPENSATION

In consideration for CONTRACTOR accomplishing said result, CONTRACTOR agrees to bill the State of California for all services rendered to the California Children's Services program. This compensation includes any and all reimbursements due to the CONTRACTOR for duties performed pursuant to this agreement as requested by the COUNTY, including reimbursement for materials needed to perform these services

3. PAYMENT TERMS

Contractor shall invoice on the form and in the manner required by the State of California.

4. PARTIAL PERFORMANCE

In the event less than all services are performed in a proper and timely manner, CONTRACTOR shall be paid only the reasonable cost for the services performed for the payment period as determined by COUNTY'S administrator.

END OF ATTACHMENT A

ATTACHMENT E
SAN BENITO COUNTY
BUSINESS ASSOCIATE ADDENDUM

- (a) Contractor shall comply with, and assist the County in complying with, the privacy requirements of the Health Insurance Portability and Accountability Act (including but not limited to 42 U.S.C. 1320d et seq.; "HIPAA") and its implementing regulations (including but not limited to 45 CFR Parts 142, 160, 162 and 164), hereinafter collectively referred to as the "Privacy Rule." Terms used but not otherwise defined in this Addendum shall have the same meaning as those terms are used in the Privacy Rule.
- (b) Except as otherwise limited in this Addendum, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for or on behalf of the County as specified in this Addendum, provided that such use or disclosure would not violate the Privacy Rule with which the County complies.
- (c) Contractor shall not use or further disclose Protected Health Information other than as permitted or required by this Addendum, or as required by law.
- (d) Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Addendum.
- (e) Contractor shall report to the County any use or disclosure of the Protected Health Information not provided for by this Addendum.
- (f) Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor as a result of a use or disclosure of Protected Health Information by Contractor which is in violation of the requirements of this Agreement.
- (g) Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, created, or received by Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- (h) Contractor shall provide access, at the request of the County, and in the time and manner designated by the County, to Protected Health Information in a Designated Record Set; this Protected Health Information will be released to the County or, as directed by the County, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
- (i) Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs, pursuant to 45 CFR Section 164.526, at the request of the County or an Individual, and in the time and manner designated by the County.
- (j) Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the County, to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.

- (k) Contractor shall provide to the County or an Individual, in the time and manner designated by the County, information collected in accordance with subsection (j), to permit the County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.
- (l) Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of the County, available to the County; or at the request of the County, to the Secretary of the United States Department of Health and Human Services ("Secretary"), in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining the County's compliance with the Privacy Rule.
- (m) A breach by Contractor of any provision of this Addendum, as determined by County, shall constitute a material breach of the contract and shall provide grounds for immediate termination of the Contract by the County.
 - (1) Except as provided in subparagraph (2) of this section, upon termination of this Addendum for any reason, Contractor shall return or destroy all Protected Health Information received from the County, or created or received by Contractor on behalf of the County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Contractor. Contractor, its agents and subcontractors shall retain no copies of the Protected Health Information.
 - (2) In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor, or any of its agents or subcontractors, maintains such Protected Health Information.
- (n) The Parties agree to take action to amend this Agreement from time to time as is necessary for the County to comply with the requirements for the Privacy Rule or any other requirements of HIPAA and its implementing regulations.