



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

**Kern Medical Center
1700 Mount Vernon Avenue
Conference Room 1058
Bakersfield, California 93306**

Regular Meeting
Wednesday, October 16, 2019

11:30 A.M.

BOARD TO RECONVENE

Board Members: Alsop, Berjis, Bigler, Brar, McLaughlin, Pelz, Sistrunk
Roll Call:

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: ALL ITEMS LISTED WITH A "CA" ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY KERN COUNTY HOSPITAL AUTHORITY STAFF. THE "CA" REPRESENTS THE CONSENT AGENDA. CONSENT ITEMS WILL BE CONSIDERED FIRST AND MAY BE APPROVED BY ONE MOTION IF NO MEMBER OF THE BOARD OR AUDIENCE WISHES TO COMMENT OR ASK QUESTIONS. IF COMMENT OR DISCUSSION IS DESIRED BY ANYONE, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED IN LISTED SEQUENCE WITH AN OPPORTUNITY FOR ANY MEMBER OF THE PUBLIC TO ADDRESS THE BOARD CONCERNING THE ITEM BEFORE ACTION IS TAKEN.

STAFF RECOMMENDATION SHOWN IN CAPS



PUBLIC PRESENTATIONS

- 1) This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. In addition, the Board may take action to direct the staff to place a matter of business on a future agenda. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!**

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2))

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing the Kern Medical Center 'Run Hide Fight' Committee –
MAKE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on September 18, 2019 –
APPROVE

CA

- 5) Proposed Resolution establishing regular meeting dates of the Kern County Hospital Authority Board of Governors for calendar year 2020 –
APPROVE; ADOPT RESOLUTION

CA

- 6) Proposed retroactive Side Letter of Agreement with Committee of Interns and Residents/ Service Employees International Union, Local 1957, for the provision of three annual wellness days for residents, effective July 1, 2019 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN; DIRECT STAFF TO IMPLEMENT

CA

- 7) Proposed retroactive Amendment No. 3 to Agreement 001-2018 with Matthew M. Malerich, M.D., Incorporated, an independent contractor, for professional medical services in the Department of Surgery, for the period April 9, 2018 through April 8, 2021, extending the guarantee period by 23 days through October 31, 2019, adding services, and increasing the maximum payable by \$300,000, from \$1,600,000 to \$1,900,000, to cover the term, effective October 9, 2019 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 8) Proposed Agreement with Tung Thanh Trang, M.D., a contract employee, for professional medical and administrative services in the Department of Surgery from November 13, 2019 through November 12, 2022, in an amount not to exceed \$1,978,000 – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed retroactive Amendment No. 3 to Agreement 002-2018 with Desert Hand and Plastic Surgery PC, an independent contractor, for professional medical services in the Department of Surgery, for the period April 9, 2018 through April 8, 2021, extending the guarantee period by 23 days through October 31, 2019, adding services, and increasing the maximum payable by \$300,000, from \$1,600,000 to \$1,900,000, to cover the term, effective October 9, 2019 – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed retroactive Amendment No. 4 to Agreement 06018 with Clarity Technology Partners, LLC, an independent contractor, containing nonstandard terms and conditions, for technology-related temporary staffing and contingent search services, adding services through January 31, 2020, and increasing the maximum payable by \$138,346, from \$920,000 to \$1,058,346, to cover the term, effective September 2, 2019 – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 11) Proposed retroactive Lease Schedule to Master Lease 010-2019 with Dell Financial Services, L.L.C., an independent contractor, containing nonstandard terms and conditions, for lease of desktop computers for the Cerner Millennium Project from May 1, 2019 through May 22, 2023, in an amount not to exceed \$850,187, plus applicable taxes – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Proposed retroactive Agreement with ProviderTrust, Inc., an independent contractor, containing non-standard terms and conditions, for monitoring and search services related to licensure and exclusion of individuals and entities from September 30, 2019 through September 29, 2020, in an annual amount not to exceed \$14,174 – APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

CA

- 13) Proposed retroactive Amendment No. 5 to Agreement 166-2012 with Press Ganey Associates, Inc., an independent contractor, for patient experience survey products, for the period April 1, 2012 through September 30, 2019, extending the term for three months through December 31, 2019, and increasing the maximum payable by \$80,000, from \$1,728,765 to \$1,808,765, to cover this extended term – APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

CA

- 14) Proposed retroactive Amendment No. 1 to Agreement 14718 with Frank Rappe, an independent contractor, doing business as R & R Janitorial and Carpet, for janitorial services, for the period February 19, 2018 through February 18, 2019, extending the term from February 19, 2019 to February 19, 2021, and increasing the maximum payable by \$560,000, from \$150,000 to \$710,000, to cover the extended term – APPROVE; AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO SIGN

- 15) Kern County Hospital Authority Chief Financial Officer report –
RECEIVE AND FILE
- 16) Kern County Hospital Authority Chief Executive Officer report –
RECEIVE AND FILE
- CA
- 17) Claims and Lawsuits Filed as of September 30, 2019 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 18) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 19) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –
- 20) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Adria Ottoboni v. Kern Medical Center Foundation, et al., Kern County Superior Court Case No. BCV-19-102820 SDS –
- 21) PUBLIC EMPLOYEE APPOINTMENT/RECRUITMENT - Title: President of Hospital and Clinic Operations (Government Code Section 54957) –
- 22) Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –
- 23) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) –

RECONVENE FROM CLOSED SESSION

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

ADJOURN TO WEDNESDAY, NOVEMBER 13, 2019, AT 11:30 A.M.

SUPPORTING DOCUMENTATION FOR AGENDA ITEMS

All agenda item supporting documentation is available for public review at Kern Medical Center in the Administration Department, 1700 Mount Vernon Avenue, Bakersfield, 93306 during regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday, following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

AMERICANS WITH DISABILITIES ACT (Government Code Section 54953.2)

The Kern Medical Center Conference Room is accessible to persons with disabilities. Disabled individuals who need special assistance to attend or participate in a meeting of the Kern County Hospital Authority Board of Governors may request assistance at Kern Medical Center in the Administration Department, 1700 Mount Vernon Avenue, Bakersfield, California, or by calling (661) 326-2102. Reasonable efforts will be made to accommodate individuals with disabilities by making meeting material available in alternative formats. Requests for assistance should be made five (5) working days in advance of a meeting whenever possible.

17) CLAIMS AND LAWSUITS FILED AS OF SEPTEMBER 30, 2019 –
RECEIVE AND FILE

- A) Notice of filing discrimination complaint with the Department of Fair Employment and Housing in the matter of Virginia Bibiano



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

**Kern Medical Center
1700 Mount Vernon Avenue
Conference Room 1058
Bakersfield, California 93306**

**Regular Meeting
Wednesday, September 18, 2019**

11:30 A.M.

BOARD RECONVENED

Board Members: Berjis, Bigler, McLaughlin, Pelz, Sistrunk
ROLL CALL: 5 Present; 2 Absent - Alsop, Brar

NOTE: The vote is displayed in bold below each item. For example, Alsop-McLaughlin denotes Director Alsop made the motion and Director McLaughlin seconded the motion.

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: ALL ITEMS LISTED WITH A "CA" ARE CONSIDERED TO BE ROUTINE AND APPROVED BY ONE MOTION.

BOARD ACTION SHOWN IN CAPS

NOTE: DIRECTOR ALSOP ARRIVED AFTER THE VOTE ON THE CONSENT AGENDA

PUBLIC PRESENTATIONS

- 1) This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. In addition, the Board may take action to direct the staff to place a matter of business on a future agenda. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!**
NO ONE HEARD

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2))

CHAIRMAN BIGLER ENCOURAGED ALL TO ATTEND KERN MEDICAL DAY AT THE KERN COUNTY FAIR ON SATURDAY, SEPTEMBER 28, 2019

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing the Kern Medical Center Information Technology staff for extraordinary service –
MADE PRESENTATION; REYNALDO LOPEZ, CHIEF INFORMATION OFFICER, HEARD

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on August 21, 2019 –
APPROVED
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 5) Proposed Amendment No. 2 to Agreement 2016-066 with Regional Anesthesia Associates, Inc., an independent contractor, for professional medical services in the Department of Anesthesiology, for the period November 9, 2016 through November 8, 2019, extending the term for three years from November 9, 2019 through November 8, 2022, in an amount not to exceed \$17,673,876 to cover the extended term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 053-2019
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 6) Proposed retroactive Amendment No. 2 to Agreement 094-2017 with Kern Vascular Call Group, Inc., an independent contractor, for professional medical services in the Department of Surgery, for the period January 15, 2018 through January 14, 2020, extending the term for one year from January 15, 2020 through January 14, 2021, adding 'First Assist' vascular surgery support, and increasing the maximum payable by \$750,000, from \$600,000 to \$1,350,000, to cover the additional services and extended term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 054-2019
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 7) Proposed Agreement with United Neuroscience, Inc., an independent contractor, for professional medical services in the Department of Medicine from October 1, 2019 through September 30, 2021, in an amount not to exceed \$1,940,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 055-2019
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 8) Proposed Work Order No. 3 to Agreement 07018 with Leidos Health, LLC, an independent contractor, for professional consulting services related to the Cerner Millennium go-live implementation from October 31, 2019 through November 14, 2019, in an amount not to exceed \$1,020,337 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 056-2019
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 9) Proposed retroactive Amendment No. 7 to Agreement 14818 with Healthcare Performance Group, Inc., an independent contractor, for professional consulting services related to the Cerner Millennium project, for the period May 7, 2018 through December 20, 2019, increasing the maximum payable by \$342,160, from \$1,645,704 to \$1,987,864, to cover payment for additional services, effective August 3, 2019 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 057-2019
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 10) Proposed Resolution authorizing the Kern County Hospital Authority to participate in one-time housing funds for Whole Person Care Pilots Funding Opportunity under Budget Act of 2019 (AB 74) –
APPROVED; ADOPTED RESOLUTION 2019-011; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENTS SUBJECT TO APPROVAL AS TO FORM BY COUNSEL
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 11) Proposed Amendment No. 1 to Agreement 10719 with Western Pacific Roofing Corporation, an independent contractor, for roofing construction services at 1111 Columbus Avenue, increasing the maximum payable by \$5,611, from \$268,000 to \$273,611, to cover the cost of bonds and permits –
MADE FINDING PROJECT EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 058-2019; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 10% OF THE TOTAL CONTRACT PRICE
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 12) Proposed approval of Administrative Policy for Electronic Health Record (EHR) Transition and Implementation, to define the process for workflow changes during transition and implementation of the Cerner EHR –
APPROVED
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

- 13) Public hearing regarding the meet and confer impasse between representatives of the Kern County Hospital Authority and Committee of Interns and Residents/Service Employees International Union, Local 1957, and Resolution implementing the six percent wage increase set forth in the Authority's last, best and final offer, effective July 1, 2019 –
OPENED HEARING; CLOSED HEARING; APPROVED; ADOPTED RESOLUTION 2019-012; DIRECTED STAFF TO IMPLEMENT
Berjis-Pelz: 6 Ayes; 1 Absent - Brar

- 14) Kern County Hospital Authority Chief Financial Officer report –
RECEIVED AND FILED
Berjis-McLaughlin: 6 Ayes; 1 Absent - Brar
- 15) Kern County Hospital Authority Chief Executive Officer report –
RECEIVED AND FILED
Sistrunk-McLaughlin: 6 Ayes; 1 Absent - Brar
- CA
- 16) Claims and Lawsuits Filed as of August 31, 2019 –
RECEIVED AND FILED
Sistrunk-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

ADJOURNED TO CLOSED SESSION
Pelz-Alsop

CLOSED SESSION

- 17) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 18) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Monina Vilorio v. Kern Medical Center, Workers' Compensation Appeals Board Case Nos. ADJ9552090 and ADJ4587347 – SEE RESULTS BELOW
- 19) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
(Government Code Section 54956.9(d)(2), (e)(2).) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs – SEE RESULTS BELOW
- 20) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
(Government Code Section 54956.9(d)(2), (e)(1).) Number of cases: One thousand five hundred forty-eight (1,548) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances that might result in litigation against the authority but which the authority believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed – SEE RESULTS BELOW
- 21) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer
(Government Code Section 54957) – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION
Alsop-Pelz

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 17 concerning Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD; BY A UNANIMOUS VOTE OF THOSE DIRECTORS PRESENT (MOTION BY DIRECTOR ALSOP, SECOND BY DIRECTOR SISTRUNK; 1 ABSENT - DIRECTOR BRAR), THE BOARD APPROVED ALL PROVIDERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, CHANGE IN STAFF STATUS, AND VOLUNTARY RESIGNATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 18 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Monina Vilorio v. Kern Medical Center, Workers' Compensation Appeals Board Case Nos. ADJ9552090 and ADJ4587347 – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 19 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(2).) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 20 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(1).) Number of cases: One thousand five hundred forty-eight (1,548) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances that might result in litigation against the authority but which the authority believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 21 concerning PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, OCTOBER 16, 2019, AT 11:30 A.M.

Alsop

/s/ Mona A. Allen
Authority Board Coordinator

/s/ Russell E. Bigler
Chairman, Board of Governors
Kern County Hospital Authority



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

SUBJECT: Establish Regular Meeting Dates of the Kern County Hospital Authority Board of Governors for Calendar Year 2020

Recommended Action: Approve; Adopt Resolution

Summary:

The conduct of your Board is subject to the provisions of the Brown Act (Gov. Code, § 54950 et seq.). The Brown Act requires that your Board shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings.

Therefore, it is recommended that your Board establish its schedule of regular meetings for calendar year 2020 in compliance with the Brown Act by adopting the attached Resolution.

2020



Kern County Hospital Authority
Board of Governors'
Meeting Calendar
11:30am – 1:30pm

JANUARY

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FEBRUARY

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APRIL

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JUNE

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JULY

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OCTOBER

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NOVEMBER

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DECEMBER

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KERN MEDICAL

1700 Mt. Vernon Ave., Bakersfield, CA 93306 | KernMedical.com

**BEFORE THE BOARD OF GOVERNORS
OF THE KERN COUNTY HOSPITAL AUTHORITY**

In the matter of:

Resolution No. 2019-____

**ESTABLISHING THE REGULAR
MEETING DATES OF THE KERN
COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS FOR
CALENDAR YEAR 2020**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 16th day of October, 2019, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) The Brown Act (Gov. Code, § 54954, subd. (a)) requires that the legislative body of a local agency shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings; and

(b) Section 2.170.060 of the Ordinance Code of the County of Kern (“Ordinance”) provides for a governing body, which shall be known as the Kern County Hospital Authority Board of Governors (“Board of Governors”); and

(c) Section 2.170.030 of the Ordinance provides that the Brown Act shall apply to the Kern County Hospital Authority; and

(d) The Board of Governors desires to establish its schedule of regular meetings for calendar year 2020 in compliance with the Brown Act.

Section 2. NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Governors of the Kern County Hospital Authority, as follows:

1. This Board finds the facts recited herein are true, and further finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution.

2. Except as provided in paragraph 4 of this Resolution, the calendar year 2019 regular meetings of the Board of Governors shall be held as follows:

Wednesday, January 15, 2020	Regular Meeting
Wednesday, February 12, 2020	Regular Meeting
Wednesday, March 18, 2020	Regular Meeting
Wednesday, April 15, 2020	Regular Meeting
Wednesday, May 20, 2020	Regular Meeting
Wednesday, June 17, 2020	Regular Meeting
Wednesday, July 15, 2020	Regular Meeting
Wednesday, August 19, 2020	Regular Meeting
Wednesday, September 16, 2020	Regular Meeting
Wednesday, October 21, 2020	Regular Meeting
Wednesday, November 18, 2020	Regular Meeting
Wednesday, December 9, 2020	Regular Meeting

3. All meetings shall be held at Kern Medical Center, which is located at 1700 Mount Vernon Avenue, Bakersfield, California 93306. All meetings shall commence at the hour of 11:30 a.m., unless a different time is posted by the Authority Board Coordinator. Meetings so commenced may be continued from time to time until the disposition of all business before the Board of Governors.

4. Regular meetings shall be canceled or rescheduled whenever the Board of Governors unanimously finds good cause otherwise exists for cancellation, rescheduling, or scheduling of a regular meeting.

5. The Authority Board Coordinator shall provide copies of this Resolution to the following:

Members, Board of Governors
Kern Medical Center
Legal Services Department
County Administrative Office
Clerk of the Board of Supervisors



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed retroactive approval of Side Letter of Agreement with the Committee of Interns and Residents/Service Employees International Union, Local 1957 (CIR/SEIU) providing three wellness days for residents on an annual basis beginning with the 2019/20 academic year, retroactive to July 1, 2019

Recommended Action: Approve; Authorize Chairman to sign; Authorize Chief Executive Officer, Chief Financial Officer and Human Resources to implement changes

Summary:

The Authority requests your Board approve the annual accrual of three wellness days for residents, to be used in compliance with Article IV, Section 1, subsections A-F of the CIR/SEIU Memorandum of Understanding (CIR/SEIU MOU). These wellness days are intended to replace the three holidays no longer observed by the Authority effective with the September 2018 approval of the SEIU Local 521 Memorandum of Understanding (MOU). During the 2018 SEIU MOU negotiations, represented staff were given additional Paid Time Off in lieu of three holidays, which were chosen by SEIU and its represented employees.

In the CIR/SEIU MOU, Article 4, Section 3, titled Holidays reads: "Resident physicians shall be entitled to all paid holidays authorized as official holidays for Authority employees." This means that residents are no longer eligible for holiday pay on the three holidays no longer observed as official holidays by the Authority (President's Day, Labor Day and New Years' Eve).

In order to keep the residents whole, the Authority proposed and CIR/SEIU has agreed to substitute three wellness days for the holidays no longer recognized by the Authority.

Therefore, it is recommended that your Board retroactively approve the Side Letter of Agreement adding three wellness days for residents effective retroactive to July 1, 2019, authorize the Chairman to sign, and direct staff to implement the changes.

SIDE LETTER OF AGREEMENT
BETWEEN
KERN COUNTY HOSPITAL AUTHORITY
AND
COMMITTEE OF INTERNS AND RESIDENTS/
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1957

This Side Letter of Agreement (“Side Letter”) between the Kern County Hospital Authority (“Authority”), which owns and operates Kern Medical Center, and the Committee of Interns and Residents/Service Employees International Union, Local 1957 (“CIR/SEIU”), representing the resident physicians, is entered into this 16th day of October, 2019, with respect to the following:

(A) the parties have previously entered into a Memorandum of Understanding (Agt. #014-2018) (“2018-2021 MOU”) regarding the wages, hours, and other terms and conditions of employment of the resident physicians for the period March 31, 2018, through March 31, 2021; and

(B) On or about August 26, 2019, after negotiating in good faith, the parties agree to provide during the term of the 2018-2021 MOU, annually, three (3) wellness days for the resident physicians; and

(C) During the process of negotiating with CIR/SEIU to come to agreement on these three (3) wellness days, the parties agreed that, in order to ensure clarity and to memorialize the agreement, a Side Letter to the 2018-2021 MOU should be executed articulating the intent of the Authority to provide three (3) wellness days annually for resident physicians during the term of the 2018-2021 MOU; and

(D) The parties agree that the provision of the three (3) wellness days shall not constitute the status quo following the expiration of the 2018-2021 MOU; and

(E) In consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties agree as follows:


- A. On or about July 1, the beginning of each academic year within the term of the 2018-2021 MOU, resident physicians shall be given an accrual of three (3) wellness days, which will equate to 24 hours (8 hours x 3 days). The posting of this accrual will coincide with the pay period within which July 1 falls.
- B. The wellness day available accrual will reflect as a separate line item for ease of tracking on each resident physician’s biweekly pay statement.
- C. Wellness days must be used in eight-hour increments.
- D. Unused wellness days may be carried over year to year with no maximum accrual limit.

- E. Resident physicians wishing to request a wellness day must provide sufficient notice and obtain the approval of their respective Program Director. Use of wellness days is subject to Article IV, Section 1, subsections A-F of the 2018-2021 MOU. Requests for wellness days off will not be unreasonably denied.
- F. Upon termination of employment, any unused wellness days will be paid out to resident physicians in accordance with the Authority's current pay practices and applicable law.
- G. The provisions of this Side Letter shall be effective retroactively to July 1, 2019, and shall be posted with the pay period beginning September 28, 2019.
- H. All capitalized terms used in this Side Letter and not otherwise defined, shall have the meaning ascribed thereto in the 2018-2021 MOU.
- I. This Side Letter shall be governed by and construed in accordance with the laws of the state of California.
- J. This Side Letter may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- K. Except as provided herein, all other terms, conditions, and covenants of the 2018-2021 MOU shall remain in full force and effect.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Side Letter as of the day and year first written above.

Committee of Interns and Residents/
Service Employees International Union,
Local 1957

By 
Sonte Ricks
CIR/SEIU Representative

Kern County Hospital Authority

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
VP & General Counsel
Kern County Hospital Authority



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed retroactive Amendment No. 3 to Agreement 001-2018 with Matthew M. Malerich, M.D., Incorporated

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board retroactively approve the proposed Amendment No. 3 to the Agreement 001-2018 for Professional Services with Matthew M. Malerich, M.D., Incorporated, an independent contractor, for the provision of orthopedic hand and related surgery services on behalf of Kern Medical for the period April 9, 2018 through April 8, 2021. Currently, Dr. Malerich provides services primarily at the Stockdale clinic and emergency hand call coverage.

The proposed Amendment extends the guarantee period for 23 days through October 31, 2019, for ease of reconciliation, adds services including coverage in the outpatient hand clinic and operating room at Kern Medical, and increases the maximum payable by \$300,000, from \$1,600,000 to \$1,900,000, to cover the additional services over the remaining term of the Agreement.

Therefore, it is recommended that your Board retroactively approve Amendment No. 3 to the Agreement with Matthew M. Malerich, M.D., Incorporated, effective October 9, 2019, and authorize the Chairman to sign.

**AMENDMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR (Kern County Hospital Authority – Matthew M. Malerich,
M.D., Incorporated)**

This Amendment No. 3 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2019, by and between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Matthew M. Malerich, M.D., Incorporated, a California professional medical corporation (“Contractor”), with its principal place of business located at 2634 G Street, Bakersfield, California 93301.

RECITALS

- (a) Authority and Contractor have heretofore entered into an Agreement for Professional Services (Agt. #001-2018, dated January 17, 2018) (“Agreement”), for the period April 9, 2018 through April 8, 2021, to provide professional medical services in the Department of Surgery at KMC; and
- (b) The parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and
- (c) The Agreement is amended effective October 9, 2019;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follows:

- 1. Section 4, Payment for Services, paragraph 4.1, Compensation, shall be deleted in its entirety and replaced with the following:

“4.1 Compensation. As consideration for the services provided by Contractor hereunder, Authority will pay Contractor in accordance with the fee schedule set forth in this paragraph 4.1. All services are payable in arrears.

4.1.1 April 9, 2018 through October 31, 2019.

- 1) Methodology. For the period April 9, 2018 through and including October 31, 2019 (the “Guarantee Period”), Authority shall pay Contractor a guarantee payment (“Guarantee Payment”) in the amount of \$50,000 per month for all teaching and administrative services and payment for care of KMC patients. Contractor understands and agrees that: (a) the Guarantee Payment set forth in this subparagraph 4.1.1 is calculated based on the current Medical Group Management Association Physician

Compensation and Production Survey (“MGMA Survey”) for specialty; (b) Contractor will maintain a median level of worked relative value units based on the current MGMA Survey and fulfill all the obligations set forth in this Agreement during the Term; (c) the Guarantee Payment is net of actual collections minus the Monthly Fee set forth in subparagraph 4.5.2 herein; and (d) the Guarantee Payment is net of any professional billing service fee not to exceed 7%.

2) Reporting. On a monthly basis starting the first month after the Commencement Date, Contractor shall deliver to KMC a report (the “Report”) of its actual collections net of discounts and contractual allowances (the “Collections”) during the prior month (the “Reporting Period”) for services provided pursuant to this Agreement. The Report shall be in a form reasonably agreeable to KMC and shall include information in sufficient detail to enable KMC to verify the Collections for the Reporting Period. KMC shall be entitled during business hours, on prior written notice, to review and audit the records of Contractor supporting each Report, and Contractor shall make its records and personnel reasonably available for such purpose.

3) Limited Guarantee of Collections and Payment. To the extent the Collections for any Reporting Period during the Guarantee Period are less than \$50,000, KMC shall pay to Contractor within 45 business days after its receipt of the Report the difference between \$50,000 and the Collections for the Reporting Period. The parties understand and acknowledge that this obligation of KMC is not a guarantee of net revenue; it is a guarantee of collections only, and neither Authority nor KMC is obligated to guarantee any level or amount of Collections after the Guarantee Period.

4.1.2 November 1, 2019 through April 8, 2021. For the period November 1, 2019 through and including April 8, 2021, Contractor shall be responsible to bill patients and third-party payers for all professional services rendered by Contractor and Group Physicians at 9300 Stockdale Highway, Bakersfield, California (“Stockdale Location”). Such billing shall comply with all applicable state and federal laws and is subject to the provisions of section 4.5 herein.

4.1.3 Emergency Call Coverage. Authority shall pay Contractor a per diem rate in the amount of \$2,000 per day for scheduled emergency hand call coverage (excluding established patients).

4.1.4 KMC Clinic Coverage. Authority shall pay Contractor a per diem rate in the amount of \$2,000 per day for scheduled coverage in the outpatient hand clinic at KMC.

4.1.5 KMC Operating Room Coverage. Authority shall pay Contractor a per diem rate in the amount of \$2,000 per 24-hour day for surgical procedures performed in the operating room at KMC.

4.1.6 Maximum Payable. The maximum payable under this Agreement will not exceed \$1,900,000 over the three-year Initial Term of this Agreement.

4.1.7 Fair Market Value. The parties hereby acknowledge that the compensation set forth herein was negotiated at arm's length without taking into account the value or volume or referrals between the parties, represents the parties' best estimate of fair market value, and covers Contractor's actual cost to provide the services on a fully loaded basis.

4.2 Limitations on Compensation. Except as otherwise provided in paragraph 4.1 hereof, neither Contractor nor any Group Physician shall be entitled to any salary or other compensation from Authority or KMC, or to any employee benefits provided by KMC, including disability, life insurance, pension and annuity benefits, educational allowances, professional membership dues, and sick, holiday or vacation pay. Neither Authority nor KMC will withhold income taxes or pay Social Security or unemployment taxes for Contractor or any Group Physician, all such being the exclusive responsibility of Contractor and Group Physicians, which Contractor and Group Physicians agree to discharge fully.

4.3 Invoices. Invoices for payment shall be submitted in a form approved by KMC and list each service performed. Invoices and receipts shall be sent to KMC for review and processing within 60 days of the date of service or payment will not be made. Payment shall be made to Contractor within 30 days of receipt and approval of each invoice by KMC.

4.4 Taxpayer Identification. To ensure compensation is reported as paid to the proper party, Contractor will complete and execute IRS Form W-9 (Exhibit "A," attached hereto and incorporated herein by this reference), which identifies the taxpayer identification number for Contractor.

4.5 Billing and Collection.

4.5.1 Group Billing and Charges. Contractor shall be solely responsible for the processing, billing and collection of all charges to patients and third-party payers separately from KMC for the amount of the professional (i.e., "physician services") component of the services provided by Contractor hereunder at the Stockdale Location. Contractor expressly agrees as follows:

1) Schedule of Charges. Contractor shall submit at least annually to KMC the current schedule of charges for services provided by Contractor at the Stockdale Location and shall notify KMC of any changes in that charge schedule.

2) Prevailing Charges. Contractor shall be responsible for establishing the schedule of charges for the professional component of the services provided by Contractor at the Stockdale Location. The professional charges to patients for services provided by Contractor at the Stockdale Location shall be competitive with the prevailing charges in the medical community for similar services.

3) Hospital Charges. KMC shall establish the amounts to be charged to patients for the “hospital services” component of the services rendered at the Stockdale Location and shall bill patients and third-party payers separately from Contractor for the amount of the hospital services component of services rendered.

4) Billing Generally. Each party, at its own cost, shall be responsible for processing, billing and collecting from patients or third-party payers for services rendered at the Stockdale Location. In the conduct of its billing and collection practices and procedures, each party agrees that it will not, nor will it permit its employees or agents to, engage in any action that would violate federal, state or local law, including fair debt collection practices, reimbursement and state and federal anti-fraud and abuse laws.

5) Billing Compliance. Contractor shall comply, and shall ensure that Group Physicians comply, with all applicable laws in connection with billing and coding for professional services provided by Contractor or Group Physicians pursuant to this Agreement. Contractor shall adopt and maintain billing and coding compliance policies and procedures to ensure Contractor’s compliance with applicable state and federal laws. KMC shall have reasonable access to Contractor’s billing records in order to assure Contractor’s compliance with this Agreement. Contractor shall promptly correct any billing errors documented by KMC.

4.5.2 Reconciliation. It is the intention of the parties that Authority be compensated and reimbursed for the allocated costs of the services and facilities provided by KMC to Contractor pursuant to this Agreement. Accordingly, on a monthly basis KMC shall review Contractor’s records to reconcile the amounts collected by Contractor for professional services rendered by Contractor and Group Physicians at the Stockdale Location. The parties agree that a reasonable allocated cost of the services and facilities provided by KMC for the benefit of Contractor and Group Physicians pursuant to this Agreement is 20% of collected professional fees (the “Monthly Fee”). The Monthly Fee shall be paid by Contractor to KMC within 30 days following completion of each monthly reconciliation.

4.5.3 Copayment Collection Services.

1) Appointment of KMC as Collection Agent. Contractor acknowledges and agrees that KMC shall serve as its agent solely for the purpose of collecting copayments from patients for the professional component of services provided by Contractor and Group Physicians pursuant to this Agreement (“Copayments”). Contractor shall retain all legal right and claim to, and interest in, the Copayments. Contractor acknowledges and agrees that such appointment in no way guarantees collection or payment of the Copayments or otherwise imposes on Authority or KMC any obligation to pay Contractor for Copayments.

2) Scope of Copayment Collection Services. As collection agent for Contractor, KMC shall: (a) collect Copayments by cash, check, or credit card; (b) submit collected Copayments to Contractor’s billing service; and (c) employ or contract with and train personnel to carry out any of the tasks described herein (collectively, the “Copayment Collection Services”). KMC shall provide Copayment Collection Services in accordance with its policies and procedures. Contractor shall coordinate and assist KMC as necessary for KMC’s performance of the Copayment Collection Services.

3) Indemnification. Contractor shall indemnify and hold harmless Authority and KMC, and their respective directors, officers, employees, or agents, from and against any and all claims, causes of action, liabilities, losses, damages, penalties, assessments, judgments, awards, or costs, including reasonable attorneys’ fees and costs (including the reasonable costs of Authority’s in-house counsel), arising out of, resulting from, or relating to the provision of Copayment Collection Services.

4.5.4 Access to Records. The parties agree to permit each other’s accountants and other appropriate representatives to have reasonable access during normal working hours to billing, patient, and reimbursement records relating to the professional services rendered by Contractor and Group Physicians at the Stockdale Location for purposes of, and to the extent necessary to perform, billing, collection and accounting function. Upon reasonable request, a party shall provide to the other appropriate billing information, including patient name and address, guarantor name and address, and insurance or other third-party payer information to assist the requesting party in billing and collection efforts.

4.6 Managed Care Contracting. Contractor shall cooperate, and shall ensure that Group Physicians cooperate, in all reasonable respects necessary to facilitate KMC’s entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable Authority or KMC to participate in


any third-party payer arrangements, Contractor and/or Group Physicians shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from Authority and KMC, with any third-party payer or intermediate organization (including any independent practice association) (each, a “Managed Care Organization”) designated by Authority or KMC for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written agreement with KMC regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization.”

2. All capitalized terms used in this Amendment and not otherwise defined, shall have the meaning ascribed thereto in the Agreement.
3. This Amendment shall be governed by and construed in accordance with the laws of the state of California.
4. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
5. Except as provided herein, all other terms, conditions, and covenants of the Agreement and any and all amendments thereto shall remain in full force and effect.

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 to the Agreement as of the day and year first written above.

MATTHEW M. MALERICH, M.D.,
INCORPORATED

By 
Matthew M. Malerich, M.D.
Its President

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
VP & General Counsel
Kern County Hospital Authority



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed Agreement with Tung Thanh Trang, M.D.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve an agreement with Tung Thanh Trang, M.D., a contract employee, for professional medical services in the Department of Surgery. Dr. Trang has served full-time at Kern Medical since July 2009 in the role as Chief, Division of Otolaryngology in the Department of Surgery.

The proposed Agreement is for a term of three-years from November 13, 2019 through November 12, 2022. The maximum payable will not to exceed \$1,978,000 over the three-year term of the Agreement.

Dr. Trang's annual salary is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey for specialty and represents the reasonable fair market value compensation for the services provided. Included in Dr. Trang's annual salary, he receives a base salary for teaching and administrative duties and also receives payment for care of Kern Medical patients based on his productivity.

Therefore, it is recommended that your Board approve the Agreement with Tung Thanh Trang, M.D., for professional medical services in the Department of Surgery from November 13, 2019 through November 12, 2022, in an amount not to exceed \$1,978,000 over the three-year term, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Tung Thanh Trang, M.D.)**

This Agreement is made and entered into this ____ day of _____, 2019, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Tung Thanh Trang, M.D. (“Physician”).

**I.
RECITALS**

(a) Authority is authorized, pursuant to section 101852 of Part 4 of Division 101 of the Health and Safety Code, to contract for special services with individuals specially trained, experienced, expert, and competent to perform those services; and

(b) Authority requires the assistance of Physician to provide professional medical services in the Department of Surgery at KMC (the “Department”), as such services are unavailable from Authority resources, and Physician desires to accept employment on the terms and conditions set forth in this Agreement; and

(c) Physician has special training, knowledge and experience to provide such services; and

(d) Authority currently contracts with Physician as a contract employee for the provision of professional medical services in the Department and teaching services to resident physicians employed by Authority (Agt. #2016-073, dated October 19, 2016), for the period November 13, 2016 through November 12, 2019; and

(e) Each party expressly understands and agrees that Agt. #2016-073 is superseded by this Agreement as of the Commencement Date;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree as follows:

**II.
TERMS AND CONDITIONS**

1. **Term.** The term of this Agreement shall be for a period of three (3) years, commencing as of November 13, 2019 (the “Commencement Date”), and shall end November 12, 2022 (the “Term”), unless earlier terminated pursuant to other provisions of this Agreement as herein stated. This Agreement may be renewed for additional terms, but only upon mutual written agreement of the parties. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.

2. **Employment.** Authority hereby employs Physician as Chief, Division of Otolaryngology and for the practice of medicine in the care and treatment of patients at KMC, or at such other clinic sites as KMC may designate (collectively referred to as the “Practice Sites”). It is expressly understood and agreed that KMC shall have reasonable discretion to consolidate and relocate clinics operated by Authority and to re-designate Practice Sites served by Physician from time to time. Physician shall be subject to Authority’s employment policies, directives, rules and regulations as promulgated by Authority from time to time, including, but not limited to, those pertaining to employees.

3. **Representations and Warranties.** Physician represents and warrants to Authority and KMC, upon execution and throughout the Term of this Agreement, as follows: (i) Physician is not bound by any agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (ii) Physician’s license to practice medicine in the state of California or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to the terms of probation or other restriction; (iii) Physician’s medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (iv) Physician holds a valid Controlled Substance Registration Certificate issued by the Drug Enforcement Administration that has never been revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (v) Physician is not currently and has never been an Ineligible Person¹; (vi) Physician is not currently the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; and (vii) Physician has, and shall maintain throughout the Term of this Agreement, an unrestricted license to practice medicine in the state of California and staff membership and privileges at KMC.

4. **Obligations of Physician.**

4.1 **Services.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Authority. Physician shall render those services set forth in Exhibit “A,” attached hereto and incorporated herein by this reference.

4.2 **Use of Premises.** Physician shall use the Practice Sites as designated by Authority or KMC exclusively for the practice of medicine in the care and treatment of patients and shall comply with all applicable federal, state, and local laws, rules and regulations related thereto.

4.3 **Qualifications.**

4.3.1 **Licensure.** Physician shall maintain a current valid license to practice medicine in the state of California at all times during the Term of this Agreement.

¹ An “Ineligible Person” is an individual or entity who: (i) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the federal health care programs or in federal procurement or non-procurement programs; or (ii) has been convicted of a criminal offense that falls within the range of activities described in 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

4.3.2 Board Certification. Physician shall be board certified by the American Board of Otolaryngology in otolaryngology-general and maintain such certification at all times during the Term of this Agreement.

4.3.3 Medical Staff Status. Physician shall at all times during the Term of this Agreement be a member in good standing of the KMC medical staff with “active” staff status and hold all clinical privileges on the active medical staff appropriate to the discharge of his obligations under this Agreement.

4.3.4 TJC and ACGME Compliance. Physician shall observe and comply with all applicable standards and recommendations of The Joint Commission and Accreditation Council for Graduate Medical Education.

4.4 Loss or Limitation. Physician shall notify KMC in writing as soon as possible (but in any event within three (3) business days) after any of the following events occur: (i) Physician’s license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (ii) Physician’s medical staff privileges at KMC or any other health care facility are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (iii) Physician’s Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (iv) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (v) Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; or (vi) an event occurs that substantially interrupts all or a portion of Physician’s professional practice or that materially adversely affects Physician’s ability to perform Physician’s obligations hereunder.

4.5 Standards of Medical Practice. The standards of medical practice and professional duties of Physician at designated Practice Sites shall be in accordance with the KMC medical staff bylaws, rules, regulations, and policies, the standards for physicians established by the state Department of Public Health and all other state and federal laws and regulations relating to the licensure and practice of physicians, and The Joint Commission.

4.6 Managed Care Contracting. Physician shall cooperate in all reasonable respects necessary to facilitate KMC’s entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable KMC to participate in any third-party payer arrangements, Physician shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from KMC, with any third-party payer or intermediate organization (including any independent practice association) (each, a “Managed Care Organization”) designated by KMC for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written

agreement with KMC regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization.

4.7 Authorization to Release Information. Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other third parties to release to KMC and its agents any information requested by KMC or its agents from time to time relating to Physician's professional qualifications or competency. Physician agrees to execute the Authorization to Release Information in the form set forth in Exhibit "B," attached hereto and incorporated herein by this reference, and to execute all other documents required by KMC from time to time and to otherwise fully cooperate with KMC to enable KMC and its agents to obtain such information from third parties.

4.8 Medical Records. Physician shall cause a complete medical record to be timely prepared and maintained for each patient seen by Physician. This record shall be prepared in compliance with all state and federal regulations, standards of The Joint Commission, and the KMC medical staff bylaws, rules, regulations, and policies. Documentation by Physician shall conform to the requirements for evaluation and management (E/M) services billed by teaching physicians set forth in the Medicare Carriers Manual, Part 3, sections 15016-15018, inclusive. All patient medical records of Practice Sites, including without limitation, patient medical records generated during the Term of this Agreement, shall be the property of KMC subject to the rights of the respective patients. Upon the expiration or termination of this Agreement by either party for any reason, KMC shall retain custody and control of such patient medical records.

4.9 Physician Private Practice. Physician understands and agrees that he shall not enter into any other physician employment contract or otherwise engage in the private practice of medicine or provide similar services to other organizations, directly or indirectly, during the Term of this Agreement or any extensions thereof.

4.10 Proprietary Information. Physician acknowledges that during the Term of this Agreement Physician will have contacts with and develop and service KMC patients and referring sources of business of KMC. In all of Physician's activities, Physician, through the nature of his work, will have access to and will acquire confidential information related to the business and operations of KMC, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges that all such information is solely the property of KMC and constitutes proprietary and confidential information of KMC; and the disclosure thereof would cause substantial loss to the goodwill of KMC; and that disclosure to Physician is being made only because of the position of trust and confidence that Physician will occupy. Physician covenants that, except as required by law, Physician will not, at any time during the Term or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by KMC) any information whatsoever pertaining to the business or operations of KMC, any affiliate thereof or of any other physician employed by KMC, including without limitation, any of the kinds of information described in this paragraph.

4.11 Physician Covenants. Physician covenants that from the Commencement Date and continuing throughout the Term of this Agreement, Physician, unless otherwise permitted by the written consent of Authority shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part: (i) engage in any activities that are in competition with KMC, including the operation of any medical practice or offering of any medical services that are similar to services offered at the Practice Sites; (ii) solicit or encourage the resignation of any employee of Authority or KMC with whom Physician had a working relationship during Physician's employment with Authority; (iii) solicit or divert patients with whom Physician had personal contact during such employment; or (iv) influence or attempt to influence any payer, provider or other person or entity to cease, reduce or alter any business relationship with Authority or KMC relating to the Practice Sites.

5. Compensation Package.

5.1 Annual Compensation. Physician shall work full time, which is a minimum of 80 hours per biweekly pay period, and will be compensated with cash and other value as described below in this paragraph 5.1 ("Annual Salary").

5.1.1 Annual Salary. Authority shall pay Physician an Annual Salary comprised of the following: (i) a base salary for teaching and administrative services as Chief, Division of Otolaryngology in the amount of \$52,336 per year; and (ii) payment for care of KMC patients using the current Medical Group Management Association Physician Compensation and Production Survey with more than one year in the specialty for all physicians section. This section is divided into four categories: 25th percentile, median, 75th percentile and 90th percentile. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the worked relative value unit ("Worked RVU") in that category. Physician will be compensated for each Worked RVU by multiplying the Worked RVU by the median conversion factor for each KMC patient ("RVU Effort").

5.1.2 Salary Adjustment. KMC will establish an estimate ("Estimate") of Physician's RVU Effort using Physician's RVU Effort for the immediately preceding 12-month period annualized. The Estimate will be divided by the number of Authority payroll periods in a calendar year in order to calculate the amount of RVU Effort to be paid to Physician each payroll period (the "Paycheck Amount"). Within 30 days after the end of each quarter, KMC will calculate the RVU Effort for such immediately preceding quarter, and adjust the payment for RVU Effort accordingly (the "Actual Amount"). If the Estimate is lower than the Actual Amount, then such difference shall be paid to Physician within 30 days after such calculation has been completed, or as of the effective date of any termination of this Agreement, whichever occurs sooner. If the Estimate exceeds the Actual Amount, then Physician shall pay such difference to KMC: (i) in a lump sum within 30 days after such calculation has been completed; or (ii) through a reduction in the Paycheck Amount during the next quarter; or (iii) in a lump sum as of the effective date of any termination of this Agreement, whichever occurs sooner. The

Estimate shall be reestablished as of each Employment Year. **Physician hereby expressly grants to KMC the right to offset any amounts owed to KMC against any payment to be made to Physician by KMC pursuant to this paragraph if Physician fails to pay such excess to KMC.**

5.1.3 Limitations on Compensation. Authority shall exclude from payment for care of KMC patients any Worked RVU that is not reimbursed by Medicare or Medi-Cal, unless authorized in advance by KMC.

5.1.4 Biweekly Payment. Physician shall be paid biweekly on the same schedule as regular Authority employees. The exact date of said biweekly payments shall be at the sole discretion of Authority. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.1.5 Fair Market Value Compensation. The compensation provided under section 5.1 represents the parties' good faith determination of the reasonable fair market value compensation for the services to be provided by Physician under this Agreement.

5.2 Call Coverage. Authority will pay Physician a fixed fee in the amount of \$500 per 24-hour day, less all applicable federal and state taxes and withholdings, for call coverage that exceed one in four (1:4) days.

5.3 Professional Fee Billing.

5.3.1 Assignment. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Physician during the Term of this Agreement. All professional fees generated by Physician during the Term of this Agreement, including without limitation, both cash collections and accounts receivable, capitated risk pool fees, professional retainer fees, honoraria, professional consulting and teaching fees, and fees for expert testimony (but excluding Physician's private investment and nonprofessional income), will be the sole and exclusive property of KMC, whether received by KMC or by Physician and whether received during the Term of this Agreement or anytime thereafter. Physician hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

5.3.2 Remittance of Professional Fee Charges. Physician shall remit all professional fee charges to KMC within 45 days of the date direct patient care services are provided by Physician. Any professional fee charges not remitted by Physician to KMC within 45 days of the date of such service, or any charges for which relevant documentation has not been provided, will not be credited to Physician as Worked RVU.

5.4 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$1,978,000 over the three-year Term of this Agreement.

6. **Benefits Package.**

6.1 **Retirement.** Physician shall continue to participate in the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the "Plan"), a qualified defined contribution pension plan, pursuant to the terms of the instrument under which the Plan has been established, as from time to time amended. Physician is not eligible to participate in any other retirement plan established by Authority for its employees, including but not limited to the Kern County Employees' Retirement Association, and this Agreement does not confer upon Physician any right to claim entitlement to benefits under any such retirement plan(s).

6.2 **Health Care Coverage.** Physician shall continue to receive the same health benefits (medical, dental, prescription and vision coverage) as all eligible Authority employees. The employee share of cost is 20% of the current biweekly premium. Physician's initial hire date is the initial opportunity to enroll in the health plan. Physician must work at least 40 hours per biweekly pay period to be eligible for coverage.

6.3 **Holidays.** Physician shall be entitled to paid holidays subject to Authority policy, as amended from time to time. Physician will not be paid for banked holidays upon termination of employment.

6.4 **Vacation.** Physician shall retain his vacation leave credit balance, if any, as of the Commencement Date. Effective with the Commencement Date, Physician shall be credited with vacation leave of 9.23 hours for each pay period of service, for a maximum accrual of 240 hours per Employment Year. Total unused vacation leave accumulated will not exceed a maximum of 320 hours. No further vacation leave will accrue as long as Physician has the maximum number of hours credited. The Department chair must approve all vacation leave in advance. Physician shall be paid for accrued and unused vacation leave, if any, upon termination or expiration of this Agreement calculated at Physician's current hourly rate of \$235.37 per hour. All payments made by Authority to Physician under this paragraph will be subject to all applicable federal and state taxes and withholding requirements.

6.5 **Sick Leave.** Physician shall retain his sick leave credit balance, if any, as of the Commencement Date. Effective with the Commencement Date, Physician shall be entitled to sick leave subject to Authority policy, as amended from time to time. Physician will not be paid for accrued and unused sick leave upon termination of employment.

6.6 **Education Leave.** Physician shall receive 80 hours paid education leave annually. The first 80 hours will accrue on the Commencement Date. On each successive Employment Year, if any, an additional 80 hours paid education leave will accrue. Education leave must be used within the year that it is accrued. Physician will not be paid for unused education leave upon termination of employment. The Department chair must approve education leave in advance of use. Physician's participation in educational programs, services or other approved activities set forth herein shall be subordinate to Physician's obligations and duties under this Agreement.

6.7 CME Expense Reimbursement. Authority shall reimburse Physician for all approved reasonable and necessary expenditures related to continuing medical education in an amount not to exceed \$2,500 per Employment Year, payable in arrears, in accordance with Authority policy, as amended from time to time. This amount may not be accumulated or accrued and does not continue to the following Employment Year.

6.8 Kern\$Flex. Physician shall be eligible to participate in flexible spending plans to pay for dependent care, non-reimbursed medical expenses, and certain insurance premiums on a pre-tax basis through payroll deduction. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.9 Attendance at Meetings. Physician shall be permitted to be absent from KMC during normal working days to attend professional meetings and to attend to such outside professional duties in the healthcare field as may be mutually agreed upon between Physician and the Department chair. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and will not be considered vacation or education leave.

6.10 Unpaid Leave of Absence. Physician may take an unpaid leave of absence in accordance with Authority policies in effect at the time the leave is taken.

6.11 Social Security. Physician is exempt from payment of Social Security taxes as the Kern County Hospital Authority Defined Contribution Plan for Physician Employees is a qualified alternative to the insurance system established by the federal Social Security Act.

6.12 Deferred Compensation. Physician shall be eligible to participate in the Kern County Deferred Compensation Plan ("457 Plan") on a pre-tax basis. Physician shall make all contributions if he elects to participate in the 457 Plan.

6.13 Disability Insurance. Physician shall be eligible to purchase Long Term Disability or Short Term Disability insurance coverage through payroll deduction on a post-tax basis. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.14 Employee Assistance/Wellness Programs. Physician shall be eligible to participate in any Authority-sponsored employee assistance and employee wellness programs.

6.15 Limitation on Benefits. Except as expressly stated herein, Physician shall receive no other benefits from Authority.

7. Assignment. Physician shall not assign or transfer this Agreement or his obligations hereunder or any part thereof. Physician shall not assign any money due or which becomes due to Physician under this Agreement without the prior written approval of Authority.

8. Assistance in Litigation. Upon request, Physician shall support and assist Authority as a consultant or expert witness in litigation to which Authority is a party.

9. **Authority to Incur Financial Obligation.** It is understood that Physician, in his performance of any and all duties under this Agreement, has no right, power or authority to bind Authority to any agreements or undertakings.

10. **Captions and Interpretation.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

11. **Choice of Law/Venue.** This Agreement shall be construed and enforced under and in accordance with the laws of the state of California, with venue of any action relating to this Agreement in the County of Kern, state of California.

12. **Compliance with Law.** Physician shall observe and comply with all applicable Authority, local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.

13. **Confidentiality.** Physician shall maintain confidentiality with respect to information that he receives in the course of his employment and not use or permit the use of or disclose any such information in connection with any activity or business to any person, firm or corporation whatsoever, unless such disclosure is required in response to a validly issued subpoena or other process of law or as required by Government Code section 6250 et seq. Upon completion of the Agreement, the provisions of this paragraph shall continue to survive.

14. **Conflict of Interest.** Physician covenants that he has no interest and that he will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law (Gov. Code, § 81000 et seq.) or that would otherwise conflict in any manner or degree with the performance of his services hereunder. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may immediately terminate this Agreement by giving written notice thereof.

15. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

16. **Dispute Resolution.** In the event of any dispute involving the enforcement or interpretation of this Agreement or any of the rights or obligations arising hereunder, the parties shall first attempt to resolve their differences by mediation before a mediator of their mutual selection. If the parties are, after mutual good faith efforts, unable to resolve their differences by mediation, the dispute shall be submitted for trial before a privately compensated temporary judge appointed by the Kern County Superior Court pursuant to Article VI, section 21 of the California Constitution and Rules 3.810 through 3.830 of the California Rules of Court. All costs of any dispute resolution procedure shall be borne equally by the parties.

17. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to Authority is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

18. **Indemnification.** Authority shall assume liability for and indemnify and hold Physician harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Physician or for which Physician becomes liable, arising out of or related to services rendered or which a third party alleges should have been rendered by Physician pursuant to this Agreement. Authority's obligation under this paragraph shall extend from Physician's first date of service to Authority and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of services Physician rendered on behalf of Authority; provided, however, that the provisions of this paragraph shall not apply to any services rendered at any location other than designated KMC Practice Sites without approval by the Kern County Hospital Authority Board of Governors, and, provided further, that Authority shall have no duty or obligation to defend, indemnify, or hold Physician harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

19. **Invalidity of a Portion.** Should a portion, section, paragraph, or term of this Agreement be construed as invalid by a court of competent jurisdiction, or a competent state or federal agency, the balance of the Agreement shall remain in full force and effect. Further, to the extent any term or portion of this Agreement is found invalid, void or inoperative, the parties agree that a court may construe the Agreement in such a manner as will carry into force and effect the intent appearing herein.

20. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

21. **Non-appropriation.** Authority reserves the right to terminate this Agreement in the event insufficient funds are appropriated or budgeted for this Agreement in any fiscal year. Upon such termination, Authority will be released from any further financial obligation to Physician, except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised. Physician shall be given 30 days' prior written notice in the event that Authority requires such an action.

22. **Nondiscrimination.** No party to this Agreement shall discriminate on the basis of race, color, religion, sex, national origin, age, marital status or sexual orientation, ancestry, physical or mental disability, medical conditions, political affiliation, veteran's status, citizenship or marital or domestic partnership status or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

23. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of Authority. Forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Physician. Authority shall be entitled to invoke any remedy available to Authority under this Agreement or by law or in equity despite said forbearance or indulgence.

24. **Notices.** Notices to be given by one party to the other under this Agreement shall be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received four (4) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to Physician:

Tung Thanh Trang, M.D.
8805 Montmedy Court
Bakersfield, California 93311

Notice to Authority:

Kern Medical Center
1700 Mount Vernon Avenue
Bakersfield, California 93306
Attn.: Chief Executive Officer

25. **Relationship.** Authority and Physician recognize that Physician is rendering specialized, professional services. The parties recognize that each is possessed of legal knowledge and skill, and that this Agreement is fully understood by the parties, and is the result of bargaining between the parties. Each party acknowledges their opportunity to fully and independently review and consider this Agreement and affirm complete understanding of the effect and operation of its terms prior to entering into the same.

26. **Severability.** Should any part, term, portion or provision of this Agreement be decided finally to be in conflict with any law of the United States or the state of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

27. **Sole Agreement.** This Agreement contains the entire agreement between the parties relating to the services, rights, obligations, and covenants contained herein and assumed by the parties respectively. No inducements, representations, or promises have been made, other than those recited in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

28. **Termination.**

28.1 **Termination without Cause.** Either party shall have the right to terminate this Agreement, without penalty or cause, by giving not less than 90 days' prior written notice to the other party.

28.2 **Immediate Termination.** Notwithstanding the foregoing, Authority may terminate this Agreement immediately by written notice to Physician upon the occurrence of any of the following events: (i) Authority determines that Physician does not have the proper credentials, experience, or skill to perform the required services under this Agreement; (ii) Authority determines the conduct of Physician in the providing of services may result in civil, criminal, or

monetary penalties against Authority or KMC; (iii) Physician violates any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or Practice Sites is subject; (iv) Physician engages in the commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty against Authority or KMC; (v) the actions of Physician result in the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal; (vi) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (vii) Physician's medical staff privileges are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (viii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (ix) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (x) Physician fails to make a timely disclosure pursuant to paragraph 4.4; (xi) Physician engages in conduct that, in the sole discretion of Authority, is detrimental to patient care or to the reputation or operations of Authority and/or KMC; (xii) Physician breaches the confidentiality provisions of this Agreement; (xiii) Physician dies; (xiv) Physician fails to follow Authority's policies and procedures and other rules of conduct applicable to all employees of Authority, including without limitation, policies prohibiting sexual harassment; (xv) insubordination, flagrant tardiness, or interpersonal problems in the workplace with colleagues, patients or associates; or (xvi) Physician breaches any covenant set forth in paragraph 4.11.

29. **Effect of Termination.**

29.1 **Payment Obligations.** In the event of termination of this Agreement for any reason, Authority shall have no further obligation to pay for any services rendered or expenses incurred by Physician after the effective date of the termination, and Physician shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

29.2 **Vacate Premises.** Upon expiration or earlier termination of this Agreement, Physician shall immediately vacate KMC, removing at such time any and all personal property of Physician. KMC may remove and store, at the expense of Physician, any personal property that Physician has not so removed.

29.3 **No Interference.** Following the expiration or earlier termination of this Agreement, Physician shall not do anything or cause any person to do anything that might interfere with any efforts by Authority or KMC to contract with any other individual or entity for the provision of services or to interfere in any way with any relationship between KMC and any person who may replace Physician.

29.4 **No Hearing Rights.** Termination of this Agreement by Authority or KMC for any reason shall not provide Physician the right to a fair hearing or the other rights more particularly set forth in the KMC medical staff bylaws.

30. **Liability of Authority.** The liabilities or obligations of Authority with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Authority and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Agreement as of the day and year first written above.

PHYSICIAN

By: 
Tung Thanh Trang, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By: _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By: _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By: _____
VP & General Counsel
Kern County Hospital Authority

Agreement.Trang.100319

EXHIBIT “A”
Job Description
Tung Thanh Trang, M.D.

Position: Chief, Division of Otolaryngology.

Position Description: Reports to Chair, Department of Surgery; serves as the chief physician responsible for efficient, key program development, day-to-day operations and resident education within the Department for the otolaryngology division at KMC; serves as a full-time faculty member in the Department.

Essential Functions:

1. Clinical Responsibilities.

- Serves as attending physician in the Division of Otolaryngology
- Supervises residents and medical students assigned to the otolaryngology service
- Performs otolaryngology procedures
- Inpatient rounds – five (5) days per week
- ENT clinic – two (2) days per week, one (1) clinic session per day up to a maximum of 40 weeks
- ENT call coverage – weekday coverage, Monday through Thursday, one (1) in four (4) weekdays up to a maximum of 52 weekday call shifts per year and weekend coverage of one (1) in four (4) weekends up to a maximum of 13 weekends per year

2. Administrative Responsibilities.

- Serves as Chief, Division of Otolaryngology
- Serves as Director, Otolaryngology Consultative Service
- Serves as Director, Otolaryngology Clinic Service
- Serves as Director, Otolaryngology Quality Program
- Determines equipment needs for the otolaryngology surgical service
- Trains ancillary personnel assigned to the otolaryngology service
- Attends and actively participates in assigned medical staff and hospital committee

3. Teaching Responsibilities.

- Serves as director of otolaryngology education
- Serves as director of otolaryngology research
- Prepares residents for oral boards and reviews case logs
- Assists in resident mentoring, counseling, and evaluation
- Didactic talks/lectures – a minimum of six (6) per year

Employment Standards:

One (1) year of post-residency experience in otolaryngology

AND

Possession of a current valid Physician’s and Surgeon’s Certificate issued by the state of California

AND

Certification by the American Board of Otolaryngology in otolaryngology-general

Knowledge of: The principles and practices of modern medicine; current techniques, procedures, and equipment applicable to otolaryngology; principles of effective supervision and program development.

Ability to: Plan, organize, direct and coordinate otolaryngology services; perform invasive otolaryngological endoscopic and surgical procedures; supervise and instruct professional and technical personnel; develop and present educational programs for interns, residents and ancillary medical staff; maintain records and prepare comprehensive reports; work effectively with staff, patients, and others.

[Intentionally left blank]

EXHIBIT "B"
AUTHORIZATION TO RELEASE INFORMATION

[See attached]

AUTHORIZATION TO RELEASE INFORMATION

I, the undersigned physician, hereby authorize Kern Medical Center (“KMC”) and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, credentials competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG and RVU analyses, ancillary usage information and other utilization and quality related data.

I hereby release the Kern County Hospital Authority and KMC, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by KMC or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree that this authorization to release information shall remain effective until termination of my employment by the Kern County Hospital Authority and KMC. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to this request.



Physician

10/4/19

Date



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject Proposed retroactive Amendment No. 3 to Agreement 002-2018 with Desert Hand and Plastic Surgery PC

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board retroactively approve the proposed Amendment No. 3 to the Agreement 002-2018 for Professional Services with Desert Hand and Plastic Surgery PC, an independent contractor, for the provision of orthopedic hand and related surgery services on behalf of Kern Medical for the period April 9, 2018 through April 8, 2021. Currently, Dr. Bowen provides services primarily at the Stockdale clinic and emergency hand call coverage.

The proposed Amendment extends the guarantee period for 23 days through October 31, 2019, for ease of reconciliation, adds services including coverage in the outpatient hand clinic and operating room at Kern Medical, and increases the maximum payable by \$300,000, from \$1,600,000 to \$1,900,000, to cover the additional services over the remaining term of the Agreement.

Therefore, it is recommended that your Board retroactively approve Amendment No. 3 to the Agreement with Desert Hand and Plastic Surgery PC, effective October 9, 2019, and authorize the Chairman to sign.

AMENDMENT NO. 3
TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Desert Hand and Plastic Surgery PC)

This Amendment No. 3 to the Agreement for Professional Services is made and entered into this _____ day of _____, 2019, by and between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Desert Hand and Plastic Surgery PC, a California professional medical corporation (“Contractor”), with its principal place of business located at 38600 Lobelia Circle, Palm Desert, California 92260.

RECITALS

(a) Authority and Contractor have heretofore entered into an Agreement for Professional Services (Agt. #002-2018, dated January 17, 2018) (“Agreement”), for the period April 9, 2018 through April 8, 2021, to provide professional medical services in the Department of Surgery at KMC; and

(b) The parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and

(c) The Agreement is amended effective October 9, 2019;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follows:

1. Section 4, Payment for Services, paragraph 4.1, Compensation, shall be deleted in its entirety and replaced with the following:

“4.1 Compensation. As consideration for the services provided by Contractor hereunder, Authority will pay Contractor in accordance with the fee schedule set forth in this paragraph 4.1. All services are payable in arrears.

4.1.1 April 9, 2018 through October 31, 2019.

1) Methodology. For the period April 9, 2018 through and including October 31, 2019 (the “Guarantee Period”), Authority shall pay Contractor a guarantee payment (“Guarantee Payment”) in the amount of \$50,000 per month for all teaching and administrative services and payment for care of KMC patients. Contractor understands and agrees that: (a) the Guarantee Payment set forth in this subparagraph 4.1.1 is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey (“MGMA Survey”) for specialty; (b) Contractor will maintain a median level of worked relative value units based on the current MGMA Survey and fulfill all the obligations set forth in this

Agreement during the Term; (c) the Guarantee Payment is net of actual collections minus the Monthly Fee set forth in subparagraph 4.5.2 herein; and (d) the Guarantee Payment is net of any professional billing service fee not to exceed 7%.

2) Reporting. On a monthly basis starting the first month after the Commencement Date, Contractor shall deliver to KMC a report (the "Report") of its actual collections net of discounts and contractual allowances (the "Collections") during the prior month (the "Reporting Period") for services provided pursuant to this Agreement. The Report shall be in a form reasonably agreeable to KMC and shall include information in sufficient detail to enable KMC to verify the Collections for the Reporting Period. KMC shall be entitled during business hours, on prior written notice, to review and audit the records of Contractor supporting each Report, and Contractor shall make its records and personnel reasonably available for such purpose.

3) Limited Guarantee of Collections and Payment. To the extent the Collections for any Reporting Period during the Guarantee Period are less than \$50,000, KMC shall pay to Contractor within 45 business days after its receipt of the Report the difference between \$50,000 and the Collections for the Reporting Period. The parties understand and acknowledge that this obligation of KMC is not a guarantee of net revenue; it is a guarantee of collections only, and neither Authority nor KMC is obligated to guarantee any level or amount of Collections after the Guarantee Period.

4.1.2 November 1, 2019 through April 8, 2021. For the period November 1, 2019 through and including April 8, 2021, Contractor shall be responsible to bill patients and third-party payers for all professional services rendered by Contractor and Group Physicians at 9300 Stockdale Highway, Bakersfield, California ("Stockdale Location"). Such billing shall comply with all applicable state and federal laws and is subject to the provisions of section 4.5 herein.

4.1.3 Emergency Call Coverage. Authority shall pay Contractor a per diem rate in the amount of \$2,000 per day for scheduled emergency hand call coverage (excluding established patients).

4.1.4 KMC Clinic Coverage. Authority shall pay Contractor a per diem rate in the amount of \$2,000 per day for scheduled coverage in the outpatient hand clinic at KMC.

4.1.5 KMC Operating Room Coverage. Authority shall pay Contractor a per diem rate in the amount of \$2,000 per 24-hour day for surgical procedures performed in the operating room at KMC.

4.1.6 Maximum Payable. The maximum payable under this Agreement will not exceed \$1,900,000 over the three-year Initial Term of this Agreement.

4.1.7 Fair Market Value. The parties hereby acknowledge that the compensation set forth herein was negotiated at arm's length without taking into account the value or volume or referrals between the parties, represents the parties' best estimate of fair market value, and covers Contractor's actual cost to provide the services on a fully loaded basis.

4.2 Limitations on Compensation. Except as otherwise provided in paragraph 4.1 hereof, neither Contractor nor any Group Physician shall be entitled to any salary or other compensation from Authority or KMC, or to any employee benefits provided by KMC, including disability, life insurance, pension and annuity benefits, educational allowances, professional membership dues, and sick, holiday or vacation pay. Neither Authority nor KMC will withhold income taxes or pay Social Security or unemployment taxes for Contractor or any Group Physician, all such being the exclusive responsibility of Contractor and Group Physicians, which Contractor and Group Physicians agree to discharge fully.

4.3 Invoices. Invoices for payment shall be submitted in a form approved by KMC and list each service performed. Invoices and receipts shall be sent to KMC for review and processing within 60 days of the date of service or payment will not be made. Payment shall be made to Contractor within 30 days of receipt and approval of each invoice by KMC.

4.4 Taxpayer Identification. To ensure compensation is reported as paid to the proper party, Contractor will complete and execute IRS Form W-9 (Exhibit "A," attached hereto and incorporated herein by this reference), which identifies the taxpayer identification number for Contractor.

4.5 Billing and Collection.

4.5.1 Group Billing and Charges. Contractor shall be solely responsible for the processing, billing and collection of all charges to patients and third-party payers separately from KMC for the amount of the professional (i.e., "physician services") component of the services provided by Contractor hereunder at the Stockdale Location. Contractor expressly agrees as follows:

1) Schedule of Charges. Contractor shall submit at least annually to KMC the current schedule of charges for services provided by Contractor at the Stockdale Location and shall notify KMC of any changes in that charge schedule.

2) Prevailing Charges. Contractor shall be responsible for establishing the schedule of charges for the professional component of the services provided by Contractor at the Stockdale Location. The professional charges to patients for services provided by Contractor at the Stockdale Location shall be competitive with the prevailing charges in the medical community for similar services.

3) Hospital Charges. KMC shall establish the amounts to be charged to patients for the “hospital services” component of the services rendered at the Stockdale Location and shall bill patients and third-party payers separately from Contractor for the amount of the hospital services component of services rendered.

4) Billing Generally. Each party, at its own cost, shall be responsible for processing, billing and collecting from patients or third-party payers for services rendered at the Stockdale Location. In the conduct of its billing and collection practices and procedures, each party agrees that it will not, nor will it permit its employees or agents to, engage in any action that would violate federal, state or local law, including fair debt collection practices, reimbursement and state and federal anti-fraud and abuse laws.

5) Billing Compliance. Contractor shall comply, and shall ensure that Group Physicians comply, with all applicable laws in connection with billing and coding for professional services provided by Contractor or Group Physicians pursuant to this Agreement. Contractor shall adopt and maintain billing and coding compliance policies and procedures to ensure Contractor’s compliance with applicable state and federal laws. KMC shall have reasonable access to Contractor’s billing records in order to assure Contractor’s compliance with this Agreement. Contractor shall promptly correct any billing errors documented by KMC.

4.5.2 Reconciliation. It is the intention of the parties that Authority be compensated and reimbursed for the allocated costs of the services and facilities provided by KMC to Contractor pursuant to this Agreement. Accordingly, on a monthly basis KMC shall review Contractor’s records to reconcile the amounts collected by Contractor for professional services rendered by Contractor and Group Physicians at the Stockdale Location. The parties agree that a reasonable allocated cost of the services and facilities provided by KMC for the benefit of Contractor and Group Physicians pursuant to this Agreement is 20% of collected professional fees (the “Monthly Fee”). The Monthly Fee shall be paid by Contractor to KMC within 30 days following completion of each monthly reconciliation.

4.5.3 Copayment Collection Services.

1) Appointment of KMC as Collection Agent. Contractor acknowledges and agrees that KMC shall serve as its agent solely for the purpose of collecting copayments from patients for the professional component of services provided by Contractor and Group Physicians pursuant to this Agreement (“Copayments”). Contractor shall retain all legal right and claim to, and interest in, the Copayments. Contractor acknowledges and agrees that such appointment in no way guarantees collection or payment of the Copayments or otherwise imposes on Authority or KMC any obligation to pay Contractor for Copayments.

2) Scope of Copayment Collection Services. As collection agent for Contractor, KMC shall: (a) collect Copayments by cash, check, or credit card; (b)

submit collected Copayments to Contractor's billing service; and (c) employ or contract with and train personnel to carry out any of the tasks described herein (collectively, the "Copayment Collection Services"). KMC shall provide Copayment Collection Services in accordance with its policies and procedures. Contractor shall coordinate and assist KMC as necessary for KMC's performance of the Copayment Collection Services.

3) Indemnification. Contractor shall indemnify and hold harmless Authority and KMC, and their respective directors, officers, employees, or agents, from and against any and all claims, causes of action, liabilities, losses, damages, penalties, assessments, judgments, awards, or costs, including reasonable attorneys' fees and costs (including the reasonable costs of Authority's in-house counsel), arising out of, resulting from, or relating to the provision of Copayment Collection Services.

4.5.4 Access to Records. The parties agree to permit each other's accountants and other appropriate representatives to have reasonable access during normal working hours to billing, patient, and reimbursement records relating to the professional services rendered by Contractor and Group Physicians at the Stockdale Location for purposes of, and to the extent necessary to perform, billing, collection and accounting function. Upon reasonable request, a party shall provide to the other appropriate billing information, including patient name and address, guarantor name and address, and insurance or other third-party payer information to assist the requesting party in billing and collection efforts.

4.6 Managed Care Contracting. Contractor shall cooperate, and shall ensure that Group Physicians cooperate, in all reasonable respects necessary to facilitate KMC's entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable Authority or KMC to participate in any third-party payer arrangements, Contractor and/or Group Physicians shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from Authority and KMC, with any third-party payer or intermediate organization (including any independent practice association) (each, a "Managed Care Organization") designated by Authority or KMC for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written agreement with KMC regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization."

2. All capitalized terms used in this Amendment and not otherwise defined, shall have the meaning ascribed thereto in the Agreement.

3. This Amendment shall be governed by and construed in accordance with the laws of the state of California.

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

5. Except as provided herein, all other terms, conditions, and covenants of the Agreement and any and all amendments thereto shall remain in full force and effect.

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 to the Agreement as of the day and year first written above.

DESERT HAND AND PLASTIC SURGERY PC

By David Bowen
David T. Bowen, M.D.
Its President

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
VP & General Counsel
Kern County Hospital Authority

Amend3.Bowen.100119



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed retroactive Amendment No. 4 to Agreement 06018 with Clarity Technology Partners, LLC

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests that your Board approve the proposed Amendment No. 4 to the March 2, 2019 Clarity Technology Partners, LLC’s Master Service Agreement, for technology-related temporary staffing and contingent search services. This Amendment No. 4 extends the term for the continued staffing of an interface analyst and one training coordinator, which is necessary due to the Cerner Millennium Project’s Go-Live date being extended from July 1, 2019 to November 1, 2019.

The proposed Amendment No. 4 increases the maximum payable by \$138,346, from \$920,000 to \$1,058,346, for the term of the Agreement.

Previous Agreements	Purpose of Amendment	Variance
Original Agreement, April 2, 2018	Provide temporary technology-related staffing for EHR System – 1 clinical analyst	\$250,000
Amendment No. 1, May 2, 2018	Extend clinical analyst services.	\$300,000
Amendment No. 2, September 24, 2018	Provide Sr. Revenue Cycle Analyst and Interface support analyst services	\$370,000
Amendment No. 3, August 12, 2019	Replaced Training Coordinator	-0-
Amendment No. 4, October 16, 2019	<u>Extend Training Coordinator Services:</u> David Dogue, September 2, 2019 through December 31, 2019 - \$77,256 <u>Extend Interface Analyst:</u> Horiya Ameen, September 2, 2019 through January 31, 2020 - \$61,090	\$138,346

The Agreement contains non-standard terms and conditions and cannot be approved as to form by Counsel, due to Clarity’s amendment to the limitation of liability section of the agreement. Kern Medical is requesting that staff placed by Clarity drive a Kern Medical vehicle as part of their placement. Clarity requires that the Authority assume all liability and properly insure any Assigned Employee for these services. It is unclear at this time whether assigned staff meets the Authority’s requirements to drive for Kern Medical, as outlined in policy.

Therefore, it is recommended that your Board approve the proposed Amendment No. 4 to the Clarity Technology Partners, LLC’s Master Service Agreement, for technology related temporary staffing and contingent search services for the extended period of September 2, 2019 through January 31, 2020, effective September 2, 2019, increasing the maximum payable by \$138,346, from \$920,000 to \$1,058,346, for the professional fees and travel expenses, and authorize the Chairman to sign.



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**Amendment No. 4 to the
Clarity Technology Partners, LLC's Master Services Agreement**

This AMENDMENT NO. 4 made on this 16th day of October, 2019, as part of the SERVICES AGREEMENT ("Agreement") made by and between, Clarity Technology Partners and Kern County Hospital Authority ("Client").

The Parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and

The Agreement is amended effective September 2 2019:

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follows:

1. Section **Term and Termination's** first paragraph is amended to include the following statement, "The term of this agreement shall begin on March 2, 2018 and shall terminate on January 31, 2020."
2. Section **Contract Staffing** subsection (E) shall be deleted in its entirety and be superseded by the following: "E. The maximum payable under this Agreement will not exceed \$1,058,346.00 for the entire term of the Agreement."
3. Section **Limitations** subsection (C) is added to the Agreement and incorporated herein as written below. "C. Client has requested an Assigned Employee to use a Client vehicle to perform services for the Client. Client agrees to assume all liability and properly insure Assigned Employee and Client vehicle in the pursuance of said services."
4. Exhibit A-3, Exhibit A-3, Rate and Confirmation Letter, Amendment No. 4 is added to the Agreement and incorporated herein by this reference.
5. Except as otherwise defined herein, all capitalized terms used in this Amendment No. 4 have the meaning set forth in the Agreement.
6. This Amendment No. 4 shall be governed by and construed in accordance with the laws of the state of California.
7. This Amendment No. 4 may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
8. Except as provided herein, all other terms, conditions, and covenants of the Agreement and any and all amendments thereto shall remain in full force and effect.

Clarity Technology Partners, LLC | 23456 Madero, Suite 165 | Mission Viejo, CA | 92691

Clarity Technology Partners is a Woman Owned Business. Clarity is certified by The Women President's Educational Organization and The Women's Business Enterprise National Council as a Woman Business Enterprise.

IN WITNESS WHEREOF, the parties have executed this Agreement, under seal, the day of the first year above written.

Kern County Hospital Authority

Signature _____

Printed Name Russell Bigler

Title Chairman, Board of Governors

Date _____

Clarity Technology Partners


Signature 

Printed Name Gloria Gutierrez

Title Business Development Manager

Date September 2, 2019

APPROVED AS TO FORM
Legal Services Department

By 
Kern County Hospital Authority

Clarity Technology Partners, LLC | 23456 Madero, Suite 165 | Mission Viejo, CA | 92691

Clarity Technology Partners is a Woman Owned Business. Clarity is certified by The Women President's Educational Organization and The Women's Business Enterprise National Council as a Woman Business Enterprise.



Exhibit A-3
Rate and Confirmation Letter

Pursuant to the Master Services Agreement between Clarity Technology Partners and Kern Medical, dated March 2, 2018.

Candidate Information

Name: David Dogue Extend contract – September 2 thru December 31, 2019

Title: Training Coordinator

Start Date: August 26, 2019

Standard Billing Rate: \$85.00/hour for all hours worked

Overtime Billing Rate: \$127.50/hour (Prior written approval is necessary)

Costs: 704 hours x \$85.00 plus \$1250 travel expenses =
\$61,090

Name: Horiya Ameen Extend contract – September 2, 2019 thru January 31, 2020

Title: Support Analyst

Start Date: October 17, 2018

Standard Billing Rate: \$87.00/hour for all hours worked

Overtime Billing Rate: \$87.00/hour

Costs: 888 hours x \$87.00 = **\$77,256**

Clarity will bill Kern Medical on a weekly basis for all hours worked and approved via electronic timesheets per the MSA.

Agreed to by

Russell Bigler
Chairman, Board of Governors

Date

Clarity Technology Partners, LLC | 289 S San Antonio Rd, Suite 202 | Los Altos, CA | 94022 |
www.claritytechnologypartners.com

Clarity is a Woman Owned Business. Clarity is certified by The Women Presidents' Educational Organization and The Women's Business Enterprise National Council as a Woman Business Enterprise.



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed retroactive True Lease Schedule No. 001-6778724-001 to Master Lease Schedule No. 57662-50680 (KCHA Agt. 010-2019) dated 02/20/2019 with Dell Financial Services, L.L.C.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

The proposed True Lease Schedule with Dell Financial Services, L.L.C., contains the final leasing schedule for the financing of desktop computers, as required for the Cerner Millennium project, and initiates an industry standard 4-year technology lifecycle program for Kern Medical.

In February, your Board approved the financing, with Dell Financial Services, L.L.C., to initiate Kern Medical’s technology lifecycle strategy. There are over 800 computers that will require replacement over the next 4 years and this program provides improved forecasting, a strategic plan to leverage required technology, and additional Dell services (pre-imaged ready PCs, and end-of-life e-waste processing).

The lease is for a term of 48 months and the monthly payment will be equal to the total Equipment Cost times the Adjusted Lease Factor. The Adjusted Lease Factor will be determined as of the Acceptance Date and will be equal to (noted below) (the “Base Lease Factor”).

Model	Price	Quantity	Ext	Rate Factor	Monthly Payment
Dell Optiplex 7060MFF	798.98	824	577,492.16	0.02122	13,970.39
Dell 24 Monitor P2419H	164.91	824*	271,771.68	0.02347	7,182.93
Dell Micro All In One Stand	61.89	824	50,997.36	0.02122	1,378.97
CA SEF Feed ESTIMATED	4,944.00	1	4,944.00	0.02120	4,944.00
Tax ESTIMATED	47,018.59	1	47,018.59		1,134.09
Totals	928.64	2474	897,205.31		19,480.79

**reduced from 1624 to 824*

Therefore, it is recommended that your Board approve the proposed True Lease Schedule, effective May 1, 2019 through May 22, 2023, in an amount not to exceed \$850,186.72 (monthly \$18,346.70) plus any associated taxes, which includes all hardware technology and services and does not include taxes, and authorize the Chairman to sign.



**TRUE LEASE SCHEDULE NO.001-6778724-001
MASTER LEASE AGREEMENT NO. 57662-50680**

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. 57662-50680 ("Agreement") DATED 2/20/2019 BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND KERN COUNTY HOSPITAL AUTHORITY ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER: Dell, Inc., One Dell Way, Round Rock, TX 78682

<u>Product Description</u>	<u>Product Location</u>	<u>Lessee Purchase Order No.</u>	<u>Rent*</u>	<u>Primary Term (Mos.)</u>	<u>Commencement Date**</u>
See Exhibit 'A'	See Exhibit 'A'	10000-10119456	\$18,346.70	48	May 1, 2019

Total Product Acquisition Cost: \$850,186.72

Rent is payable: in **Advance**

Payment Period: **Monthly**

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

TRUE LEASE PROVISIONS

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. **TRUE LEASE:** The parties intend for this lease to constitute a true lease of Products under the UCC and all applicable laws. If this Lease is determined to be a lease intended as security, in no event shall Lessee be obligated to pay any time price balance differential in excess of the maximum amount permitted by applicable law (as specified herein or the state where the Products are located, whichever law permits the greater amount). In the event Lessor shall receive anything of value under a Lease that is deemed interest which would exceed the maximum amount of interest allowed under the law, the excess amount shall be applied to the reduction of the unpaid time price balance or shall be refunded to Lessee. In order to reduce the unpaid time price balance, any amount deemed interest shall, to the fullest extent permitted by applicable law, be amortized and spread uniformly throughout the Lease Term."

2. **END OF LEASE OPTIONS.**

(a) Provided that no Event of Default has occurred and is continuing, and at least 90 days but no more than 180 days prior to the expiration of the Primary Term (the "Expiration Date"), Lessee will give irrevocable written notice to Lessor of its intention to either:

- (i) purchase all of the Products at the Fair Market Value (as defined below);
- (ii) renew the Lease Term for a minimum of six (6) months at a rate and for a term agreed upon by both parties; or
- (iii) return all of the Products in accordance with the Agreement.

(b) If Lessee exercises the option to purchase the Products then, upon receipt of payment of the "Fair Market Value" (defined below), plus applicable taxes, Lessor will sell the Products to Lessee AS IS-WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY WARRANTIES OF DESIGN,

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT. The Fair Market Value purchase price shall be paid on or before the last day of the Primary Term. "Fair Market Value" means the price of the Products, installed, in use and in the condition required by the Agreement as determined by Lessor in its reasonable judgment. If Lessee disagrees with the Fair Market Value, Lessee shall notify Lessor in writing within 60 days prior to the Expiration Date and, upon Lessee's request, and within ten (10) days after receipt of Lessee's notice, Lessor shall appoint a qualified appraiser reasonably acceptable to Lessee to appraise the retail value of the Products. The amount determined by such appraiser shall be the final Fair Market Value. Lessor and Lessee shall share the expense of such appraisal equally.

(c) If Lessee desires to renew a lease, Lessee and Lessor shall enter into a supplement to this Schedule describing the length of the renewal Lease Term and the renewal Rent provided, however, all other terms of this Schedule and the Agreement shall remain in full force and effect.

(d) Whether or not Lessee has given Lessor notice of its intent as described above, if Lessee does not return or purchase the Products or renew the Lease as required above, the Lease Term shall automatically extend on a month-to-month basis at the Rent in effect on the Expiration Date (prorated on a monthly basis if the Payment Period was other than monthly during the Primary Term). Such extension shall continue until Lessee: (i) provides thirty (30) days prior written notice of its intention to return or purchase the Products (to take effect on the next Rent payment date that is at least 30 days after the notice is received by Lessor) and (ii) either returns or purchases all of the Products in accordance with the End of Lease options above. Payments of Rent during the month-to-month extension are due and payable monthly as specified in Lessor's invoice. If Lessee fails to return or purchase any Products, the Schedule and associated Rent for the Products that have not been returned or purchased shall extend on a month-to-month basis in accordance with the prior sentence.

3. COMPLETION OF SCHEDULE. Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time if necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

KERN COUNTY HOSPITAL AUTHORITY
"Lessee"

DELL FINANCIAL SERVICES L.L.C.
"Lessor"

By: _____
Russell E. Bigler
Name: _____
Chairman, Board of Governors
Title: _____
October 16, 2019
Date: _____

By: _____
Name: _____
Title: _____
Date: _____



October 16, 2019

To: Dell Financial Services L.L.C.
One Dell WayR1DF-27
Round Rock, TX 78682
ATTN: Kimberly Dugger

Ladies and Gentlemen:

We are counsel to the Kern County Hospital Authority (the "Lessee") and, in that capacity, we have examined Master Lease Agreement No. 57662-50680, dated as of February 20, 2019, and the Lease Purchase Schedule No.001-6778724-001 to Master Lease Agreement No.57662-50680 thereto, dated as of October 16, 2019 (collectively the "Agreement"), between the Lessee and Dell Financial Services L.L.C. (the "Lessor").

Based on our examination of the Agreement and such other examinations as we have deemed appropriate, we are of the opinion as follows:

(a) The Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of the State of California and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, with full power and authority to enter into the Agreement and the transactions contemplated thereby and to perform all of its obligations thereunder;

(b) The Agreement has been duly authorized, executed and delivered by Russell Bigler, Chairman of the Board of the Lessee by proper action of its governing board at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the Agreement against the Lessee;

(c) The Agreement constitutes the valid, legal and binding obligation of the Lessee, enforceable in accordance with its terms;

(d) No approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by the Lessee of the Agreement and the transactions contemplated thereby;

(e) Lessee has complied with any applicable public bidding requirements and other applicable state and federal laws in connection with the Agreement and the transactions contemplated thereby;

(f) The entering into and performance of the Agreement will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created by the Agreement;

(g) The Products are tangible personal property and when subject to use by the Lessee will not be or become fixtures or real property under the laws of the State of California;

(h) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting, nor to the best of our knowledge and belief is there any basis therefor, which, if determined adversely to Lessee, will have a material adverse effect on the ability of the Lessee to fulfill its obligations under the Agreement; and

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for Lessee's current Fiscal Period to make the Rent payments scheduled to come due during Lessee's current Fiscal Period and to meet its other obligations under the Agreement for the current Fiscal Period, and such funds have not been expended for other purposes.

This opinion is delivered to the addressee for its benefit and the benefit of its assigns for the purpose contemplated by the Agreement.

Very truly yours,



Shannon Hochstein
Hospital Counsel
Kern County Hospital Authority



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed retroactive Monitoring Services Master Services Agreement with ProviderTrust, Inc.

Recommended Action: Approve; Authorize Chief Executive Officer to sign

Summary:

Kern Medical requests your Board approve the proposed Monitoring Services Master Services Agreement with ProviderTrust, Inc. for the purpose of providing ongoing monitoring services required to fulfill contractual obligations with the County of Kern's department of Behavioral Health and Recovery Services (KernBHRS). Our agreement with KernBHRS requires a monthly attestation that monitoring for exclusion for all staff has been completed before payment will be issued.

ProviderTrust, Inc. provides an automated monitoring service for daily Office of Inspector General (OIG), General Services Administration/System for Award Management (GSA/SAM), and Medi-Cal/Medi-care exclusion checks that is fully integrated with our current Human Resource Information Systems. This integration supports the complete and instant sharing of employee information to the Vendor, which allows the Vendor to provide both the initial and ongoing monitoring of all staff, contracted employees and volunteers during their employment.

The Agreement contains non-standard terms and conditions and cannot be approved as to form by Counsel, due to ProviderTrust Inc.'s limitation of liability to \$75,000 per individual. Civil Monetary Penalties for using excluded staff historically ranges from \$2,000 to \$100,000, which does not include any refund of payments made by government entities for services provided by excluded staff. Efforts were made to negotiate the removal of the limitation but only resulted in the increase of maximum aggregate liability from \$25,000 to \$75,000 per individual.

Term:

This Agreement began on September 30, 2019 and will continue for one (1) year. If the Agreement is not terminated within ninety (90) days of the expiration of the year, the Agreement will auto-renew for another one (1) year term.

Costs associated with Agreement:

One-time Implementation Fee:	\$500
Monthly Hosting Fees (estimate.):	\$13,674 (\$.50 x 2,279 (number of staff) x 12 mos)
Total:	\$14,174

Therefore, it is recommended that your Board approve the proposed Monitoring Services Master Services Agreement with ProviderTrust, Inc. to provide monitoring and search services for a term of one (1) year at a rate of \$14,174 per year, with a one (1) year auto-renewal term, and authorize the Chief Executive Officer to sign.

ProviderTrust Monitoring Services Master Services Agreement

The terms and pricing offered in this Agreement were submitted for approval on
September 20, 2019 and remain firm for forty-five (45) calendar days.

The same are subject to expire if not fully executed within such time.

This Monitoring Services Master Services Agreement, (the “Agreement”), in addition to any attached Exhibits is between ProviderTrust, Inc., (“ProviderTrust”), with corporate headquarters at 406 11th Ave N, Suite 250, Nashville, TN 37203, a Tennessee corporation and Kern County Hospital Authority at 1700 Mt Vernon Ave, Bakersfield, CA 93306, a local unit of government.

WHEREAS, ProviderTrust provides monitoring and search services related to licensure and exclusion of individuals and entities, and

WHEREAS, Client desires to retain ProviderTrust to provide Client with such services, and

WHEREAS, the parties are entering into the Agreement in order to contract with ProviderTrust for Monitoring services, and

WHEREAS, the following definitions apply to this Agreement:

1. **Affiliated Person**: **Affiliated Person**” shall mean (a) any entity that owns all or part of ProviderTrust, (b) any entity of which ProviderTrust owns all or a part, (c) any entity that is under common ownership or control with ProviderTrust, and (d) any individual owner, officer, director, employee, or agent of ProviderTrust.
2. **Civil Fines and Penalties**: **“Civil Fines and Penalties”** means monetary criminal or civil penalties imposed on Client by a state licensing board or by the Office of the Inspector General and paid to the public treasury, as evidenced by a written receipt, but expressly excluding, without limitation, (i) any remittance, reimbursement, or rescission of money paid to Client as compensation for the services provided or payment for claims submitted, whether from Medicare, Medicaid, or other sources; and (ii) penalties imposed under 31 U.S.C. §§ 3729-3733.
3. **Exclusions**: **“Exclusions”** are administrative actions that are placed upon an individual or entity by a state Medicaid Fraud Control Unit, or like agency and/or the federal government through the Department of Health and Human Services- Office of Inspector General (OIG), for violating enumerated state and/or federal rules, regulations or laws. As a result of an exclusion, such individual or entity may not participate in any Federal Healthcare program reimbursement.
4. **Individual** **“Individual”** means a person or entity, where applicable.
5. **OIG**: **“OIG”** means the Office of Inspector General for the Department of Health and Human Services.

6. Primary Source: **Primary Source**” means a public record from a local, state or federal agency, board, department, or court that has regulatory authority over the issuance of a license, registration or certificate to practice in a jurisdiction, or other type of governmental entity with administrative, regulatory, disciplinary or other powers to oversee and/or maintain license, exclusion or other disciplinary/sanction information on individuals or entities, including third party associations that maintain or process Primary Sources.

7. Sanctions **“Sanctions”** are imposed upon an individual from a licensing board or authorized agency that issues a license or registration and also disciplines an individual as a result of a violation of the Board or Agency rules and regulations.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. Effective Date of Agreement:

The parties agree that the effective date of this Agreement is the date of signature by Client. Further, the authorized corporate representatives are reflected in Exhibit A.

2. Payment Terms:

See Exhibit B “Fees and Fee Schedule”.

3. Term and Termination:

Term. This Agreement shall commence on the Effective Date and shall expire one (1) year from the effective date, thereafter (the **“Initial Term”**). After the expiration of the Initial Term, unless either party has provided no less than ninety (90) days written notice, the agreement will automatically renew for additional one (1) year terms until such notice is provided on said timeline.

Termination. Either Party may terminate this Agreement if the other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice of such breach. If such breach cannot be cured within the thirty (30) day timeframe, then the Agreement shall terminate.

Effect of Termination. Upon any termination or expiration of this Agreement, (i) Client’s license to access and use the ProviderTrust IP shall automatically terminate; (ii) Client shall promptly pay any outstanding amounts due ProviderTrust, and (iii) upon written request by Client, ProviderTrust will provide an electronic copy of Client records in the ProviderTrust system, as of that date.

4. Services Provided:

ProviderTrust will provide the services as set forth in the Statement of Work, attached as Exhibit C.

5. Client Data:

Services and Websites. Client acknowledges and agrees that the Services are provided on a subscription basis and not “sold” to Client. All right, title and interest in and to the Services, the Websites and related software, and any update, adaptation, translation, customization or derivative work of the same, including

all intellectual property rights therein (collectively, the “**ProviderTrust IP**”), are and will remain with ProviderTrust (or its third party licensors, as applicable). ProviderTrust hereby grants Client a limited, revocable, non-exclusive, non-transferable, non-sublicenseable, fully paid license to access and use the ProviderTrust IP during the Term, provided that Client will not: (i) modify, reverse engineer, or create derivative works from the ProviderTrust IP; (ii) publicly display, lend, sell, transfer or sublicense the ProviderTrust IP or in any other way allow third parties to exploit the ProviderTrust IP; (iii) use the ProviderTrust IP for purposes other than for Client’s internal business operations; (iv) use the ProviderTrust IP in violation of any federal, state or local law, rule or regulation; or (v) disclose the trade secrets embodied in the ProviderTrust IP to any unauthorized third party.

Client Data. As between ProviderTrust and Client, Client owns all right, title and interest in and to the Client Data. Client hereby grants ProviderTrust an irrevocable, non-exclusive, non-transferable, royalty-free license to use the Client Data to provide the Services and other services that ProviderTrust may offer. Any data transferred between Client and ProviderTrust that contains PII or other sensitive client data must be transferred using encrypted methods including encrypted file transfer (Sharefile), SFTP, or SSL (HTTPS). ProviderTrust will reject or refuse such data received in such unacceptable fashion and will be unable to provide services described until data transmission method is rectified.

Data Retention. During contractual term of Agreement, or any amendment, all Client data will be maintained within ProviderTrust systems. Upon termination of Agreement, Client data will be securely stored on ProviderTrust internal systems and not available by the Client through any ProviderTrust user interface, for ten years.

ProviderTrust will delete from the SFTP server any Client data file imported into ProviderTrust system within four (4) business hours from the time ProviderTrust downloads such data file; the data will then be stored on ProviderTrust systems. Client can “term” an active employee or ProviderTrust directly on the ProviderTrust system.

Client Data Request Upon Contract Termination. If requested by Client within thirty (30) days of notice of termination, ProviderTrust will provide Client a one-time electronic download of Client data within thirty (30) business days.

Outputs: Results of any processed results that are displayed to Client, including Reports generated, will be available on the UI for secure access by authorized Client Users during the term of the Client Monitoring Services Agreement. In the event that a Client individual or entity is termed from the ProviderTrust system and is no longer actively being monitored, such data will be stored as historical records but not be accessible via the UI. Any such records can only be retrieved by Client per written request from an authorized Client User. Any confirmed public record data obtained, processed or result in a client report will remain the property of ProviderTrust and can be used for historical and/or future search purposes; however, ProviderTrust will de-identify such record as belonging to the Client pursuant to the Data Retention description detailed above.

6. Representations and Warranties of the Parties:

ProviderTrust represents and warrants that ProviderTrust will accurately report to Client all information that ProviderTrust has received from the Primary Source.

ProviderTrust does not otherwise warrant or authenticate the reliability of the ProviderTrust IP or Outputs and, disclaims all other representations and warranties, express or implied, including but not limited to any warranties of merchantability, fitness for any particular purpose, interoperability, non-infringement and title. ProviderTrust will have no liability for relying on incorrect, inaccurate or incomplete Client Data or

information provided to ProviderTrust by a Primary Source, and for communicating such information in its entirety without alteration to Client.

Representations and Warranties of Client: Client represents and warrants that: (i) the Client Data shall be correct, accurate and complete; (ii) the Client Data will not contain any viruses, worms or other malicious computer programming codes intended to damage ProviderTrust's system or data; and (iii) Client has the full right, power and authority to license the Client Data to ProviderTrust hereunder.

Client Responsibility: Client agrees that Client shall be responsible for any and all actions that Client takes based on the Services and Outputs, and that ProviderTrust does not make pre-employment, employment or contracting decisions for Client.

7. Regulatory Compliance:

Regulatory Compliance: Certain information provided to or by ProviderTrust in connection with the Services may be or is sensitive and its use may be subject to federal and/or state regulation. Client and ProviderTrust shall comply with all laws, regulations and rules governing the use of the Services, Client Data and Outputs, including without limitation the Fair Credit Reporting Act and the Fair and Accurate Credit Transactions Act, as amended from time to time, and/or similar state laws.

Non-Exclusion: ProviderTrust hereby represents and warrants that it is not and at no time has been excluded from participation in any federally funded health care program, including Medicare and Medicaid ("**Federal Program**"), and no Affiliated Person (defined above) has been excluded from participation in any Federal Program as a result of actions of such Affiliated Person. ProviderTrust hereby agrees to notify Client of any such actual or proposed exclusion from any Federal Program promptly following ProviderTrust's receipt of notice of such actual or proposed exclusion. In the event ProviderTrust or any such Affiliated Person is excluded from participation in any Federal Program during the Term of this Agreement, this Agreement shall, as of the effective date of such exclusion, automatically terminate.

8. ProviderTrust Responsibility:

At all times during the term of this Agreement and any renewal thereof, ProviderTrust will maintain an Errors and Omissions policy of at least \$5M.

In order for the indemnification below to apply, Client must provide Provider Trust with at least two unique identifiers and Provider Trust will report a confirmed and matched record, in accordance with Service Level Standards in Exhibit D, if it contains at least two of the required and/or developed identifiers as a match.

In the event that Client provides only a single identifier other than Social Security Number or Employer Identification Number (e.g., NPI), through passport.providertrust.com or any ProviderTrust user interface or monitoring platform, ProviderTrust will conduct additional data augmentation to determine if a possible exclusion name match belongs to a Client employee. As such, the indemnification herein below is limited to ProviderTrust's negligence or gross negligence in failing to conduct verification for those possible name match records that are covered in the Exhibit D, Service Level Standards.

Liability for missed record, negligence or intellectual property (IP):

ProviderTrust shall indemnify, defend, and hold Client harmless against liability imposed or claimed, specifically including Client's payment of Civil Monetary Fines and Penalties (defined as "monetary criminal or civil penalties imposed on Client by a state licensing board or by the Office of the Inspector General and paid to the public treasury, as evidenced by a written receipt) and attorney's fees and other legal expenses, arising directly or indirectly from:

- (i) any negligent input by ProviderTrust of the Client Data; or
- (ii) any negligent reporting or omissions by ProviderTrust with regard to the Services; provided, however, that in no event will ProviderTrust be liable as stated herein for accurately reporting information received from a Primary Source or from Client or for Client's failure to provide accurate Client Data.
- (iii) action based on a claim that the ProviderTrust IP, properly used within the scope of this Agreement, infringes a United States patent or copyright, provided that Client gives ProviderTrust the sole control of the defense, all negotiations and any settlement. If the ProviderTrust IP becomes, or is likely to become, the subject of an infringement claim, ProviderTrust may, at its option, secure Client's right to continue using the ProviderTrust IP or replace or modify it to make it non-infringing with substantially similar functions and levels of performance and otherwise indemnify Client for any related costs it incurred prior to securing such a settlement including but not limited to attorneys' fees and costs.

ProviderTrust's sole liability hereunder, other than for liability related to a breach of data, (which is addressed below) is limited to reimbursement of Client's payment of Civil Monetary Fines and Penalties. ProviderTrust's obligation to indemnify hereunder expressly excludes, without limitation,

- (i) any remittance, reimbursement, or rescission of money paid to Client as compensation for services provided or payment for claims submitted, whether from Medicare, Medicaid, or other sources; and
- (ii) penalties imposed under 31 U.S.C. §§ 3729-3733", or
- (iii) CLIENT'S INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS; LOST, REIMBURSED OR RESCINDED REVENUE; LOSS OR CORRUPTION OF DATA; INTERRUPTION, DELAY OR INABILITY TO USE THE SERVICES OR WEBSITES.

ProviderTrust's maximum aggregate liability arising under this agreement except for breach of data, shall not exceed [\$75,000] per individual.

Liability for Breach of Data:

In the event of a breach of data, ProviderTrust agrees to reimburse Client for certain Client or Affiliate losses, liabilities, damages, fines, penalties and claims, and related costs and expenses sustained, or incurred by Customer or an Affiliate, including attorney's fees and costs, directly or indirectly resulting from any breach of Customer Data under ProviderTrust's control or in its possession ("Breach"). In addition, in the event of a Breach, ProviderTrust shall notify Customer as soon as practical following discovery by ProviderTrust and shall take the following action with respect to such Breach, up to an amount of \$5M:

- (i) if Customer is required by state or federal law to send notices to affected individuals, reimburse Customer for the actual out-of-pocket mailing costs incurred by Customer to provide notices to affected individuals;
- (ii) if full social security numbers have been disclosed, reimburse Customer for the actual costs incurred by Customer to provide credit monitoring services for the applicable individuals for a period of up to one (1) year following the unauthorized use or disclosure;

- (iii) comply with any and all applicable laws, regulations, governmental orders or other governmental requirements; and (iv) take all action commercially reasonable to mitigate any damages realized by Customer and its Affiliates.

Liability of Client:

The liabilities or obligations of Client with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Client and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California. California Health and Safety Code Section 101853(g)

9. Confidentiality of data:

“Confidential Information” means the nonpublic and proprietary information of a Party and its affiliates, whether or not marked or identified as “Confidential Information,” including but not limited to the ProviderTrust IP, Client Data, the Outputs, personally identifiable information, trade secrets, pricing, sales and marketing plans, software, programs, technology and technical information, products, procurement methods, delivery systems and the terms of this Agreement. Confidential Information does not include information that (i) the Party receiving such Confidential Information (the “Receiving Party”) knew before disclosure by the other Party (the “Disclosing Party”), as evidenced by the contemporaneous records of the Receiving Party; (ii) is or becomes publicly known or in the public domain through no fault of the Receiving Party; (iii) is properly received from a third party without an obligation of confidentiality to the Disclosing Party; or (iv) the Receiving Party independently develops, as evidenced by the contemporaneous records of the Receiving Party.

Non-Disclosure. The Receiving Party shall safeguard the Confidential Information from unauthorized use, access or disclosure, using at least the degree of care it uses to protect its own most sensitive information and no less than a reasonable degree of care. The Receiving Party shall take all necessary and reasonable steps to ensure that Confidential Information is not disclosed to, or used by any person, firm, or entity, except the Receiving Party’s own employees and agents, and then only to the extent necessary and convenient to permit performance under this Agreement. The Receiving Party shall promptly notify the Disclosing Party of any unauthorized use or disclosure of the Disclosing Party’s Confidential Information and shall use its best efforts to prevent further use or disclosure of such Confidential Information.

Legally Compelled Disclosure. If the Receiving Party is required by applicable law or a valid legal order to disclose any of the Disclosing Party’s Confidential Information, the Receiving Party shall, prior to such disclosure, notify the Disclosing Party of such requirements so that the Disclosing Party may seek a protective order or other remedy, and the Receiving Party shall reasonably assist the Disclosing Party therewith. If the Receiving Party remains legally compelled to make such disclosure, the Receiving Party shall: (a) only disclose that portion of the Disclosing Party’s Confidential Information that, in the written opinion of its legal counsel, the Receiving Party is required to disclose; and (b) use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment. ProviderTrust is aware that Client is a government entity and is subject to the California Public Records Act, Cal.Govt.Code §6250 et seq., the Brown Act, Cal.Govt.Code §54950 et seq., and other laws pertaining to government entities. Information required by law to be disclosed will not be considered Proprietary and Confidential by the Parties and will be disclosed only to the extent required to comply with that legal obligation.

10. Misc.:

Independent Contractors. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

No Third Party Beneficiary/Reseller: Client agrees that it is the end user of the services and reports provided by ProviderTrust, and that Client cannot act as a third party Reseller of these services, based on this Agreement. Except as expressly stated herein, this Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Force Majeure Event: Neither party shall not be liable to the other, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by natural disasters, acts of government, power failure, fire, flood, acts of God, labor disputes, riots, acts of war, national or regional emergency, epidemics, inability to obtain materials, failure of internet system providers, and other conditions beyond the reasonable control of ProviderTrust (each of the foregoing, a "**Force Majeure Event**"). All turn-around times in Exhibit D shall automatically be extended for a period up to the duration of the Force Majeure Event.

Assignment: Neither Party may assign any of its obligations, rights or remedies hereunder, in whole or in part, without the express written approval of the other Party; provided, however, that each Party shall have the right, upon written notice to the other Party, to assign this Agreement to any parent, subsidiary, or other entity under common control or ownership with the assigning Party, or to such other entity which may result from the merger with, consolidation of, or sale of substantially all of the assigning Party's assets, stock, or membership interest.

Governing Law and Jurisdiction: Intentionally Omitted.

Waiver: The waiver of a breach of this Agreement or the failure of a Party to exercise any right or remedy under this Agreement shall in no event constitute a waiver as to such right or remedy in the future nor as to any other breach, right, or remedy, whether similar or dissimilar in nature, or prevent the exercise of any right under this Agreement.

Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument.

Construction. The Parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either Party by reason of authorship.

Severability: If any term or provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement.

Entire Agreement: This Agreement including the Exhibits, which are incorporated by reference herein, represents the entire Agreement and supersedes any and all previous agreements and understandings

between the Parties relating to the subject matter hereof. This Agreement may be amended only in writing, signed by both Parties.

Survival. The provisions of Sections 5, 6, 9 and 10 shall survive any termination or expiration of this Agreement.

Acknowledged and Agreed to by the Parties: The signatures below are expressly authorized by its or their organization as a duly authorized officer and/or party that is authorized to legally sign and bind its or their company to the terms herein.

Kern County Hospital Authority	ProviderTrust, Inc.
Name: (Printed) Russell V. Judd	Name: (Printed)
Authorized Signature:	Authorized Signature:
Title: Chief Executive Officer	Title:
Signed Date (also Effective Date):	Signed Date:

**REVIEWED ONLY
NOT APPROVED AS TO FORM**

By 
Legal Services Department

Exhibit A: Authorized Corporate Representatives

Representatives: Upon execution of this Agreement, Client will identify each representative authorized by Client to address specified matters under this Agreement (collectively, "**Representatives**").

Access: ProviderTrust will issue account IDs and passwords to Client personnel identified by Client in writing ("**Users**"). The list of Users will be maintained within ProviderTrust software. ProviderTrust will only release information or conduct searches at the request of Users. Client agrees: (i) to promptly notify ProviderTrust when Client suspects or determines that any personnel account ID or password has been lost, stolen, or otherwise compromised, and (ii) to pay for Services rendered by ProviderTrust in good faith reliance on such personnel account ID and password prior to ProviderTrust's receipt of such notice.

Authorized Contact for Amendments to the Agreement:

Client hereby designates the following person(s) as authorized contact to address Agreement amendments.

Name:	Name:
Title:	Title:
Email:	Email:
Date:	Date:

Authorized Contact for Billing Inquiries:

Client hereby designates the following person(s) as authorized contact to address Agreement billing inquiries.

Name:	Name:
Title:	Title:
Email:	Email:
Date:	Date:

Authorized Contact for Notices:

Any notice under the terms of this Agreement or required by law shall be sent to the appropriate address set forth below. Either Party may change its address for notice by written notice to the other Party.

Company: ProviderTrust, Inc.	Company: Kern County Hospital Authority
Attn: Michael Rosen	Attn:
Address: 406 11th Ave N, Suite 250	Address: 1700 Mt Ave
City / State / Zip: Nashville, TN 37203	City / State / Zip: Bakersfield, CA 93306

Exhibit B: Fees & Fee Schedule

FEES.

As consideration for ProviderTrust's provision of the Services, during the initial term, Client shall pay the fees specified in the Fee Schedule and defined in the Statement of Work attached as Exhibit C hereto.

Client acknowledges that (1). Upon execution of the Agreement, it shall execute a Timeline for Implementation and that such implementation fee listed in Exhibit B will be invoiced at signature and due no later than 30 days after execution of the Agreement, (2). ProviderTrust will commence monthly monitoring fee for monitoring services no later than forty-five (45) days from the Effective Date. The initial monthly monitoring fee for monitoring services fee amount will be based on either (a) the actual number of employees in the ProviderTrust system, or (b) if no employees are entered into the ProviderTrust system by the forty-fifth (45th) day, the estimated population listed in the monthly monitoring fee for monitoring services, and (3) Further, in the event that actual monitored volume provided by Client to ProviderTrust is less than the estimated amount on the Fee Schedule in Exhibit B, ProviderTrust reserves the right to invoice Client for the estimated amount listed in Exhibit B. This amount will be invoiced until the actual monitored volume meets or exceeds the estimated volume, at which time invoices will be based on the number of actual individuals and / or entities monitored, and (4) upon renewal of this Agreement, ProviderTrust may increase Fees by 3% per year.

Expenses. Client shall reimburse ProviderTrust for all public record access fees incurred by ProviderTrust, as a pass through fee, in performing the Services on behalf of Client. ProviderTrust will notify client of such pass through fees before incurring them on behalf of Client. Such expenses shall be itemized on each invoice to Client. As of the execution of this Agreement, no state or Federal Exclusion source charges an access fee for providing its public records. Client acknowledges certain state licensing Boards charge a nominal access fee to verify a license. In the event of such access fee, ProviderTrust will pass through as a direct cost to Client.

Travel expenses. From time to time Client may wish to engage with ProviderTrust for services requiring ProviderTrust associates to be onsite or to engage in travel on behalf of customer. In these cases Client will agree and approve such services and expenses in writing ahead of time. Travel will in accordance with Client's travel policies.

Taxes. Unless Client provides ProviderTrust with proof of tax-exempt status, each party will be responsible for its own taxes, with the exception that all sales, use and excise taxes, and any other similar taxes, duties, including Internet taxes, imposed by any federal, state or local governmental entity on the Services provided or on any amounts, which will be the responsibility of Client.

Payment Terms. ProviderTrust will bill Client for the on-boarding fee thirty (30) days of the Effective Date and monitoring fee forty-five (45) days from the Effective Date. Thereafter, ProviderTrust will bill Client for the Services monthly. Client agrees to pay each invoice within thirty (30) days of receipt. If balances become overdue, ProviderTrust may, until such overdue balances are paid (i) deactivate Client's access to restricted areas of the Websites, and (ii) charge a monthly fee on any delinquent amount equal to the lesser of 1.5% or the maximum amount allowed by applicable law. ProviderTrust may also cease monitoring services should any invoices become past due, notifying identified parties in advance, and shall only re-commence when account is current.

FEE SCHEDULE:

Client acknowledges and agrees to the following fee schedule.

The Monitoring Services Provided, accompanying Fee Schedule and optional Add-Ons are to detail available services and associated pricing offered by ProviderTrust at time of Agreement. To add additional services, Client will be asked to execute a contract Addendum.

Monitoring Services Provided:

Population	Quantity	Unit Price	Cost
Licensed & Non-Licensed Employees: <ul style="list-style-type: none">Exclusion Monitoring OIG, GSA/SAM, and all 43 State Exclusion Lists	2,279	\$ 0.50	\$ 1,139.50
Add-Ons:			
SSDMF	0	\$ 0.05	\$ 0.00
Medicare Opt Out	0	\$ 0.08	\$ 0.00
OFAC	0	\$ 0.05	\$ 0.00
Monthly Total \$			1,139.50
<i>Onboarding & Implementation Fee (Discounted from \$1,367.00)</i>			\$ 500.00

**Pricing presented assumes adopting all services at presented volumes*

Onboarding & Implementation Fee

Client agrees to pay an initial on-boarding fee associated with the services described. This includes account set-up, standard implementation, documentation and decisions for data transfer, initial and ongoing training needs for Client Users and more.

Exhibit C. Services (Statement of Work)

Engagement: Client hereby engages ProviderTrust to provide those monitoring and search services specified on Exhibit B to the standards set forth throughout this Agreement.

ProviderTrust's delivery services to Client shall constitute a representation by Client that it has conducted a review of the services and believes it meets Client's needs and requirements. Further, both parties acknowledge that time is of the essence to begin performing these compliance services for Client. As such, Client acknowledges and agrees to meet the Key Dates and Timelines outlined below:

Key Date and Timelines

1. Project Kickoff Call - within 15 business days of contract execution
2. Accepted Key Dates & Deliverables - Week 1
3. Client Data Deliverable(s) - Week 2
4. File Submission(s) - Week 3
5. Success File Upload(s) - Week 3
6. Monitoring Enabled - Week 4
7. End User Training - Week 4
8. Transition to Client Care

Exhibit D: Service Level Standards

Process. To request Services for a given individual or entity, a User shall enter a request for Services into one of the Websites, or Client shall otherwise provide ProviderTrust with access to its individual/entity data with all identifying information in the format required by ProviderTrust (collectively, the “**Client Data**”).

No PHI. Unless expressly agreed to in writing in this Agreement, ProviderTrust will not accept from Client, process, maintain or store any Protected Health Information (as defined in the Health Insurance Portability and Accountability Act of 1996, as amended) as a part of its Services.

Authorization. To enable ProviderTrust to provide the Services with respect to the requested individuals and entities, Client hereby expressly authorizes ProviderTrust, as Client’s appointed agent, to access, use, report and deliver public records from

Website Use. Client hereby acknowledges and agrees to the Terms of Service and Privacy Policy applicable to and set forth on each of www.providertrust.com, www.ProviderTrustproof.com, www.exclusioncheck.com and any other URLs specific to ProviderTrust (as updated or modified from time to time, the “Websites”), as the same may be amended from time to time.

What ProviderTrust Checks

ProviderTrust will check the public records from the Primary Sources in accordance with the package selected by Client. Further, each individual/entity will be searched and/or monitored based on the Client provided data (e.g., Name, SSN, DOB, NPI, License Number, etc.) which is uploaded to ProviderTrust.

Monitoring Cadence

Upon receipt of client data, an initial search will be completed and monitoring will be initiated. Any change in client data and/or primary source data will also trigger an additional search. Further, (with the exception of licenses described below), each month ProviderTrust will search the Primary Source to determine if it has any updated records. Primary sources include; all State and Federal exclusions lists, sanction sources, and other explicit sources contracted by the client. If updated records are found ProviderTrust will update its records and database and ProviderTrust will make every reasonable effort to verify that a possible record is or does belong to the individual or entity.

License Verification

- Upon License entry into Passport for the initial verification
- After the initial verification, Licenses will be monitored at minimum quarterly and up to daily for all license sources that can permit. The frequency is to be determined through discussion with Client and at the final decision of ProviderTrust.
- At least ten (10) days prior to license expiration date
- If not renewed, a daily verification leading up to the expiration date
- Day of expiration
- Daily after the date of expiration, if not renewed until it reaches five (5) days past expiration
- If not renewed after five (5) days from expiration, we will check again one (1) month after expiration

- If not renewed after one (1) month from expiration, the license will go back into the already pre-established verification schedule.

This schedule is the ProviderTrust standard verification for a traditional license verification source online, with open access to verification information. There are exceptions to this timeline for boards that require fax or phone verification, as well as boards that require fees for verification services. A “day” is defined as a business day, not including weekends and Federal holidays.

Turn-around Time

Client acknowledges that the turn-around time to process and review the initial batch of records can take up to forty-five (45) days. After the initial verification period, ProviderTrust will process and review a possible match, on average, within seven (7) business days from the date that the Primary Source data is uploaded into the ProviderTrust database. Client acknowledges and agrees that this protocol is necessary in order to conduct sufficient due diligence and avoid false positives.

How ProviderTrust Matches

ProviderTrust uses first and last name, date of birth, license number, state of issuance, national provider identifier (NPI) and/or social security number (SSN)/employer tax identification number (EIN) as primary identifiers (not necessarily in that order). Additional identifiers, such as middle name, maiden name, previous addresses or other personally identifiable information, can or may be used to determine a possible match if it is captured and released by a Primary Source.

In the event of an exclusion search using only an individual’s name and NPI provided by Client to ProviderTrust, a potential match will be verified with at least a name and NPI match, but could include other matching identifiers that are found. In the event of a search with only an NPI for an individual, ProviderTrust has made every effort to locate any and all NPI’s belonging to an excluded individual. However, It is acknowledged that ProviderTrust has not attempted to locate NPI’s associated with excluded entities where NPI is not provided by the excluding authority.

In the event that Client provides only a single identifier other than Social Security Number through an API, ExclusionCheck.com, PassPort, VendorProof, Dash or other ProviderTrust UI, ProviderTrust will be able to provide a verified result without a false positive OR potential exclusion matches different than an exact match. ProviderTrust will provide a verified result without a false positive when data augmentation is conducted for Client. In the case of not sharing a Social Security Number, matching with a primary source is not guaranteed and therefore indemnification is limited.

Client understands that a record must have at least two (2) primary identifiers for ProviderTrust to confirm the record belongs to the subject/applicant of the report, which shall be at a minimum a name and NPI or name and SSN or other unique matching identifier. However, ProviderTrust will provide a verified result without a false positive when data augmentation is conducted for Client. However, Client understands some search results may return a “name match only” or an “unable to determine”.

Client understands a record found under a “name match only” does not necessarily conclude that the record belongs to the individual/entity. “Name match only” information should not be used unless and until further review is engaged to determine if there are any other identifiers that will help in determining if it is a match.

Client acknowledges that if a Primary Source does not contain enough identifiers to allow ProviderTrust to match a possible name match only, that ProviderTrust will assign the record as an “unable to determine”. This may require additional information from Client in order for ProviderTrust to complete the record review. If Client cannot provide additional identifiers or the Primary Source does not have any such identifiers, then it is Client’s responsibility to determine if the possible record is a match or not. Client may change the designation in the ProviderTrust system.

Client agrees that no action should be taken on a pending review until such time as either, (a) ProviderTrust completes its review of pending data and posts the result in a No Record/Clear or Match/Record Found designation, or (b) Client reviews a pending review and changes the result to a No Record/Clear or Match/Record Found designation.

Due to the nature and scope of the Services provided, ProviderTrust makes no guarantee as to a completion date for any record. In some cases, records may be pending and will be supplemented as appropriate. ProviderTrust will clearly indicate if a record is pending or complete.

Completed reports and log history of searches are retained electronically for at least five (5) years on the ProviderTrust system. After five (5) years or at time of transfer, the reports are archived in an electronic archive database on the ProviderTrust system, and upon written request Client will have access to the historical records via a commonly held file format (CSV).

Support Services

Free online or phone tech support is offered between 8:30 a.m. and 5:00 p.m. Central Standard Time, Monday through Friday. For Emergencies ONLY (defined as ProviderTrust system unavailable for 1 hour or more due to software or hardware malfunction), please call the emergency number listed on our website 24 hours per day and 7 days a week. ProviderTrust offers on-site support subject to the Custom Integration Rate as set forth in the Fee Schedule.

Service Response Time & Escalations

ProviderTrust strives to resolve all customer needs in as rapid a fashion as a high quality outcome will allow. Below is documentation describing the ProviderTrust approach to service inquiries and examples for each type of category.

Low (P4) Resolution within 3 days: Add New Users, Requirement Changes, Billing questions, Request for Reports (unless for audits), Termination Process, System Questions (found in support articles).

Normal (P3) Resolution with 24-48 hours: System Configuration (new job title, facility, unit, credential), Alert Explanations, Verification Errors, Request for calls.

High (P2) Resolution within 24 hrs: Audit, Missing Providers, Missed Exclusions, General Frustration, Cancellation request, Request speak to manager.

Urgent (P1) Resolution within 4 Hours: Monitoring Package Not Activated/Accurate, System Outage, Security Breach, or Other significant issue.

Exhibit E: Security

ProviderTrust maintains an information security program that meets prevailing industry practice standards to safeguard PII, which includes administrative, physical, and technical safeguards that prevent any unauthorized use of PII.

SaaS Solution:

Our product is a SaaS application hosted on servers provisioned and maintained by ProviderTrust. Clients interact via SFTP or the interactive, web based interface. Providers are uploaded for monitoring and the application provides a convenient UI to monitor status, alerts or download reports.

This is a SaaS application that will be hosted on ProviderTrust servers. Access to the application requires username and password and is provided over HTTPS. If Client has additional needs around secure access we are willing to discuss how best to support.

Data Integrity/Encryption:

All client data including PII is encrypted at rest with AES 256 bit encryption. Data in transit is encrypted with SSL or SSH. When in transit encryption protocol used depends on client configuration but we support up to AES 256 bit encryption for both SSH and SSL.

Data in transit is encrypted with HTTPS(TLS) or SFTP(SSH). When in transit, the encryption protocol used depends on client configuration but we support up to AES 256 bit ciphers for both SFTP and HTTPS.

Passwords:

Our password requirements are 8 characters minimum with complexity requirements set to alpha numeric with at least 1 capital, and 1 symbol. Generic or shared IDs are not allowed.

Planned Downtime:

The Service shall be available for Licensee's use 24 hours per day, 7 days per week, with downtime not to exceed 0.5% in any calendar month. For the purposes of this Agreement, "downtime" shall mean any interruption in the provision of hosting services to Licensee attributable to Licensor or a subcontractor of Licensor, but excluding scheduled interruptions in respect of which Licensee has received at least 24 hours notice, and any interruption caused by a widespread or catastrophic failure of the Internet, the telephone or the power supply, or by an act of force majeure. Recovery time is no more than 90 minutes in the event of a system crash. We have never had downtime exceeding the limits in our SLA and in the last five years we have only had approximately 2 hours of unscheduled downtime in total.

Data Backup:

All data is backed up regularly and uploaded to separate redundant backup locations nightly. In most cases, a loss of data can be restored from backups resulting in a loss of no more than the previous 5 minutes of activity. In the event of a major catastrophe, the redundant backups can be used resulting in a loss of no more than the previous 24 hours history.

Data Storage:

Data is only stored with our servers hosted by AWS. ProviderTrust does not store data onsite and does not move data to offsite storage. All data produced by our application including client data is stored on systems hosted within our account on AWS.

Vulnerabilities:

Monthly vulnerability scans are performed by Trustwave, application server IDS/IPS uses SNORT.

Internal and external penetration is currently performed by a third party annually. We have completed a SOC 2 Type II examination and can provide, with the execution of a Non-Disclosure Agreement, the report via secure means if desired.



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Proposed retroactive Amendment No. 5 to Agreement 166-2012 with Press Ganey Associates, Inc.

Requested Action: Approve; Authorize Chief Executive Officer to sign

Summary:

Press Ganey is a vendor certified by Centers for Medicare and Medicaid Services (CMS) to provide patient satisfaction surveys. The Kern County Hospital Authority (KCHA) has used this vendor for a number of years to fulfill the CMS requirements for surveying patients. Press Ganey also provides surveys for medical practices in order to satisfy metrics for the Public Hospital Redesign and Incentives in Medi-Cal (PRIME) program. KCHA will use this extended term to review potential alternative vendors, who can continue to fulfill the requirements stated above, but also provide more real-time, actionable results to better aid improvements within the organization.

Therefore, it is recommended that your Board approve the proposed retroactive Amendment No. 5 to Agreement 166-2012 for Professional Services with Press Ganey Associates, Inc., extending the term by three (3) months from October 1, 2019 through December 31, 2019, increasing the maximum payable by \$80,000, from \$1,728,765 to \$1,808,765, to cover this extended term, and authorize the Chief Executive Officer to sign.

**AMENDMENT NO. 5
TO AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR**

This Amendment, by and between **Press Ganey Associates, Inc.** ("Press Ganey") and **Kern County Hospital Authority ("KCHA")** which owns and operates **Kern Medical Center ("Client")** (together with Press Ganey, the "Parties") shall be effective as of _____, 2019.

WHEREAS, County of Kern and Press Ganey have entered into an Agreement for Professional Services entered into March 27, 2012, as amended December 15, 2015 (the "Existing Agreement"); and

WHEREAS, County of Kern assigned the Agreement for Professional Services, as amended, to Kern County Hospital Authority in the Assignment of Agreement entered into March 1, 2016, and entered into Amendment No. 2 on October 1, 2016, and Amendment No. 3 on October 1, 2016, and Amendment No. 4 on September 1, 2018 (the "Existing Agreement");

WHEREAS, the Parties desire to amend the Existing Agreement with the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Amendments to the Existing Agreement.** As of the Effective Date, the Existing Agreement is hereby amended as follows:
 - a. The Parties hereby agree to extend the terms of the Existing Agreement through **December 31, 2019** for all current services. All fees will be invoiced on a monthly basis through **December 31, 2019**.
2. **Limited Effect.** Except as expressly provided in this Amendment, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. On and after the Effective Date, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein" or words of like import, and each reference to the Existing Agreement in any other agreements, documents or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Existing Agreement as supplemented by this Amendment.
3. **Conflicts.** To the extent there is a conflict between the terms of this Amendment and the Existing Agreement, the terms of this Amendment shall control.

[Signature Page Follows]

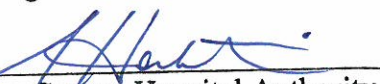


IN WITNESS WHEREOF, the undersigned have executed this agreement effective as of the Effective Date.

KERN COUNTY HOSPITAL AUTHORITY	PRESS GANEY ASSOCIATES, INC.
By:	By:
Name: Russell V. Judd	Name:
Title: Chief Executive Officer	Title:
Date:	Date:

KERN MEDICAL CENTER (Client #1170)	PRESS GANEY ASSOCIATES, INC.
By:	By:
Name: Tyler Whitezell	Name:
Title: Vice President, Administrative Services	Title:
Date:	Date:

APPROVED AS TO FORM
Legal Services Department

By 
Kern County Hospital Authority



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

SUBJECT: Proposed retroactive Amendment No. 1 to the Kern County Hospital Authority's Personal/Professional Services Agreement (KCHA Agt.# 14718) with Frank Rappe dba R&R Janitorial and Carpet

Requested Action: Approve; Authorize Chief Executive Officer to sign

Summary:

Kern Medical requests that your Board approve the proposed Amendment No. 1 with Frank Rappe dba R&R Janitorial and Carpet for the additional housekeeping services for the newly acquired Q Street location, which contains over 27,000 square feet of out-patient clinic/service space and additional clinic space located at 820 34th Street, Suite. 202 and 6001-B Truxtun Ave., Suite 210. This amendment also extends the term for current housekeeping services at Kern Medical locations listed in the Exhibit.

Therefore, it is recommended that your Board approve the proposed retroactive Amendment No. 1 to the Kern County Hospital Authority's Personal/Professional Services Agreement with Frank Rappe dba R&R Janitorial and Carpet, to extend the term of the current agreement through February 19, 2021 and increase the maximum payable by \$560,000.

**AMENDMENT NO. 1
TO
PERSONAL/PROFESSIONAL SERVICES AGREEMENT
(Kern County Hospital Authority–R&R Janitorial and Carpet)**

THIS AMENDMENT TO AGREEMENT, effective February 19, 2019, is between the Kern County Hospital Authority, a local unit of government ("KCHA"), which owns and operates Kern Medical Center ("KMC"), and R&R Janitorial and Carpet ("Consultant") with its principal place of business located at 5702 Stageline Avenue, Bakersfield, CA 93312.

WITNESSETH:

WHEREAS, KCHA and Consultant entered into a Personal/Professional Services Agreement effective February 19, 2018 (PPSA#14718) ("Agreement"), for the period February 19, 2018 through February 18, 2019; and

WHEREAS, the parties to the Agreement desire to amend the Agreement as specified herein below;

NOW, THEREFORE, KCHA and Consultant do mutually agree as follows (check those applicable):

- Term.** The Agreement shall be extended from February 19, 2019 to February 19, 2021, unless sooner terminated as provided for in the Agreement.
- Fees** payable by KCHA under the Agreement shall increase by \$560,000, from \$150,000 to \$710,000.
- Travel Expenses** payable by KCHA under the Agreement shall increase from by \$0, from \$0 to \$0.
- Services.** Amendment 1 - Exhibit A-1, is attached hereto and incorporated herein by this reference, for revised service locations.
- Other**

Except as expressly amended herein, all provisions of the Agreement, as previously amended, shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment No. 1 to the Agreement has been executed as of the date indicated above.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Russell V. Judd, Chief Executive Officer
"KCHA"
Date: _____

APPROVED AS TO CONTENT:
Responsible KCHA Department

By _____
Renee Villanueva, Vice President of Ambulatory Services
Date: _____

Frank Rappe dba R&R Janitorial and Carpet

By Frank Rappe
Frank Rappe
"Consultant"
Date: 10-9-2019

APPROVED AS TO FORM:
Legal Services Department

By [Signature]
Hospital Counsel, Kern County Hospital Authority
Date: 10/9/19

**EXHIBIT A-1
SERVICES**

Consultant shall invoice KCHA as follows: (describe in detail any payment schedule, milestone payments, percentages and retention as applicable)

- Consultant shall submit one invoice to KCHA upon contract completion and acceptance of the Services by KCHA.
- Consultant shall invoice monthly for hours expended over the prior 30 days;
- Consultant shall invoice KCHA as follows: (describe in detail any payment schedule, milestone payments, percentages and retention as applicable)

9300 Stockdale Hwy., Suite 100 and 300	:	\$5,121.50 per month	\$61,458/yr.
9330 Stockdale Hwy, Suite 300 and 400	:	\$3,125.00 per month	\$37,500/yr.
2920 "F" Street, Suite B2	:	\$2,000.00 per month	\$24,000/yr.
1902 "B" Street, Suite A	:	\$1,225.00 per month	\$14,700/yr.
820 34 th Street, Suite 202	:	\$2,800.00 per month	\$33,600/yr.
6001-B Truxtun, Suite 210	:	\$1,500.00 per month	\$18,000/yr.
3551 Q St., Suite 102 north side	:	\$3,928.25 per month	Dec. 2018 – May 2019
3551 Q St., north and east side	:	\$8,350.75 per month	June 2019 – Oct. 2019
3551 Q St., all suites	:	\$10,000.00 per month	Beginning Nov. 2019

Carpet cleaning \$.25 per sq. ft. upon request. Hard surface floors stripped and waxed as needed \$.25 per sq. ft.

1. Full description of the Services:
 Consultant shall provide janitorial services five (5) days per week. See Exhibit A-1 for Scope of Services.
2. Dates and location where the Services will take place:
 Ongoing at locations listed above. The agreement may be terminated by either party with written notice 30 days prior to termination of agreement.
3. If training is involved, the hours per day that are included in the training and minimum/maximum number of staff/trainees allowed to attend the training: N/A
4. Materials, equipment, facilities, manuals, study guides, etc., will be provided as indicated to assist the Consultant in provision of Services:
By Responsible KCHA Department: None at this time.
By Consultant: Any materials necessary to provide services will be provided by the Consultant.
5. Access to Books and Records. Until the expiration of four years after the expiration or termination of this Agreement, KMC and Consultant shall make available, upon written request of the Secretary of the United States Secretary of Health and Human Services ("Secretary") or the Comptroller General of the United States General Accounting Office ("Comptroller General"), or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records of either party as are necessary to certify the nature and extent of costs of the services Consultant provided under this Agreement.
6. Compliance Program. Consultant acknowledges that KMC has implemented a compliance program for the purpose of ensuring adherence to applicable federal and state laws, regulations and other standards. Consultant agrees that in the course of performance of its duties described herein that it shall act, and cause its employees to act, in conformance with the policies set forth therein. KMC shall make available such information relating to its compliance program as is appropriate to assist Consultant in adhering to the policies set forth in the compliance program. Consultant and its employees shall participate in compliance training and education as reasonably requested by KMC.
7. Regulatory Compliance. In compliance with title 22, California Code of Regulations, section 70713 KMC will retain professional and administrative responsibility for services rendered under this Agreement. Consultant shall apprise KMC of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall be retained by KMC for follow-up action and evaluation of performance.



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Comments Regarding Budget Variances – August 2019

Recommended Action: Receive and File

Summary:

The following items have budget variances for the month of August 2019:

Indigent Funding:

As a conservative approach to recognizing indigent funding revenue, during each month of fiscal year 2020 Kern Medical will only recognize 95% of the total projected revenue for the Managed Care Rate Range Program, the Medi-Cal Quality Assurance Fee Program, the Physician SPA Program, and the AB915 Outpatient Supplemental Funding Program. Kern Medical will recognize 100% of the total projected revenue for the Medi-Cal Waiver Programs of Public Hospital Redesign and Incentives in Medi-Cal (PRIME), the Global Payment Program (GPP), and the Whole Person Care Program (WPC). Kern Medical will also recognize 100% of the projected revenue for the Enhanced Payment Program (EPP) and the Quality Incentive Program (QIP).

Correctional Medicine Funding:

Kern Medical projected that it would receive \$3,000,000 more for Correctional Medicine services for FY 2020 than will actually be paid by the County of Kern. Therefore, a \$500k year-to-date true-up adjustment was made for Correctional Medicine revenue in August 2019. For the remainder of FY 2020, Correctional Medicine will be \$250k under the budgeted amount each month.

Other Operating Revenue:

Other operating revenue has an unfavorable budget variance for the month due to the fact that for some items within this section of the income statement Kern Medical only receives funding on a quarterly basis. Kern Medical receives KHS Grant funds, Emergency Medical Services funds, and Managed Medi-Cal Pay for Performance funds on a quarterly basis; however, the budget for these items is spread over the entire 12 months of the year. In addition, some items within this section, such as contributions, receive funding inconsistently throughout the year.

Registry Nurses:

Registry nurses expense has an unfavorable budget variance for the month. Kern Medical continues to rely on contracted nurse staffing to supplement the nursing departments while maintaining nurse recruiting efforts.

Medical Fees:

Medical fees are under budget due to the receipt of reimbursement for physician services provided for the Behavioral Health Department that are posted as a credit against this expense.

Other Professional Fees:

Other professional fees have a favorable variance for the month because of the reclassification of Information Technology (IT) contract labor staff expense. IT contract labor expense that pertains to the Cerner EHR implementation project is reclassified from expense and into the capital project each month.

In addition, 25 individuals that were previously contract laborers across several different departments have been hired by Kern Medical as full-time employees. Therefore, the labor expense for these individuals is now reported under salaries and benefits expenses.

Supplies Expense:

Supplies expenses have an unfavorable budget variance for the month of August primarily due to above average expenses for pharmaceuticals.

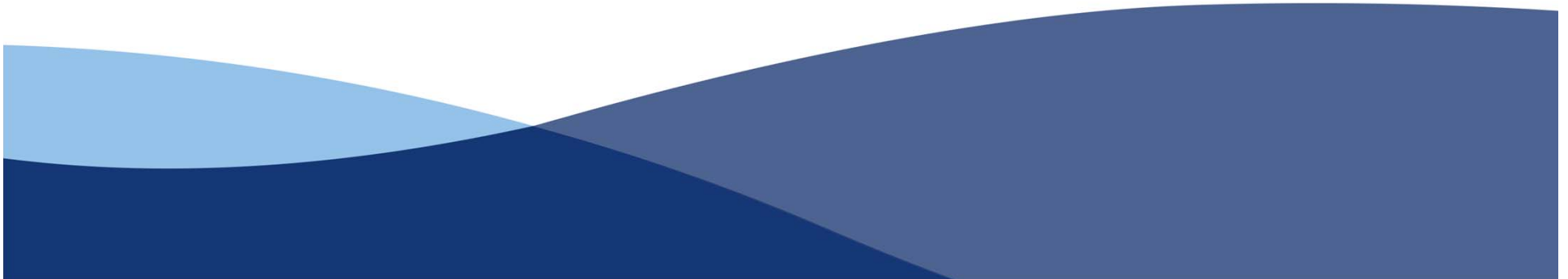
Other Expenses:

Other expenses have an unfavorable variance for the month primarily because of higher than average electricity bills due to warm weather.



**BOARD OF GOVERNORS' FINANCIAL REPORT
KERN MEDICAL – AUGUST 2019**

OCTOBER 2019



3-Month Trend Analysis: Revenue & Expense

August 31, 2019

	FY 2019	FY 2020	FY 2020	BUDGET	VARIANCE	PY
	JUNE	JULY	AUGUST	AUGUST	POS (NEG)	AUGUST
Gross Patient Revenue	\$ 56,817,900	\$ 73,013,853	\$ 75,380,061	\$ 74,965,384	1%	\$ 77,239,940
Contractual Deductions	(43,227,366)	(53,515,221)	(55,627,891)	(56,436,140)	(1%)	(60,303,946)
Net Revenue	13,590,534	19,498,633	19,752,170	18,529,244	7%	16,935,994
Indigent Funding	59,454,562	12,585,749	12,225,222	12,349,481	(1%)	13,346,154
Correctional Medicine	2,552,068	2,777,068	2,277,068	2,777,068	(18%)	2,419,175
County Contribution	285,211	284,951	284,951	284,951	0.0%	285,211
Incentive Funding	250,000	333,333	333,333	333,333	0%	250,000
Net Patient Revenue	76,132,375	35,479,734	34,872,744	34,274,077	2%	33,236,534
Gain/(Loss) on Health-Related Entity	(1,454,296)	(131,324)	53,077	0	0%	0
Other Operating Revenue	1,608,974	990,187	1,093,613	1,290,937	(15%)	1,253,287
Other Non-Operating Revenue	59,261	832	19,735	23,402	(16%)	84,926
Total Revenue	76,346,313	36,339,429	36,039,170	35,588,417	1%	34,574,746
Expenses						
Salaries	14,100,726	13,489,329	14,189,261	13,899,022	2%	12,711,484
Employee Benefits	5,671,236	6,977,656	6,392,478	6,406,677	(0%)	5,636,929
Contract Labor	1,737,099	1,704,179	1,585,501	1,412,169	12%	1,683,710
Medical Fees	1,024,845	1,758,694	1,570,220	1,789,378	(12%)	2,242,962
Other Professional Fees	1,713,174	1,745,250	1,589,024	2,060,796	(23%)	1,703,163
Supplies	4,356,120	6,100,870	5,645,386	5,394,694	5%	5,638,675
Purchased Services	1,904,140	1,920,269	2,221,205	1,917,475	16%	2,368,161
Other Expenses	1,177,538	1,464,376	1,673,308	1,582,084	6%	1,629,376
Operating Expenses	31,684,877	35,160,622	34,866,382	34,462,297	1%	33,614,460
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	44,661,436	1,178,807	1,172,788	1,126,119	4%	960,287
EBIDA Margin	58%	3%	3%	3%	3%	3%
Interest	94,469	245,705	220,570	342,117	(36%)	199,649
Depreciation	562,825	512,155	513,738	663,219	(23%)	496,011
Amortization	76,688	76,688	76,688	57,678	33%	61,251
Total Expenses	32,418,858	35,995,170	35,677,378	35,525,311	0.4%	34,371,371
Operating Gain (Loss)	43,927,455	344,260	361,792	63,106	473%	203,376
Operating Margin	57.5%	0.9%	1.0%	0.18%	466%	1%

Year-to-Date: Revenue & Expense						
August 31, 2019						
	ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE	
	FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)	
Gross Patient Revenue	\$ 148,393,914	149,622,125	(1%)	\$ 149,969,485	(1%)	
Contractual Deductions	(109,143,112)	(112,818,127)	(3%)	(115,144,779)	(5%)	
Net Revenue	39,250,803	36,803,998	7%	34,824,706		
Indigent Funding	24,810,971	25,098,962	(1%)	25,698,892	(3%)	
Correctional Medicine	5,054,136	5,554,136	(9%)	4,838,349	4%	
County Contribution	569,902	569,902	0%	570,422	(0.1%)	
Incentive Funding	666,667	666,667	0%	500,000	0%	
Net Patient Revenue	70,352,478	68,693,665	2%	66,432,369	6%	
Gain/(Loss) on Health-Related Entity	(78,247)	0	0%	0	0%	
Other Operating Revenue	2,083,800	2,600,638	(20%)	2,042,019	2%	
Other Non-Operating Revenue	20,567	28,042	(27%)	21,021	(2%)	
Total Revenue	72,378,599	71,322,344	1%	68,495,409	6%	
Expenses						
Salaries	27,678,590	28,073,079	(1%)	26,154,875	6%	
Employee Benefits	13,370,133	12,935,579	3%	11,988,159	12%	
Contract Labor	3,289,679	2,818,911	17%	3,049,903	8%	
Medical Fees	3,328,913	3,575,474	(7%)	4,093,956	(19%)	
Other Professional Fees	3,334,274	3,881,894	(14%)	3,304,434	1%	
Supplies	11,746,256	10,767,497	9%	10,471,418	12%	
Purchased Services	4,141,474	3,834,951	8%	4,353,468	(5%)	
Other Expenses	3,137,684	3,164,209	(1%)	3,213,473	(2%)	
Operating Expenses	70,027,004	69,051,595	1%	66,629,685	5%	
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	2,351,595	2,270,749	4%	1,865,724	26%	
EBIDA Margin	3%	3%	2%	3%	19%	
Interest	466,276	684,233	(32%)	359,106	30%	
Depreciation	1,025,893	1,341,287	(24%)	1,010,993	1%	
Amortization	153,375	115,356	33%	111,762	37%	
Total Expenses	71,672,547	71,192,471	1%	68,111,546	5%	
Operating Gain (Loss)	706,052	129,873	444%	383,863	84%	
Operating Margin	1%	0.2%	436%	1%	74%	

3-Month Trend Analysis: Cash Indicators

August 31, 2019

		FY 2019	FY 2020	FY 2020	GOALS	PY
		JUNE	JULY	AUGUST	AUGUST	AUGUST
Cash						
	Total Cash	47,675,581	15,614,076	12,603,895	11,146,629	50,944,441
	Days Cash On Hand	45	13	11	10	47
	Days In A/R - Gross	79.82	90.69	93.78	70.00	71.78
	Patient Cash Collections	\$ 13,708,771	\$ 14,203,621	\$ 17,563,408	\$ 18,212,297	\$ 18,081,243
Indigent Funding Liabilites Due to the State						
	FY 2007 Waiver Payable (County Responsibility)	\$ (745,824)	\$ (745,824)	\$ (745,824)	N/A	\$ (745,824)
	FY 2008 Waiver Payable (County Responsibility)	\$ (6,169,000)	\$ (6,169,000)	\$ (6,169,000)	N/A	\$ (6,169,000)
	FY 2009 Waiver Payable (County Responsibility)	\$ (2,384,000)	\$ (2,384,000)	\$ (2,384,000)	N/A	\$ (2,384,000)
	FY 2011 Waiver Payable (County Responsibility)	\$ (10,493,878)	\$ (10,493,878)	\$ (10,493,878)	N/A	\$ (10,493,878)
	Total County Responsibility	\$ (19,792,702)	\$ (19,792,702)	\$ (19,792,702)		\$ (19,792,702)
	FY 2015 Waiver Payable (Kern Medical Responsibility)	\$ (11,223,792)	\$ (11,223,792)	\$ (11,223,792)	N/A	\$ (11,223,792)
	FY 2016 Waiver Payable (Kern Medical Responsibility)	\$ (2,819,361)	\$ (2,819,361)	\$ (2,819,361)	N/A	\$ (2,819,361)
	DSH Payable (Kern Medical Responsibility)	\$ (42,388,763)	\$ (42,388,763)	\$ (42,388,763)	N/A	\$ (26,851,210)
	Total Kern Medical Responsibility	\$ (56,431,916)	\$ (56,431,916)	\$ (56,431,916)		\$ (40,894,363)
	Total Indigent Funding Liabilites Due to the State	\$ (76,224,618)	\$ (76,224,618)	\$ (76,224,618)	N/A	\$ (60,687,065)

3-Month Trend Analysis: Operating Metrics

August 31, 2019

	FY 2019	FY 2020	FY 2020	BUDGET	VARIANCE	PY
	JUNE	JULY	AUGUST	AUGUST	POS (NEG)	AUGUST
Operating Metrics						
Total Expense per Adjusted Admission	22,941	23,464	19,211	21,637	(11%)	19,624
Total Expense per Adjusted Patient Day	4,356	4,739	3,612	4,380	(18%)	4,051
Supply Expense per Adjusted Admission	3,083	3,977	3,040	3,286	(7%)	3,219
Supply Expense per Surgery	1,673	2,048	1,475	1,869	(21%)	2,464
Supplies as % of Net Patient Revenue	16%	17%	16%	16%	3%	17%
Pharmaceutical Cost per Adjusted Admission	1,580	1,976	1,558	1,599	(3%)	1,318
Net Revenue Per Adjusted Admission	\$ 9,617	\$ 12,710	\$ 10,636	\$ 11,286	(6%)	\$ 9,670

Year-to-Date: Operating Metrics

August 31, 2019

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Operating Metrics						
	Total Expense per Adjusted Admission	21,317	21,756	-2%	20,248	5%
	Total Expense per Adjusted Patient Day	4,153	4,403	-6%	4,078	2%
	Supply Expense per Adjusted Admission	3,494	3,291	6%	3,113	12%
	Supply Expense per Surgery	1,740	1,869	-7%	2,175	(20%)
	Supplies as % of Net Patient Revenue	17%	16%	7%	16%	6%
	Pharmaceutical Cost per Adjusted Admission	1,762	1601	10%	1,334	32%
	Net Revenue Per Adjusted Admission	\$ 11,674	11,247	4%	\$ 10,352	13%

INDIGENT PATIENT CARE FUNDING - MTD & YTD

FOR THE MONTH OF AUGUST 31, 2019

MTD ACTUAL	MTD BUDGET	VAR \$ FAV/(UNFAV)	VAR %	DESCRIPTION	YTD ACTUAL	YTD BUDGET	VAR \$ FAV/(UNFAV)	VAR %
402,322	423,497	(21,175)	-5%	MEDI-CAL HOSPITAL QUALITY ASSURANCE FEE	804,645	846,995	(42,350)	-5%
2,063,805	2,172,426	(108,621)	-5%	MEDI-CAL RATE-RANGE REVENUE	4,222,609	4,444,852	(222,243)	-5%
92,644	97,520	(4,876)	-5%	PHYSICIAN SPA REVENUE	185,287	195,039	(9,752)	-5%
457,139	481,199	(24,060)	-5%	AB 915 OUTPATIENT SUPPLEMENTAL PROGRAM	914,279	962,399	(48,120)	-5%
34,473	0	34,473	0%	MEDI-CAL MANAGED CARE - SPD	34,473	0	34,473	0%
2,054,809	2,054,809	0	0.0%	PRIME - NEW WAIVER	4,309,618	4,309,618	0	0.0%
2,312,562	2,312,562	0	0.0%	GPP - NEW WAIVER	4,725,123	4,725,123	0	0.0%
1,270,492	1,270,492	0	0.0%	WHOLE PERSON CARE	2,540,984	2,540,984	0	0.0%
1,791,542	1,791,542	0	0%	EPP REVENUE	3,583,083	3,583,083	0	0%
1,745,435	1,745,435	0	0%	QIP REVENUE	3,490,871	3,490,871	0	0%
12,225,222	12,349,481	(124,259)	-1%	SUB-TOTAL - GOVERNMENTAL REVENUE	24,810,971	25,098,962	(287,991)	-1%
2,277,068	2,777,068	(500,000)	-18.0%	CORRECTIONAL MEDICINE	5,054,136	5,554,136	(500,000)	-9.0%
284,951	284,951	0	0.0%	COUNTY CONTRIBUTION	569,902	569,902	0	0.0%
14,787,241	15,411,500	(624,259)	-4%	TOTAL INDIGENT CARE & COUNTY FUNDING	30,435,009	31,223,000	(787,991)	-3%

OTHER REVENUE

FOR THE MONTH AUGUST 31, 2019

OTHER OPERATING REVENUE

	MTD ACTUAL	MTD BUDGET	VARIANCE	YTD ACTUAL	YTD BUDGET	VARIANCE
MEDICAL POSTGRAD EDUCATION TUITION	245,965	260,010	(14,045)	492,730	520,021	(27,291)
STAFF DEVELOPMENT EDUCATION FEES	0	432	(432)	200	863	(663)
CAFETERIA REVENUE	85,518	80,080	5,438	168,123	160,159	7,964
FINANCE CHARGES-PATIENT AR	22,901	12,447	10,454	53,352	24,894	28,458
REBATES AND REFUNDS	32,855	74,878	(42,023)	47,790	149,757	(101,967)
PHOTOCOPY FEES	3,840	2,699	1,141	9,093	5,399	3,694
MEDICAL RECORDS FEES	0	2,002	(2,002)	0	4,004	(4,004)
ADMINISTRATIVE FEES-PAYROLL	106	78	28	175	156	19
PHYSICIAN PROFESSIONAL FEES-ER LOCKBOX	6,794	5,724	1,069	6,666	11,449	(4,783)
OTHER REVENUE	84,025	108,035	(24,010)	89,491	234,833	(145,342)
LASER CENTER REVENUE	30,605	18,717	11,888	47,207	37,434	9,773
GRANTS - KHS	145,785	248,493	(102,707)	296,003	496,985	(200,982)
MADDY FUNDS-EMERGENCY MEDICAL SERVICES	0	23,288	(23,288)	108,942	46,577	62,365
PRIMARY CARE & OTHER INCENTIVES	0	10,216	(10,216)	19,623	20,432	(810)
VETERANS ADMINISTRATION REVENUE	4,462	3,178	1,285	8,925	6,356	2,569
JAMISON CENTER MOU	23,040	26,710	(3,671)	40,274	53,421	(13,147)
BEHAVIORAL HEALTH MOU	329,142	298,438	30,704	562,560	596,876	(34,317)
PATERNITY DECLARATION REVENUE	1,020	1,073	(53)	1,940	2,146	(206)
PEDIATRIC FORENSIC EXAMS	0	5,337	(5,337)	0	10,674	(10,674)
FOUNDATION CONTRIBUTIONS	0	3,048	(3,048)	0	6,096	(6,096)
DONATED EQUIPMENT	0	18,974	(18,974)	0	37,949	(37,949)
PAY FOR PERFORMANCE	76,518	24,709	51,809	76,518	49,417	27,101
PROPOSITION 56 DIRECTED PAYMENTS	1,036	62,371	(61,335)	54,190	124,742	(70,552)
TOTAL OTHER OPERATING REVENUE	1,093,613	1,290,937	(197,325)	2,083,800	2,600,638	(516,838)

OTHER NON-OPERATING REVENUE

GAIN/LOSS ON DISPOSAL OF PROPERTY	0	3,842	(3,842)	0	7,684	(7,684)
INTEREST ON FUND BALANCE	18,763	18,763	0	18,763	18,763	0
PARKING LOT RENT REVENUE	797	797		1,594	1,594	(0)
OTHER MISCELLANEOUS REVENUE	175	0	175	210	0	210
TOTAL OTHER NON-OPERATING REVENUE	19,735	23,402	(3,667)	20,567	28,042	(7,474)

KERN MEDICAL BALANCE SHEET		
	August 2019	August 2018
CURRENT ASSETS:		
CASH	\$12,603,895	\$50,944,441
CURRENT ACCOUNTS RECEIVABLE (incl. CLINIC CHARGES RECEIVABLE)	209,172,757	174,852,448
ALLOWANCE FOR UNCOLLECTIBLE RECEIVABLES - CURRENT	(160,522,852)	(133,980,930)
-NET OF CONTRACTUAL ALLOWANCES	48,649,905	40,871,518
CORRECTIONAL MEDICINE RECEIVABLE	2,296,342	6,456,223
MD SPA	1,346,399	5,477,673
HOSPITAL FEE RECEIVABLE	2,983,450	(1,711,844)
CPE - O/P DSH RECEIVABLE	4,477,399	5,230,447
BEHAVIORAL HEALTH MOU	1,144,449	553,542
MANAGED CARE IGT (RATE RANGE)	30,952,571	9,331,345
RECEIVABLE FROM LIHP	-	(6,547,536)
OTHER RECEIVABLES	7,154,337	2,103,553
PRIME RECEIVABLE	17,988,671	13,573,862
AB85/75% DEFAULT PCP RECEIVABLE	(809,696)	(9,146,436)
GPP (Global Payment Program)	11,833,498	2,257,882
WPC (Whole Person Care)	9,562,570	8,148,744
EPP (Enhanced Payment Program)	50,936,830	4,258,333
QIP (Quality Incentive Program)	45,749,691	2,493,333
INTEREST ON FUND BALANCE RECEIVABLE	10,669	121,140
MANAGED CARE IGT (SPD)	0	(1,907,399)
WAIVER RECEIVABLE FY07	(745,824)	(745,824)
WAIVER RECEIVABLE FY08	(6,169,000)	(6,169,000)
WAIVER RECEIVABLE FY09	(2,384,000)	(2,384,000)
WAIVER RECEIVABLE FY10	579,696	579,696
WAIVER RECEIVABLE FY11	(10,493,878)	(10,493,878)
WAIVER RECEIVABLE FY12	679,308	679,308
WAIVER RECEIVABLE FY15	(11,223,792)	(11,223,792)
WAIVER RECEIVABLE FY16	(2,819,361)	(2,819,361)
PREPAID EXPENSES	3,771,254	3,735,525
PREPAID MORRISON DEPOSIT	813,320	813,320
INVENTORY AT COST	5,565,142	5,387,266
TOTAL CURRENT ASSETS	224,453,845	109,868,081
PROPERTY, PLANT & EQUIPMENT:		
LAND	1,683,786	517,961
EQUIPMENT	52,929,587	51,346,834
BUILDINGS	90,614,739	84,915,514
CONSTRUCTION IN PROGRESS	35,735,211	17,693,633
LESS: ACCUMULATED DEPRECIATION	(96,536,569)	(90,292,257)
NET PROPERTY, PLANT & EQUIPMENT	84,426,754	64,181,686
NET INTANGIBLE ASSETS		
INTANGIBLE ASSETS	14,743,166	14,785,857
ACCUMULATED AMORTIZATION INTANGIBLES	(12,058,154)	(11,118,998)
NET INTANGIBLE ASSETS	2,685,012	3,666,859
LONG-TERM ASSETS:		
LONG-TERM PATIENT ACCOUNTS RECEIVABLE		
DEFERRED OUTFLOWS - PENSIONS	70,895,681	71,752,645
INVESTMENT IN SURGERY CENTER	3,063,524	1,266,078
CASH HELD BY COP IV TRUSTEE	931,830	922,330
TOTAL LONG-TERM ASSETS	74,891,034	73,941,053
TOTAL ASSETS	\$386,456,645	\$251,657,679

KERN MEDICAL BALANCE SHEET		
	August 2019	August 2018
CURRENT LIABILITIES:		
ACCOUNTS PAYABLE	\$38,957,650	\$19,078,507
ACCRUED SALARIES & EMPLOYEE BENEFITS	25,676,968	22,783,470
INTEREST PAYABLE	4,763,362	4,321,519
OTHER ACCRUALS	4,856,147	2,867,134
CREDIT LINE PAYABLE - PNC BANK	15,000,000	0
CURRENT PORTION - CAPITALIZED LEASES	2,873,342	3,079,917
CURR LIAB - COP 2011 PAYABLE	1,131,693	1,085,718
CURR LIAB - P.O.B.	2,607,458	2,405,640
MEDICARE COST REPORT LIABILITY PAYABLE	0	3,094,510
MEDI-CAL COST REPORT LIABILITY	389,631	1,070,179
INDIGENT FUNDING PAYABLE	8,935,908	13,696,069
DSH PAYABLE	42,388,763	26,851,210
CREDIT BALANCES PAYABLES	3,425,453	3,316,068
DEFERRED REVENUE - COUNTY CONTRIBUTION	10,116,229	2,100,667
TOTAL CURRENT LIABILITIES	161,122,604	105,750,608
LONG-TERM LIABILITIES:		
LONG-TERM LIABILITY-COP 2011	0	1,131,693
NET UNAMORTIZED DISCOUNT COP	19,993	39,985
LONG-TERM LIABILITY - CAPITAL LEASES	2,405,930	6,267,636
NET OPEB (OTHER POST EMPLOYMENT BENEFITS)	4,306,044	4,201,203
NET PENSION LIABILITY	293,255,458	329,935,445
L.T. LIAB. - P.O.B. INTEREST PAYABLE 08	12,745,786	14,842,004
L.T. LIAB. - P.O.B. INTEREST PAYABLE 03	4,763,410	4,329,041
L.T. P.O.B. PAYABLE 95	7,535,194	11,590,866
L.T. P.O.B. PAYABLE 08	5,392,893	5,392,893
ACCRUED PROFESSIONAL LIABILITY	6,588,394	4,581,847
ACCRUED WORKERS' COMPENSATION PAYABLE	8,511,000	6,773,000
DEFERRED INFLOWS - PENSIONS	69,247,058	22,238,926
PENSION OBLIGATION BOND PAYABLE	1,610,473	2,643,205
ACCRUED COMPENSATED ABSENCES	3,830,085	3,830,085
TOTAL LONG-TERM LIABILITIES	420,211,719	417,797,829
NET POSITION		
RETAINED EARNINGS - CURRENT YEAR	36,714,021	39,814,215
RETAINED EARNINGS - PRIOR YEAR	(231,591,699)	(311,704,974)
TOTAL NET POSITION	(194,877,678)	(271,890,759)
TOTAL LIABILITIES & NET POSITION	\$386,456,645	\$251,657,679



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

October 16, 2019

Subject: Kern County Hospital Authority, Chief Executive Officer Report

Recommended Action: Receive and File

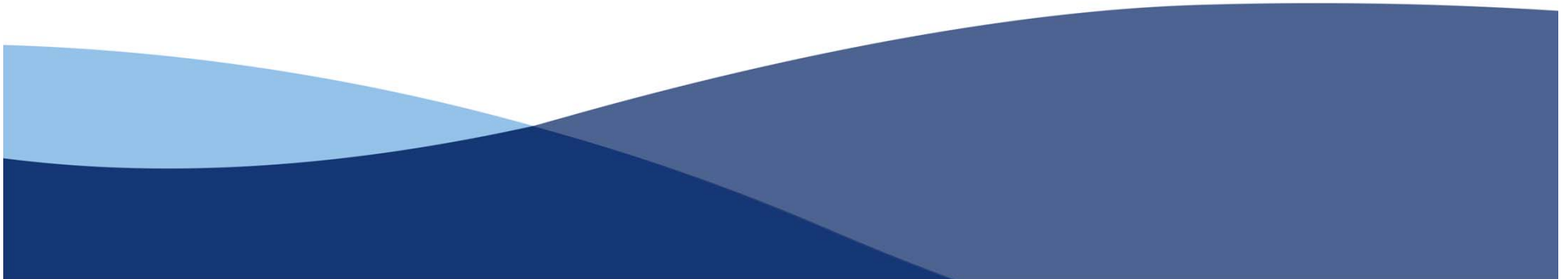
Summary:

The Chief Executive Officer has provided the attached 3-month trend Analysis: Volume and Strategic Indicators for Kern Medical



**BOARD OF GOVERNORS' VOLUMES REPORT
KERN MEDICAL – AUGUST 2019**

OCTOBER 2019



3-Month Trend Analysis: Volume and Strategic Indicators

August 31, 2019

		FY 2019	FY 2020	FY 2020	BUDGET	VARIANCE	PY
		JUNE	JULY	AUGUST	AUGUST	POS (NEG)	AUGUST
VOLUME							
	Adjusted Admissions (AA)	1,413	1,534	1,857	1,642	13%	1,751
	Adjusted Patient Days	7,443	7,596	9,876	8,111	22%	8,484
	Admissions	690	822	802	834	(4%)	898
	Average Daily Census	121	131	138	133	4%	140
	Patient Days	3,634	4,070	4,265	4,120	4%	4,350
	Available Occupancy %	54.6%	59.1%	62.0%	59.9%	4%	65.6%
	Average LOS	5.3	5.0	5.3	4.9	8%	4.8
	Surgeries						
	Inpatient Surgeries (Main Campus)	167	200	208	198	5%	238
	Outpatient Surgeries (Main Campus)	259	251	317	259	22%	251
	Total Surgeries (Main Campus)	426	451	525	457	15%	489
	Outpatient Surgeries (Ambulatory Surgery Center)	22	93	63	82	(23%)	0
	Births	192	220	217	221	(2%)	260
	ER Visits						
	Admissions	329	416	434	429	1%	446
	Treated & Released	3,907	3,948	4,139	3,869	7%	3,898
	Total ER Visits	4,236	4,364	4,573	4,298	6%	4,344
	Trauma Activations	275	301	266	226	18%	238
	Outpatient Clinic Visits						
	Total Clinic Visits	12,777	13,645	14,078	13,423	5%	13,773
	Total Unique Patient Clinic Visits	9,474	9,993	10,436	9,824	6%	10,080
	New Unique Patient Clinic Visits	1,326	1,760	1,800	1,999	(10%)	2,051

Year-to-Date: Volume and Strategic Indicators						
August 31, 2019						
		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
VOLUME						
	Adjusted Admissions (AA)	3,362	3,272	3%	3,364	(0.05%)
	Adjusted Patient Days	17,257	16,171	7%	16,701	3%
	Admissions	1,624	1,664	(2%)	1,696	(4%)
	Average Daily Census	134	133	1%	136	(1%)
	Patient Days	8,335	8,223	1%	8,420	(1%)
	Available Occupancy %	60.6%	62.0%	(2%)	63.5%	(5%)
	Average LOS	5.1	4.9	4%	5.0	3%
	Surgeries					
	Inpatient Surgeries (Main Campus)	408	395	3%	474	(14%)
	Outpatient Surgeries (Main Campus)	568	517	10%	489	16%
	Total Surgeries (Main Campus)	976	912	7%	963	1%
	Outpatient Surgeries (Ambulatory Surgery Center)	156	144	8%	0	0%
	Births	437	441	(0.9%)	492	(11%)
	ER Visits					
	Admissions	850	856	(1%)	841	1%
	Treated & Released	8,087	7,722	5%	7,646	6%
	Total ER Visits	8,937	8,578	4%	8,487	5%
	Trauma Activations	567	451	26%	487	16%
	Outpatient Clinic Visits					
	Total Clinic Visits	27,723	26,792	3%	25,780	8%
	Total Unique Patient Clinic Visits	20,429	19,935	2%	19,161	7%
	New Unique Patient Clinic Visits	3,560	3,963	(10%)	3,815	(7%)

3-Month Trend Analysis: Payor Mix

August 31, 2019

		FY 2019	FY 2020	FY 2020	BUDGET	VARIANCE	PY
		JUNE	JULY	AUGUST	AUGUST	POS (NEG)	AUGUST
PAYOR MIX - Charges							
	Commercial FFS/HMO/PPO	10.4%	10.1%	12.0%	8.9%	35%	9.5%
	Medi-Cal	31.0%	29.8%	25.6%	30.1%	(15%)	30.4%
	Medi-Cal HMO - Kern Health Systems	31.8%	30.6%	26.3%	31.0%	(15%)	31.2%
	Medi-Cal HMO - Health Net	9.3%	9.0%	7.7%	9.1%	(15%)	9.2%
	Medi-Cal HMO - Other	1.1%	1.1%	0.9%	1.1%	(15%)	1.1%
	Medicare	8.5%	9.0%	12.3%	10.1%	21%	9.0%
	Medicare - HMO	2.2%	2.9%	3.2%	3.2%	0%	2.3%
	Self Pay	5.7%	7.5%	11.9%	6.5%	83%	7.3%
	Total	100.0%	100.0%	100.0%	100.0%		100.0%

Year-to-Date: Payor Mix

August 31, 2019

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
PAYOR MIX - Charges						
	Commercial FFS/HMO/PPO	11.1%	8.9%	25%	9.5%	16%
	Medi-Cal	27.7%	30.1%	(8%)	30.0%	(8%)
	Medi-Cal HMO - Kern Health Systems	28.5%	30.9%	(8%)	30.8%	(8%)
	Medi-Cal HMO - Health Net	8.4%	9.1%	(8%)	9.0%	(8%)
	Medi-Cal HMO - Other	1.0%	1.1%	(8%)	1.1%	(8%)
	Medicare	10.7%	10.1%	5%	9.3%	14%
	Medicare - HMO	3.1%	3.2%	(5%)	2.3%	34%
	Self Pay	9.7%	6.6%	46%	7.9%	22%
	Total	100.0%	100%		100.0%	

3-Month Trend Analysis: Labor and Productivity Metrics

August 31, 2019

	FY 2019	FY 2020	FY 2020	BUDGET	VARIANCE	PY
	JUNE	JULY	AUGUST	AUGUST	POS (NEG)	AUGUST
Labor Metrics						
Productive FTEs	1,442.80	1,478.85	1,460.71	1,481.56	(1%)	1,445.85
Non-Productive FTEs	229.21	186.28	199.37	190.19	5%	215.26
Contract Labor FTEs	96.52	96.53	98.93	88.02	12%	102.34
Total FTEs	1,672.01	1,665.13	1,660.08	1,671.75	(1%)	1,661.11
FTEs Per AOB Paid	6.06	5.89	6.12	6.36	(4%)	6.07
FTEs Per AOB Worked	5.23	5.23	5.38	5.64	(5%)	5.28
Labor Cost/FTE (Annualized)	138,709.05	143,700.33	141,308.11	139,969.29	1%	132,938.19
Benefits Expense as a % of Benefitted Labor Expense	55%	66%	60%	61%	(2%)	58%
Salaries & Benefits as % of Net Patient Revenue	28%	62%	64%	63%	0.3%	60%

Year-to-Date: Labor and Productivity Metrics

August 31, 2019

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Labor Metrics						
	Productive FTEs	1,451.40	1,479.19	(2%)	1,433.87	1%
	Non-Productive FTEs	203.52	202.47	1%	224.60	(9%)
	Contract Labor FTEs	97.42	78.07	25%	99.34	(2%)
	Total FTEs	1,654.92	1,681.66	(2%)	1,658.47	(0.2%)
	FTEs Per AOB Paid	35.10	38.06	(8%)	36.35	(3%)
	FTEs Per AOB Worked	30.78	33.48	(8%)	31.42	(2%)
	Labor Cost/FTE (Annualized)	143,146.39	139,569	3%	134,182.59	7%
	Benefits Expense as a % of Benefitted Labor Expense	63%	61%	3%	61%	3%
	Salaries & Benefits as % of Net Patient Revenue	63%	64%	(1%)	62%	2%

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(j)(2)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on October 16, 2019, to discharge its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The closed session involves:

 X Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(j)(2)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on October 16, 2019, to discharge its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The closed session involves:

 X Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on October 16, 2019, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

- X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Adria Ottoboni v. Kern Medical Center Foundation, a Corporation; Kern County Hospital Authority, a public entity; and Does 1 through 50, inclusive, Kern County Superior Court Case No. BCV-19-102820 –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(j)(2)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on October 16, 2019, to consider:

 X PUBLIC EMPLOYEE APPOINTMENT/RECRUITMENT - Title: President of Hospital and Clinic Operations (Government Code Section 54957) –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(e)(1)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on October 16, 2019, the premature disclosure of which would create a substantial probability of depriving the authority of a substantial economic benefit or opportunity. The closed session involves:

 X Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on October 16, 2019, to consider:

 X PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) –