



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, March 15, 2017

11:30 A.M.

BOARD TO RECONVENE

Board Members: Berjis, Bigler, Lawson, McGauley, 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. Also, 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 County Hospital Authority Board of Governors on its first anniversary –
MAKE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on February 15, 2017 –
APPROVE

CA

- 5) Proposed retroactive Amendment No. 2 to Agreement 051-2012 with Owens & Minor Distribution, Inc., an independent contractor, for clinical supply technology and centralized inventory management services, extending the term for two years from October 28, 2016 through October 27, 2018, and increasing the maximum payable by \$292,000, from \$725,000 to \$1,017,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN SUBJECT TO APPROVAL AS TO FORM BY COUNSEL

CA

- 6) Proposed retroactive Agreement with AMN Healthcare, Inc., an independent contractor, for temporary nurse staffing from August 11, 2016 through August 10, 2017, in an amount not to exceed \$3,000,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 7) Proposed retroactive Amendment No. 1 to 717-2016 with the County of Kern, as represented by Behavioral Health and Recovery Services (f/k/a Kern County Mental Health), for the provision of reciprocal mental health services, revising the fee schedule, effective January 1, 2017, at no additional cost –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 8) Proposed Software Use Agreement with Strata Decision Technology LLC, an independent contractor, for management reporting software and fees from March 16, 2017 through March 15, 2022, in an amount not to exceed \$2,056,164 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed retroactive Amendment No. 1 to Kern County Hospital Authority Defined Contribution Plan for Physician Employees (As Amended and Restated Effective July 1, 2016), revising the definitions of full-time physician and part-time physician, effective January 1, 2017 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed liquidation of the Kern County Hospital Authority Defined Contribution Plan for Physician Employees Trust (a/k/a “Fund A”) established pursuant to the Trust Agreement with Wells Fargo Bank to hold, administer and distribute Trust assets, and termination of the Trust Agreement with Wells Fargo Bank –
APPROVE; ADOPT RESOLUTION

CA

- 11) Proposed reappointments of Members Amir Berjis, M.D. and Stephen Pelz to the Kern County Hospital Authority Board of Governors, terms to expire June 30, 2020 –
REFER TO KERN COUNTY BOARD OF SUPERVISORS TO MAKE REAPPOINTMENTS

- 12) Presentation by the Chief Operating Officer regarding Kern Medical facilities –
RECEIVE AND FILE

- 13) Kern County Hospital Authority Chief Financial Officer report –
RECEIVE AND FILE

- 14) Kern County Hospital Authority Chief Executive Officer report –
RECEIVE AND FILE

CA

- 15) Claims and Lawsuits Filed as of February 28, 2017 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 16) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 17) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –
- 18) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) –
- 19) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(2).) Number of cases: Three hundred sixty-seven (367) 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 –
- 20) Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –

RECONVENE FROM CLOSED SESSION

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

ADJOURN TO WEDNESDAY, APRIL 19, 2017, 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. Every effort will be made to reasonably 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.

15) CLAIMS AND LAWSUITS FILED AS OF FEBRUARY 28, 2017 –
RECEIVE AND FILE

- A) Amended Claim in the matter of Obie L. Crisp III v. County of Kern
- B) Dismissal and Notice of Suit Rights in the matter of Trudee Crayton v. County of Kern



Kern County Hospital Authority Board of Governors

118 Change of Ownership Documents Filed



317 Assigned Contracts from the Kern County Board of Supervisors



9 Board Members



1771 Board Approved Policies

Administrative



Ambulatory Services



Finance



Foundation



Human Resources



Media Relations



Medical Staff



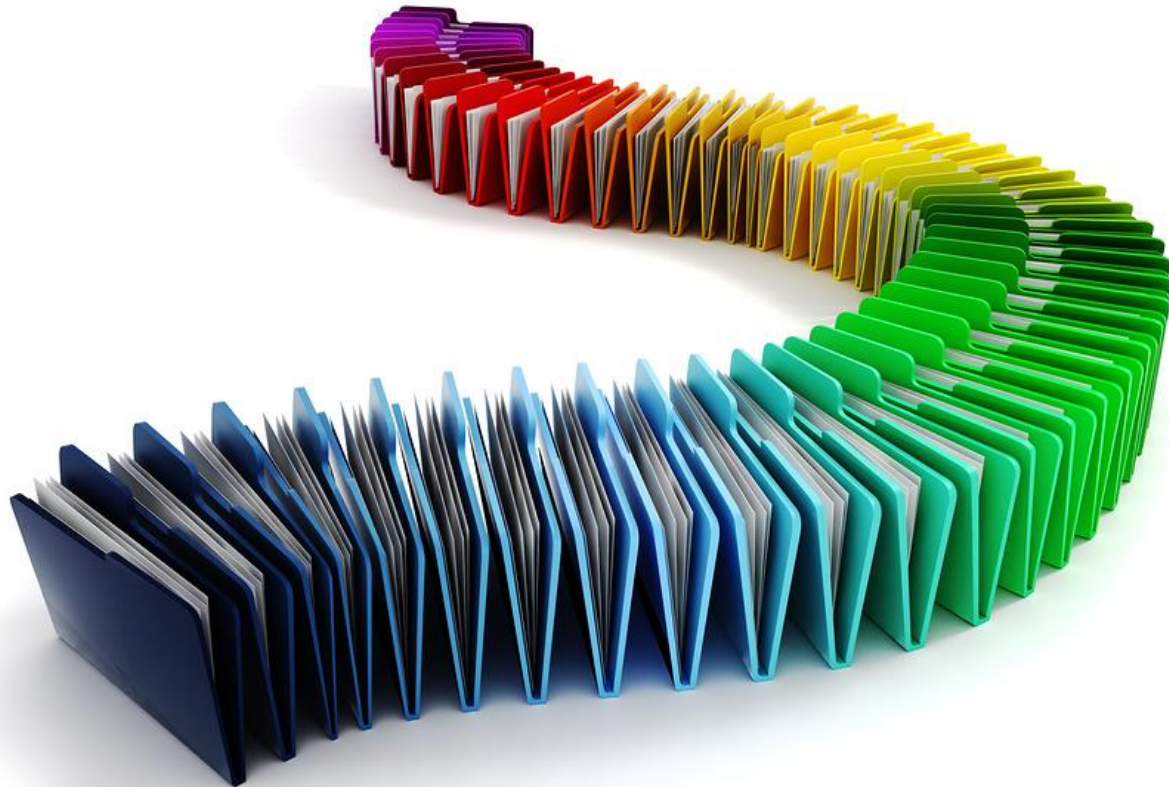
Nursing



Operations



115 Board Approved Agreements



25 Resolutions





SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, February 15, 2017

11:30 A.M.

BOARD RECONVENED

Directors present: Berjis, Bigler, Lawson, McGauley, McLaughlin, Pelz, Sistrunk
Directors absent: None

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

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

BOARD ACTION 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. Also, 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))
NO ONE HEARD

RECOGNITION

- 3) Presentation recognizing Vice President of Ambulatory Services Renee Villanueva and her team for their work on the PRIME program –
MADE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on January 18, 2017 –
APPROVED
Lawson-McGauley: All Ayes

CA

- 5) Proposed retroactive Amendment No. 8 to Agreement 911-2013 with Meridian Healthcare Partners, Inc., an independent contractor, for Chief Executive Officer and healthcare management services, revising the compensation methodology effective January 1, 2017 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-009
Lawson-McGauley: All Ayes

CA

- 6) Proposed Amendment to the Kern County Hospital Authority Bylaws for Governance, reflecting recent changes to the enabling ordinance –
APPROVED; REFERRED TO KERN COUNTY BOARD OF SUPERVISORS FOR APPROVAL
Lawson-McGauley: All Ayes

CA

- 7) Proposed retroactive Agreement with Mesa Energy Systems, Inc., an independent contractor, for construction management services related to the E wing heating and cooling controls replacement project, effective January 18, 2017, in an amount not to exceed \$335,500 –

MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-010; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 20% OF THE ORIGINAL CONTRACT PRICE

Lawson-McGauley: All Ayes

CA

- 8) Proposed Change Order No. 1 to Agreement 2016-074 with Anderson Group International, an independent contractor, for construction management services related to the Pharmacy USP 797 clean room modifications, increasing the maximum payable by \$16,770.40, from \$588,018.07 to \$604,788.61, to cover the cost of additional services –

MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-011; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 20% OF THE ORIGINAL CONTRACT PRICE

Lawson-McGauley: All Ayes

CA

- 9) Proposed retroactive Agreement with JTS Construction, an independent contractor, for construction management services related to the Sagebrush Medical Plaza tenant improvements project, effective November 16, 2016, in an amount not to exceed \$1,095,821 –

MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-012; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 20% OF THE ORIGINAL CONTRACT PRICE

Lawson-McGauley: All Ayes

CA

- 10) Proposed retroactive Agreement with Anderson Group International, an independent contractor, for construction management services related to Sagebrush Medical Plaza infusion clinic project, effective November 16, 2016, in an amount not to exceed \$391,720 –

MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-013; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 20% OF THE ORIGINAL CONTRACT PRICE

Lawson-McGauley: All Ayes

CA

- 11) Proposed Change Order No. 2 to Agreement 2016-086 with Black/Hall Construction, Inc., an independent contractor, for construction management services related to the G wing decommission project, increasing of the maximum payable by \$35,886, to cover the cost of additional services –
MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-014; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 20% OF THE ORIGINAL CONTRACT PRICE
Lawson-McGauley: All Ayes

CA

- 12) Proposed Resolution and acquisition of vacant land from Gerald T. Smith, Jr. and Mary Ann Smith, and Ronald A. Hevle and Kay Hevle, located as APN/Parcel ID(s) 126-041-17 adjacent to Sagebrush Medical Plaza, 1111 Columbus Street, for use as additional parking, in an amount not to exceed \$2,507 –
MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; ADOPTED RESOLUTION 2017-003; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN ESCROW INSTRUCTIONS AND CORRESPONDENCE
Lawson-McGauley: All Ayes

CA

- 13) Proposed retroactive Schedule No. 2 to Agreement 2016-036 with Cerner Corporation, an independent contractor, for Clarvia software and services to support the nurse staffing and acuity system, effective February 9, 2017, with one-time fees in an amount not to exceed \$638,821, and a monthly fee in an amount not to exceed \$9,445, for software support, subscriptions, and remote hosting –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-015 SUBJECT TO APPROVAL AS TO FORM BY COUNSEL
Lawson-McGauley: All Ayes

CA

- 14) Proposed Agreement with John E. Tidwell, M.D., a contract employee, for professional medical services in the Department of Surgery, Division of Orthopedic Surgery from September 16, 2017 through September 15, 2020, in an amount not to exceed \$2,762,500, plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-016
Lawson-McGauley: All Ayes

CA

- 15) Proposed retroactive Amendment No. 4 to Agreement 016-2012 with Ravi Patel, M.D., Inc., doing business as Comprehensive Blood and Cancer Center, an independent contractor, for professional medical oncology and hematology services, extending the term for three years from January 27, 2017 through January 26, 2020, increasing the maximum payable by \$198,000, from \$1,500,000 to \$1,698,000, to cover year one of the extended term –
APPROVED; AUTHORIZE CHAIRMAN TO SIGN AGREEMENT 2017-017
Lawson-McGauley: All Ayes

CA

- 16) Proposed retroactive Agreement with Truven Health Analytics LLC, an IBM Company, an independent contractor, for Micromedex® medication, disease and toxicology software and services from December 4, 2016 through December 3, 2017, in an amount not to exceed \$40,562 –
APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 2017-018
Lawson-McGauley: All Ayes

CA

- 17) Proposed rescission of Agreement 2017-002-A with HealthTrust Purchasing Group, L.P., and retroactive approval of Participation Agreement with HealthTrust Purchasing Group, L.P., an independent contractor, for group purchasing services from February 1, 2017 through January 31, 2022, in exchange for an administrative fee equal to 3% or less of the purchase price of the goods and services purchased from participating vendors –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-019
Lawson-McGauley: All Ayes

CA

- 18) Proposed retroactive Amendment No. 1 to Agreement 552-2016 with the County of Kern, as represented by the County Administrative Office, for the provision of transition administrative services, extending the term for the services provided by the county Information Security Officer from October 1, 2016 through September 30, 2018 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-020
Lawson-McGauley: All Ayes

CA

- 19) Proposed Amendment No. 1 to Agreement 27716 with Hill-Rom Company, Inc., an independent contractor, for products and services related to the 2nd floor, C wing new nurse call system project, adding products and services to include the 3rd floor, D wing, and increasing the maximum payable by \$265,000, to cover the cost of additional products and services –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 2017-021
Lawson-McGauley: All Ayes

CA

- 20) Proposed Report of Independent Auditors from Moss-Adams LLP, an independent contractor, regarding the audit of Kern Medical Center financial statements for the years ended June 30, 2016, and 2015 –
RECEIVED AND FILED; REFERRED TO KERN COUNTY BOARD OF SUPERVISORS

Lawson-McGauley: All Ayes

- 21) Request for appropriation of unanticipated revenue in the amount of \$22,940,785 from the state of California, Department of Health Care Services for increased operating expenses and additional capital expenditures –
APPROVED; AUTHORIZED CHIEF FINANCIAL OFFICER TO PROCESS THE SPECIFIED BUDGETARY ADJUSTMENTS AND ACCOUNTING TRANSACTIONS

McLaughlin-Pelz: All Ayes

- 22) Kern County Hospital Authority Chief Executive Officer report –
RECEIVED AND FILED

Berjis-Sistrunk: All Ayes

- 23) Kern County Hospital Authority Chief Financial Officer report -
RECEIVED AND FILED

Pelz-Lawson: All Ayes

CA

- 24) Claims and Lawsuits Filed as of January 31, 2016 –
RECEIVED AND FILED

Lawson-McGauley: All Ayes

MISCELLANEOUS LETTERS AND DOCUMENTS

CA

- 25) Letter from Kern County Employees' Retirement Association re 2016 Comprehensive Annual Financial report and 2016 Actuarial Valuation –
RECEIVED AND FILED

Lawson-McGauley: All Ayes

ADJOURNED TO CLOSED SESSION

Berjis-McGauley

CLOSED SESSION

- 26) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW

- 27) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 28) PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Title: Chief Executive Officer (Government Code Section 54957) – SEE RESULTS BELOW
- 29) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Rosemarie Thompson v. County of Kern, Workers' Compensation Appeals Board Case Nos. ADJ-258405, ADJ-1640644 – SEE RESULTS BELOW
- 30) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(3).) 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: The receipt of a claim pursuant to the Government Claims Act or some other written communication from a potential plaintiff threatening litigation, which non-exempt claim or communication is available for public inspection – SEE RESULTS BELOW
- 31) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(1).) Number of cases: Three hundred sixty-seven (367) 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

RECONVENED FROM CLOSED SESSION

Berjis-Pelz

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 26 concerning a Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD; BY A UNANIMOUS VOTE (MOTION BY DIRECTOR MCGAULEY, SECONDED BY DIRECTOR SISTRUNK), THE BOARD APPROVED ALL PROVIDERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, RELEASE OF PROCTORING, ADVANCE IN STAFF STATUS, FOCUSED PROFESSIONAL PRACTICE EVALUATION, AND AUTOMATIC AND VOLUNTARY RESIGNATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 27 concerning a Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 28 concerning PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Title: Chief Executive Officer (Government Code Section 54957) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 29 concerning CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Rosemarie Thompson v. County of Kern, Workers' Compensation Appeals Board Case Nos. ADJ-258405, ADJ-1640644 – HEARD; BY A UNANIMOUS VOTE OF THOSE DIRECTORS PRESENT (MOTION BY DIRECTOR MCLAUGHLIN, SECONDED BY DIRECTOR PELZ; 1 ABSENT - MCGAULEY), THE BOARD APPROVED SETTLEMENT BY WAY OF A COMPROMISE AND RELEASE IN AN AMOUNT NOT TO EXCEED \$190,000; AUTHORIZED THE CHIEF EXECUTIVE OFFICER OR HIS DESIGNEE TO ISSUE SETTLEMENT CHECKS AS REQUESTED BY COUNSEL; AND AUTHORIZED COUNSEL OR HER DESIGNEE TO PRESENT THE PROPOSED SETTLEMENT TO THE WORKERS' COMPENSATION APPEALS BOARD AND TO EXECUTE ALL NECESSARY CLOSING DOCUMENTS

Item No. 30 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(3).) 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: The receipt of a claim pursuant to the Government Claims Act or some other written communication from a potential plaintiff threatening litigation, which non-exempt claim or communication is available for public inspection – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 31 concerning CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(1).) Number of cases: Three hundred sixty-seven (367) 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

ADJOURNED TO WEDNESDAY, MARCH 15, 2017 AT 11:30 A.M.

McLaughlin

/s/ Raquel D. Fore
Authority Board Coordinator

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

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

March 15, 2017

Subject: Proposed retroactive Amendment No. 2 to Agreement 051-2012 with Owens & Minor Distribution, Inc.

Recommended Action: Approve; Authorize Chairman to sign subject to approval as to form by Counsel

Summary:

Attached is the proposed retroactive Amendment No. 2 to Agreement 051-2012 with Owens & Minor Distribution Inc., for clinical supply technology and centralized inventory management services. The amendment extends the term for two years from October 28, 2016 through October 27, 2018, and increases the maximum payable by \$292,000, from \$725,000 to \$1,017,000, to cover the extended term.

**AMENDMENT NO. 2
TO
CLINICAL SUPPLY SOLUTIONS AGREEMENT
(Kern County Hospital Authority – Owens & Minor Distribution, Inc.)**

This Amendment No. 2 to the Clinical Supply Solutions Agreement is made and entered into this _____ day of _____, 2017, between the Kern County Hospital Authority, a local unit of government (“KCHA”), which owns and operates Kern Medical Center (“KMC”), and Owens & Minor Distribution, Inc., a Virginia corporation (“O&M”), with its principal place of business located at 9120 Lockwood Boulevard, Mechanicsville, Virginia 23116.

RECITALS

(a) KCHA and O&M have heretofore entered into a Clinical Supply Solutions Agreement (Kern County Agt. #051-2012, dated October 28, 2011), Amendment No. 1 (Kern County Agt.#795-2014, dated October 28, 2014) and Assignment to the Kern County Hospital Authority (Kern County Agt. #304-2016, dated March 1, 2016) (“Agreement”), for the period October 28, 2011 through October 27, 2016, for clinical supply technology including centralized inventory management services; and

(b) The Agreement ended October 27, 2016; and

(c) KMC continues to require the services of O&M; and

(d) It is the intent of the parties to have the terms of the Agreement provide for payment of all reasonably projected costs and expenses related to the services provided by O&M; and

(e) KCHA and O&M agree to amend the Agreement to (i) extend the term of the Agreement for a period of two years from October 28, 2016 through October 27, 2018, under the same terms and conditions, and (ii) increase the maximum payable under the Agreement by \$292,000, from \$725,000 to \$1,017,000, to cover the extended term; and

(f) The Agreement is amended effective October 28, 2016;

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 IV, Term and Termination, paragraph (A), Term, shall be deleted in its entirety and replaced with the following:

“(A) Term. This Agreement shall commence on October 28, 2011, and shall remain in effect for a period of seven (7) years through October 27, 2018, unless earlier terminated pursuant to other provisions of the Agreement as herein stated. Any renewal shall be in writing and signed by both parties through a formal amendment to this Agreement.”

2. Section III, Fees, paragraph (A), CSS Program Fees, shall be deleted in its entirety and replaced with the following:

“(A) CSS Program Fees. KMC shall pay O&M a monthly CSS Program Fee of \$11,750 per month for an annual not to exceed amount of \$141,000 per year. This fee will cover all of the Departments listed herein. Any change in the list of Departments shall be in writing and signed by both parties through a formal amendment to this Agreement.”

3. Section III, Fees, paragraph (D), Travel Reimbursement, shall be amended as follows:

“(D) Travel Reimbursement. O&M shall be reimbursed for all approved travel expenses, which approval will not be unreasonably withheld, incurred by O&M on behalf of KCHA in an amount not to exceed \$30,000 over the seven (7) year term of this Agreement. Reimbursement of travel expenses will include the following: (i) actual cost for lowest coach round-trip airfare to and from Bakersfield, California; (ii) local transportation (rental cars are reimbursable at actual cost for compact or midsize vehicles only; per mile reimbursement for personal vehicle use at the current privately owned vehicle [POV] mileage reimbursement rate established by the U.S. General Services Administration); (iii) meals and incidental expenses at the current domestic per diem rates established by the U.S. General Services Administration for Kern County; and (iv) reasonable hotel accommodations not to exceed the maximum allowable reimbursement rate including taxes established by KCHA. Travel-related expenses will be billed monthly, as incurred, and are payable in arrears within 30 days of receipt and approval of each invoice by KMC.”

4. Section III, Fees, paragraph (E), Maximum Payable, shall be made part of the Agreement as follows:

“(E) Maximum Payable. The maximum payable under this Agreement shall not exceed \$1,017,000 over the seven-year term of this Agreement.”

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

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

7. 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.

8. Except as provide herein, all other terms, conditions, and covenants of the Agreement shall remain in full force and effect.

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties have entered into this Amendment No. 1 as of the day and year first written above.

KERN COUNTY HOSPITAL AUTHORITY

OWENS & MINOR DISTRIBUTION, INC.

By _____
Chairman
Board of Governors

By _____
Name: _____
Title: _____

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By _____
Jared Leavitt
Chief Operations Officer

APPROVED AS TO FORM:
OFFICE OF COUNTY COUNSEL

By _____
Deputy

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

March 15, 2017

Subject: Proposed retroactive Agreement with AMN Healthcare, Inc.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

The number of working Registered Nurses in the Central Valley of California, including Kern County, is insufficient to meet the needs of healthcare providers serving the various communities. Although Kern Medical has traditionally supplemented available Registered Nurses with “traveling nurses” from within the United States, we are no longer able to obtain the required number of supplemental nurses from that source. The proposed contract will expand recruitment of “traveling nurses” to overseas locations of our choice. AMN Healthcare will pre-interview all candidates, perform competency testing in basic skills and specified specialties to provide Kern Medical with the right of final approval. All candidates are fully licensed to practice in the State of California immediately upon arrival. The contract agency will facilitate all local housing needs as well as introduction to the community. The agreement is effective for a term of one year from August 11, 2016 through August 10, 2017. The maximum payable will not to exceed \$3,000,000.

HEALTHCARE STAFFING AGREEMENT

This Healthcare Staffing Agreement together with Attachment 1 hereto and all applicable Service Line Exhibits (collectively, the "Agreement") is entered into by and between **Kern County Hospital Authority**, a local unit of government which owns and operates **Kern Medical Center** ("Client") and AMN Healthcare, Inc. ("Agency") on **August 11, 2016** for the purpose of using healthcare clinicians ("Clinicians") to provide temporary professional services at Client's facility(ies).

- 1. DESCRIPTION OF SERVICES.** Agency will use its best efforts to recruit qualified Clinicians to staff Client's facility(ies) from Agency and/or Agency's direct and indirect subsidiaries in accordance with Client's specifications. It is Agency's policy not to use subcontractors. The one or more attached service line exhibits ("Service Line Exhibit(s)") set forth the specific services to be furnished by Agency for the applicable service line, together with current fees for these services and other terms specific to such service line. Client represents, warrants and covenants that it (A) has obtained and will keep current all licenses, permits and authorizations necessary to conduct its business and to utilize the Clinicians in accordance with all applicable laws, rules and regulations, and (B) shall provide and be responsible for all oversight of Clinicians in connection with the temporary professional services provided by Clinicians for Client.
- 2. COMPENSATION TO AGENCY.** Client agrees to pay for services rendered under this Agreement in accordance with the Service Line Exhibit(s), plus all applicable federal, state and local taxes that may be payable by Agency, including but not limited to, sales/use tax, excise tax and gross receipts tax. Should Agency be required to pay a Clinician any wage/hour penalty as required by federal or state law, such penalty shall be billed to Client at the regular rate. The parties acknowledge that they have a reimbursement arrangement with respect to housing and meals. The reimbursement amount is included in the fee Client pays for services, except as otherwise specifically stated herein. Agency will provide substantiation of the reimbursement amount. Amounts reimbursed by Client may be subject to tax deduction limitations.
- 3. INVOICING.** Invoices will be rendered weekly and delivered via email or a web-based application (and Client and Agency shall cooperate to allow Client to obtain invoices in such manner) to the designation set forth in the section entitled "Notices" below. If Client requires Agency to use a non-electronic method of invoicing, then a \$5.00 per non-electronic invoice fee shall apply. Payment by Client shall be due within 15 days of the invoice date and shall be paid by check or EFT. Credit card payments shall not be permitted without Agency's written consent, which may be withheld in its sole discretion. To the extent permissible by California law, Agency may impose a finance charge of 18% per annum (or the maximum charge permitted by law, if less) to all outstanding past due amounts. Information appearing on the invoice shall be deemed accurate and affirmed by Client unless Client notifies Agency in writing, specifying the particular error(s), omission(s) or objection(s) within 45 days of the invoice date. Failure to notify Agency within that time shall constitute a waiver by Client of any objection thereto.
- 4. GOVERNMENT MANDATED COST INCREASES.** If at any time during the term of this Agreement, Agency is required to increase its employees' compensation (due to increase in minimum wage rates or mandatory benefits requirement), or incurs an increase in its compensation costs as a direct result of any law, determination, order or action by a governmental authority or government insurance benefit program, Client agrees that Agency may increase the bill rates proportionately so as to place Agency in the same position it was in prior to such law, determination, order or action. Client shall pay such increased bill rates upon Agency's provision of 30 days notice of such increase.
- 5. MAXIMUM PAYABLE.** The maximum payable under this Agreement will not exceed three million dollars (\$3,000,000) over the one (1) year term of this Agreement.
- 6. MEDICARE ACCESS.** In compliance with Section 420.302(b) of the Medicare regulations, until the expiration of four years after the furnishing of the services provided under this Agreement, Agency will make available to the Secretary, U.S. Department of Health and Human Services, the U.S. Comptroller General, and their representatives, this Agreement and all books, documents and records necessary to certify the nature and extent of the costs of those services.
- 7. EQUAL EMPLOYMENT OPPORTUNITY POLICY.** Both parties acknowledge that they are equal opportunity employers and agree that they do not and will not discriminate against, harass, or retaliate against any employee or job applicant on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or any other status or condition protected by applicable federal, state or local laws. Client will promptly investigate allegations of discrimination, harassment and retaliation and will report to Agency any suspected discrimination, harassment and/or retaliation either by or against Clinicians immediately.

Each Party ("Indemnitor") agrees to indemnify, defend and hold harmless the other ("Indemnitee") from and against any and all third party claims, losses, damages, liens, awards, fines, costs and expenses to the extent adjudicated to be caused by the Indemnitor's negligent act or omission or willful misconduct. Indemnification is subject to: (a) the Indemnitee promptly providing the Indemnitor written notice of the claim; (b) the Indemnitor's right to control the claim's defense and settlement (provided that the Indemnitor may not settle or defend any claim without the Indemnitee's consent (which shall not be unreasonably withheld, delayed or conditioned), unless it unconditionally releases the Indemnitee from all liability); and (c) the Indemnitee providing reasonable assistance to the Indemnitor. This obligation shall expressly survive the expiration or termination, for whatever reason, of this Agreement.

8. **NOTICES.** All notices, demands, requests or other instruments that may be or are required to be given hereunder ("Notices") shall be in writing and sent to the addresses set forth below (for Client under "Notices (Other than Invoices/Billing)"), by hand delivery, first class, certified mail – return receipt requested or via overnight courier, postage prepaid. Invoices and billing items for Client shall be sent to the address set forth below and as provided in the section entitled "Invoicing" above.

AGENCY President, Travel Nursing
12400 High Bluff Drive, Suite 100
San Diego, California 92130

<p>CLIENT</p> <p>NOTICES (OTHER THAN INVOICES/BILLING):</p> <p><input checked="" type="checkbox"/> _____ Client Designated Contact Name</p> <p><input checked="" type="checkbox"/> _____ Client Designated Client Name</p> <p><input checked="" type="checkbox"/> _____ Client Designated Address</p> <p><input checked="" type="checkbox"/> _____ Client Designated City, State, Zip</p> <p><input checked="" type="checkbox"/> _____ Client Designated Email Address</p>	<p>INVOICES AND BILLING:</p> <p><input checked="" type="checkbox"/> _____ Client Designated Contact Name</p> <p><input checked="" type="checkbox"/> _____ Client Designated Client Name</p> <p><input checked="" type="checkbox"/> _____ Client Designated Address</p> <p><input checked="" type="checkbox"/> _____ Client Designated City, State, Zip</p> <p><input checked="" type="checkbox"/> _____ Client Designated Email Address</p>
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The designations for Notices provided herein are conclusively deemed to be valid, and notice given in compliance with this paragraph shall be conclusively presumed to be proper and adequate. Either party may from time to time add or change its notice designation above in a writing given to the other party.

9. **Authority to Bind Client.** It is understood that Clinician, in Clinician's performance of any Services under this Agreement, except as otherwise provided in this Agreement, has no authority to bind Client to any agreements or undertakings.
10. **Conflict of Interest.** The parties to this Agreement have read and are aware of the provisions of sections 1090 et seq. and sections 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. Agency agrees that Agency is unaware of any financial or economic interest of any public officer or employee of Client relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, Client may immediately terminate this Agreement by giving written notice thereof. Agency shall comply with the requirements of Government Code sections 87100 et seq. during the term of this Agreement
11. **Disqualified Persons.** The parties mutually agree that they and their respective Clinicians providing services under this Agreement are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 U.S.C. section 1320a-7b-(f) (the "Federal health care programs") and/or present on the exclusion database of the Office of the Inspector General ("OIG") or the Government Services Administration ("GSA"); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits. This shall be an ongoing requirement during the term of this Agreement and each party shall promptly notify the other party of any change in the status of any of the representations and/or warranties set forth in this section. Any breach of this section shall give the non-breaching party the right to terminate this Agreement immediately.

- 12. Independent Contractor.** None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create any relationship between Client and Clinician/Provider other than solely for the purpose of effecting the provisions of this Agreement. Neither of the parties hereto nor any of their respective officers, directors or employees shall be construed to be the agent, employer or representative of the other except as specifically provided herein. Neither party is authorized to speak on behalf of the other for any purpose whatsoever without the prior written consent of the other.
- 13. ENTIRE AGREEMENT; ATTORNEYS' FEES; GOVERNING LAW.** This Agreement (including Attachment 1 and each executed Service Line Exhibit) contains the entire agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments and practices between the parties. No amendments to this Agreement (including a Service Line Exhibit) may be made except by written mutual agreement. In the event of a conflict between this Healthcare Staffing Agreement (or Attachment 1), on the one hand, and a Service Line Exhibit on the other hand, this Healthcare Staffing Agreement (or Attachment 1) shall control unless the conflicting provision in the Service Line Exhibit explicitly indicates the intent for such provision to supersede a specific provision in this Healthcare Staffing Agreement (or Attachment 1). In the event that any action is brought to enforce or interpret this Agreement or any part thereof, the prevailing party shall recover its costs and reasonable attorneys' fees in bringing such action. In the event of non-payment by Client, Client shall pay all costs incurred by Agency in collecting delinquent amounts, including collection agency fees. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its conflict of laws rules. The parties consent to the exclusive jurisdiction of the state and federal courts located in the County of Kern, California for any action arising under this Agreement.
- 14. INSURANCE AND SAFETY LAWS.** At Client's request, Agency will provide certificates evidencing its worker's compensation, general liability and professional liability insurance coverage. Client accepts responsibility for compliance with all relevant safety and health laws and regulations during the period of a Clinician's assignment under Client's supervision, including but not limited to Joint Commission regulations relating to orientation and evaluation and HIPAA regulations. While Agency will give each Clinician a safety and standards manual relating to safety, universal precautions, occupational exposure to bloodborne pathogens, other safety issues and HIPAA regulations, Client will also provide each Clinician with all necessary site-specific training, orientation, equipment and evaluations required by federal, state or local occupational safety laws or rules, including Joint Commission and HIPAA, for members of Client's workforce. Further, Client will only assign Clinicians to work in the clinical specialty areas in which they are professionally qualified and oriented to work. In the event of any sentinel event or actual or threatened claim arising out of or relating to the acts or omissions of Clinician, Client shall provide Agency written notice of such claim immediately and, in no event more than 30 days after Client knew, or reasonably should have known, of such claim.
- 15. CONFIDENTIAL INFORMATION.** Each Party shall keep confidential all Confidential Information of the other party ("owning party"), and shall not use or disclose such Confidential Information either during or at any time after the term of this Agreement, without owning party's express written consent, unless required to do so by law, court order or subpoena, in which case a party shall not disclose such information until it has provided advance notice to owning party such that owning party may timely act to protect such disclosure. Agency 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. For purposes of this provision, "Confidential Information" means non-public information about either party or its employees that is disclosed or becomes known to the other party as a consequence of or through its activities under this Agreement, including, but not limited to, matters of a business nature, such as Clinician and prospective Clinician names and information, compensation and benefits packages and structure, hiring decision-making process, hiring needs and/or requests for placement, costs, profits, margins, markets, sales, business processes, information systems, and any other information of a similar nature. Client agrees to use appropriate security measures to protect Agency and its subsidiaries' employee, client and/or Clinician personal information from unauthorized access, destruction, use, modification or disclosure in accordance with all federal and state privacy laws.
- 16. CONSENT TO FAX.** In order to ensure that Agency is in compliance with state and federal law, Client hereby expressly grants permission to Agency to send all facsimile communications to Client.
- 17. TERM.** The term of this Agreement shall be for a period of one year, and this Agreement may be renewed for successive one year periods by written amendment. Either party may terminate this Agreement upon the other party's material breach and failure to cure within 30 days, or at any time upon provision of 30 days written notice to the other party; provided, however, all Clinicians currently confirmed for an assignment, or at work on an

assignment, will be permitted at Agency's option to complete their assignments under the terms of this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and/or assigns of Agency.

18. SEVERABILITY. If any provision herein is held to be contrary to law, such provision will be deemed valid only to the extent permitted by law. All other provisions shall continue in full force and effect.

19. NON WAIVER. Agency's failure to require performance of any provision of this Agreement shall not affect its right to require performance at any time thereafter, nor shall Agency's waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default.

AGREED AND ACCEPTED

KERN COUNTY HOSPITAL AUTHORITY

AMN HEALTHCARE, INC.

By: _____

By: Landry Seedig

Name

Landry Seedig
Name

Title

Division President, Nursing
Title

Date

03/06/17
Date

**ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

The following terms shall be made part of each Service Line Exhibit except to the extent specifically excluded therein:

- 1. TIMEKEEPING; COMPENSATION OF CLINICIANS.** Clinicians will enter time worked into an electronic timecard system designated by Agency. Client shall designate a representative to review and approve all time no later than each Monday by 5 p.m. PST. Client's approval of Clinicians' time certifies that the hours submitted are correct, the work was performed to Client's satisfaction and authorizes Agency to bill Client for the hours worked by Clinicians. If Client's designated representative fails to timely report time worked to Agency, all time submitted by Clinicians will be considered accurate and Client shall be responsible for payment. If a Clinician does not report to work for a scheduled shift due to illness or some other reason outside of Client's control, Client will not be billed for those hours. Make-up of lost time will be at the mutual agreement of Client and Clinician. Agency has responsibility for all compensation of Clinicians working at Client's facility(ies) under this Agreement. Agency will obtain and keep on file all documentation required by the U.S. Citizenship and Immigration Services to prove legal status to work and reside in the USA.
- 2. MINIMUM WORK WEEK.** For Clinicians confirmed for eight, 10 or any combination of eight, 10 and 12 hour shifts, Client will provide Clinicians a minimum of 40 scheduled hours per week. For Clinicians confirmed for 12 hour shifts only, Client will provide Clinicians a minimum of 36 scheduled hours per week. The guaranteed minimum work week calculation includes regular and overtime hours worked but does not include any "on-call" time. The guaranteed minimum work week applies to all work weeks, including weeks during which orientation is provided, weeks with Holidays and weeks during which there may be unit closures for all or any portion of such week. Should Client not provide a Clinician the minimum hours, Client will be invoiced and shall pay the regular rate set forth in the applicable Service Line Exhibit for all hours below the minimum for such Clinician.
- 3. OVERTIME.** Client agrees to pay one and one-half times the regular rate for all hours worked more than 40 hours in one work week. If any applicable law requires Agency to pay Clinician daily overtime (an overtime multiple such as one and one-half times or two times the Clinician's hourly wage), Client shall pay Agency the same multiple on the regular rate for such hours. Agency may comply with Client's policies regarding overtime when such compliance accords with Agency's obligations under state and federal law, and are communicated to Agency concurrently with the execution of this Agreement or at least 90 days prior to the effective date of such changes.
- 4. ORIENTATION.** Client agrees to pay Agency for all orientation hours worked by Clinicians.
- 5. ON CALL.** Client will pay uncontrolled on-call hours, defined as hours where the Clinician is not required to stay on the facility's premises, at the on-call rate set forth in the applicable Service Line Exhibit. Client will pay controlled on-call hours, defined as hours where the Clinician is required to stay on the facility's premises at the regular rate. If Clinician is called back to work for Client while serving in an "on-call" capacity, the "on-call" charge will cease and Client will instead pay Agency the overtime rate for the duration of the call-back period. The minimum call-back period is two hours.
- 6. HOLIDAYS.** For purposes of the Agreement, "Holidays" are: New Year's Eve Day, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas Eve Day, and Christmas Day. For purposes of clarification, all Holidays begin at 12:00 a.m. the day of the Holiday and run through 11:59 p.m. the day of the Holiday.
- 7. HOME HEALTH PHONE REIMBURSEMENT.** If Client provides home health services and does not provide a cell phone to Clinician, Client agrees to pay for all work-related cell phone use by home health Clinicians, up to a maximum monthly amount of \$50.00 as invoiced by Agency. Clinicians will be responsible for submitting monthly cell phone bill directly to Agency.
- 8. FIRST REFERRING AGENCY.** It is understood that Agency is the first referring agency ("First Referring Agency") with respect to each presented Clinician unless Client notifies Agency within 48 hours of a written or verbal introduction that Client possesses prior knowledge of such Clinician's availability. If Agency is the First Referring Agency with respect to a Clinician, Client will adhere to the hiring limitations and provisions set forth in the applicable Service Line Exhibit. If Client does hire or use (except through Agency) a Clinician first referred by Agency on a travel or per-diem basis through another agency at any time and for any period prior to the later of (a) 18 months following the end date of a Clinician's assignment and (b) 18 months following the termination of the Agreement, Client shall pay Agency a \$2,500 transfer fee (no fee applies where prohibited by law).
- 9. COMMUNICATION DEVICES.** Client agrees to supply Clinicians with communication devices (e.g., cell phone, pager) needed to perform the duties as assigned at no cost to Clinician or Agency.

- 10. TERMINATION OF ASSIGNMENT.** Agency will terminate a Clinician's assignment if the Client provides in writing that the Clinician is incapable of performing the duties of the position, commits acts of professional negligence, is absent from the position without Client's permission during scheduled times, is insubordinate, engages in substance abuse, violates Client's express rules or regulations, or engages in other unprofessional conduct or breach or neglect of duty. For any reasons other than those listed above, Client agrees to give Agency 60 days written notice of cancellation of any Clinicians once a confirmation has been sent by Agency. Should Client be unable to provide such 60 days cancellation notice, Agency reserves the right to bill Client for four weeks (40 hours per week) at the Clinician's regular rate. In the event of a cancellation without cause, including cancellations with proper notice, Client shall be responsible for any housing and travel costs actually incurred by Agency as a result of such cancellation.
- 11. CLINICIAN QUALIFICATIONS.** Agency shall follow its standard certification and credential requirements for its Clinicians. Upon Clinician's arrival at Client facility, Client will verify the identity and credentials of each Clinician by a visual check of the Clinician's photo identification and professional license or certification. Client agrees to interview candidates within 48 hours of file submission.
- 12. FLOATING.** Client agrees to float a Clinician only in accordance with Client's floating policies for all staff, and the clinical experience of the Clinician. Client confirms that Client's policies on floating comply with current (and will comply with any future) Joint Commission standards, including the provision of an appropriate orientation to the new unit.
- 13. PERFORMANCE EVALUATIONS.** Client agrees to complete a written evaluation regarding the performance of each Clinician upon completion of his or her assignment, and to forward this evaluation to Agency within 15 days. Client may complete the performance evaluation on either the form Agency provides or a comparable form of Client's choosing.

EXHIBIT A-3

SERVICE LINE – INTERNATIONAL CLINICIAN ASSIGNMENTS

AMN Healthcare, Inc. ("Agency"), either directly or through its wholly-owned subsidiaries (including O'Grady-Peyton International (USA), Inc.), will provide services in accordance with the Healthcare Staffing Agreement (and Attachment 1 thereto) entered into by and between Kern County Hospital Authority, a local unit of government which owns and operates **Kern Medical Center** ("Client") and Agency on or about **August 11, 2016**, as modified by these additional terms. This exhibit sets forth the additional terms for international placements effective **August 11, 2016** (the "OGP Effective Date").

A. RATES.

- SCHEDULE OF RATES.** The following Schedule of Rates will go into effect for each Clinician currently on assignment and each Clinician beginning an assignment or extension on or after the OGP Effective Date. These fees include recruitment, immigration processing and compensation for each Clinician placed with Client. On the first anniversary of this Agreement, and each anniversary thereafter, a rate increase equal to the most recently published Medical Care Services National CPI index or three percent, whichever is greater, shall be incorporated automatically into the Schedule of Rates.

SCHEDULE OF RATES				
TYPE OF CLINICIAN	REGULAR RATE	ON-CALL RATE	CHARGE RATE**	PRECEPTOR RATE**
Registered Nurse I	\$70.00/hr	\$5.00/hr	\$4.00/hr	\$7.00/hr
Registered Nurse II	\$71.00/hr	\$5.00/hr	\$4.00/hr	\$7.00/hr
Registered Nurse III	\$72.00/hr	\$5.00/hr	\$4.00/hr	\$7.00/hr

**If a Clinician is required to perform lead or supervisory duties during his or her assignment, the charge rate set forth in the Schedule of Rates will be billed in addition to the applicable regular rate for all such hours. If Clinician serves as a Preceptor, the Preceptor Rate will be billed in addition to the applicable regular rate for all such hours.

Registered Nurse I: Medical/Surgical, Skilled Nursing, Sub-Acute, Home Health, Long Term Acute Care, Psychiatry
Registered Nurse II: PACU, PEDS, Antepartum, Nursery, Post-Partum
Registered Nurse III: ER, OR, PCU, Cath Lab, CVICU, ICU, Neuro ICU, PICU, SICU, Pediatric Stepdown, Oncology, NNICU, Dialysis, CVOR, MS-TELE, LD, Procedural, Telemetry & Interventional Radiology

- SHIFT DIFFERENTIALS.** The following increased differentials will apply to the Schedule of Rates. The hours between 7:00 pm on Friday through 6:59 am on Monday will be considered "weekend" shifts below. Shift differentials will be invoiced for the entire shift in which the majority of the hours worked is during the shift differential period.

Shift Start Time	Shift End Time	Amount	Description
3:00 pm	11:00 pm	\$3.00/hr	Weekday evening and/or weekday rotating day/evening
11:00 pm	7:00 am	\$4.00/hr	Weekday night and/or weekday rotating day/night
7:00 am	3:00 pm	\$3.00/hr	Weekend day
3:00 pm	11:00 pm	\$3.00/hr	Weekend evening
11:00 pm	7:00 am	\$4.00/hr	Weekend night

- HOLIDAY RATE.** Client will pay two times the regular rate for all time worked on a Holiday.
- TRAVEL EXPENSES.** Client will directly reimburse all home health Clinicians for all local mileage on daily visits. The method of reimbursement shall be consistent with current policy for Client's own staff.

B. OTHER TERMS.

- RIGHT TO HIRE.** Notwithstanding anything in the Agreement to the contrary, Client shall not knowingly hire or retain the services of a Clinician presented under this Exhibit for whom Agency was the First Referring Agency (on any basis, including but not limited to a full-time, part-time, contract, per diem or temporary employee or through another agency on a travel or per diem basis) at any time during Clinicians' assignment other than through Agency. Any failure to adhere

to the foregoing shall constitute a material breach of this Agreement by Client for which Agency will be entitled to recover its lost profits and any other damages arising therefrom (including, without limitation, all immigration and administrative costs incurred with respect to Clinician). This provision shall survive the expiration or termination for any reason of this Agreement for a period of 24 months. For the avoidance of doubt, the third sentence of the Section entitled "First Referring Agency" in Attachment 1 related to transfer fees shall not apply to international placements.

2. **ASSIGNMENT DURATION.** Clinician will be placed with Client on assignments for the lesser of two years or Clinician's commitment to Agency, excluding leave. Client may extend an assignment for such time period as may be mutually agreed to by Clinician, Agency and Client. Client agrees to allow each Clinician a maximum of 120 hours of paid time off ("PTO") paid by Agency, over the course of the assignment period, as specified in the applicable confirmation. PTO is subject to the approval of Agency and Client. Client shall also provide, if requested by Clinician, additional leave in accordance with federal and state laws such as, but not limited to, the Family and Medical Leave Act.
3. **DELAY OR POSTPONEMENT OF ASSIGNMENT START.** Each Clinician's assignment will begin on the date agreed to by Agency and Client. Delay or postponement of an assignment start will be initiated by Agency if all pre-requirements of USCIS, licensing board, Client and/or Agency are not met by Clinician prior to start date. For any reasons other than those listed above, Client shall not delay or postpone start dates with less than 60 days written notice. Should Client be unable to provide such 60 days notice of delay or postponement, Agency shall bill Client four weeks (40 hours per week) of delay or postponement at Clinician's regular rate. In the event of a delay or postponement of assignment start, including delays or postponements with proper notice, Client shall be responsible for any housing costs actually incurred by Agency as a result of such delay or postponement.
4. **TERMINATION OF ASSIGNMENT.** Agency will terminate Clinician immediately if Client notifies Agency in writing that Clinician is incapable of performing the duties of the position, commits acts of professional negligence, is absent from the position without Client's permission during scheduled times, is insubordinate, engages in substance abuse, violates Client's express rules or regulations, or engages in other unprofessional conduct or breach or neglect of duty. For any reasons other than those listed above, Client agrees to give Agency 90 days prior written notice of cancellation of any Clinician once a confirmation has been sent by Agency. Should Client fail to provide such 90 days cancellation notice, Agency shall bill Client for six weeks (40 hours per week) at Clinician's regular rate. In the event of a cancellation without cause, including cancellations with proper notice, Client shall be responsible for any housing and travel costs actually incurred by Agency as a result of such cancellation.
5. **PRECEPTORS.** Client agrees that it will not request, require or permit Clinicians to act as preceptors without Agency's prior written consent. Client shall defend (including without limitation paying defense costs as they are incurred), save, indemnify and hold Agency and Clinician harmless from and against any and all losses, claims, suits, legal actions, damages, judgments, liability, costs, expenses and interest based upon, arising out of or attributable in any way to Clinicians acts or omissions (whether actual or alleged) as a preceptor.
6. **OTHER.** The following entitled provision(s) contained in Attachment 1 of the Agreement shall not apply to assignments under this Exhibit: TERMINATION OF ASSIGNMENT

AGREED AND ACCEPTED

KERN COUNTY HOSPITAL AUTHORITY

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

AMN HEALTHCARE, INC.

By: _____
Name: Landry Seedig
Title: Division President, Nursing
Date: 03/06/17

EXHIBIT C

CALIFORNIA (CA) PAY POLICY VERIFICATION
Required for All AMN Healthcare California Clients

CALIFORNIA MEAL AND REST PERIOD OBLIGATIONS. Client shall provide Clinicians who work in California meal and rest periods in accordance with California law.

Meal Periods

Client shall provide Clinicians who work more than five hours in a day the opportunity to take an uninterrupted 30-minute meal period no later than the end of Clinician's fifth hour of work. During the meal period, Clinicians must be relieved of all job duties and free to engage in personal activities. Client shall permit Clinicians who work more than five hours but no more than six hours in a workday to voluntarily waive their meal period.

Client shall provide Clinicians who work more than ten hours in a day the opportunity to take a second uninterrupted 30-minute meal period no later than the end of Clinician's tenth hour of work. Client shall permit Clinicians who work more than eight hours in a day to voluntarily waive one of the two meal periods by signing a meal period waiver form.

If Client fails to provide the Clinician with a meal period, the Client will be billed at the regular hourly bill rate for the Clinician's hours worked and an additional hour's pay for the meal period.

Rest Periods

Client shall authorize and permit Clinicians who work more than 3.5 hours in a work day the opportunity to take a paid ten (10) minute rest period for every four hours of work or major fraction thereof. A major fraction is over two hours of work. If the Client fails to authorize or permit the Clinicians to take a rest period, the Client will be billed at the regular hourly bill rate for all hours worked and an additional hour's pay for the rest period.

CALIFORNIA PAY VERIFICATION. To ensure compliance with California law, Client certifies that the following information is true and correct:

- 1. Is Client a Government facility? Yes No
- 2. Does Client have a collective bargaining agreement that establishes an alternate pay schedule? Yes No

If the answer to 1 or 2 is Yes, **STOP.**

If the answer to 1 and 2 is No, please provide info below:

3. The policy which describes Client's current overtime payroll practice for permanent nursing staff is (mark appropriate box or boxes):
- Option 1:* Staff is paid overtime (time and a half) for hours worked in excess of eight (8) hours worked in one (1) day and forty (40) hours worked in one (1) week. Staff is paid double time for hours worked in excess of twelve (12) hours worked in one (1) day.
 - Option 2:* Staff has chosen an alternative workweek schedule (AWS), in accordance with California law AWS procedures. If Option 2 is checked, you are certifying to the statements below and **must also identify each unit with an alternative workweek, using the spaces below.**

NOTE: Do not choose this option if the alternate schedule is the result of a government exemption or collective bargaining.

a. Units with eight (8) hour shifts. Staff is paid overtime (time and a half) for hours worked in excess of eight (8) hours worked in one (1) day and forty (40) hours worked in one (1) week. Staff is paid double time for hours worked in excess of twelve (12) hours worked in one (1) day.

b. Units with ten (10) hour shifts. Staff is paid overtime (time and a half) for hours worked in excess of ten (10) hours worked in one (1) day and in excess of forty (40) hours worked in one (1) week. Staff is paid double time for hours worked in excess of twelve (12) hours worked in one (1) day.

c. Units with twelve (12) hour shifts. Staff is paid overtime (time and a half) for hours worked in excess of forty (40) hours worked in one (1) week. Staff is paid double time for hours worked in excess of twelve (12) hours worked in one (1) day.

8-HOUR
SHIFT UNITS: _____

10-HOUR
SHIFT UNITS: _____

12-HOUR
SHIFT UNITS: _____

Client acknowledges that Agency is entitled to rely, and will rely, on the accuracy of the representations, and that Client shall be liable for any and all costs, including penalties and third-party claims, and judgments arising from or related to Client's failure to comply with the obligations herein.

Signed by authorized agent for:

Client Signature

Printed Name

Title

Date

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

March 15, 2017

Subject: Proposed retroactive Amendment No. 1 to Agreement 717-2016 with the County of Kern, as represented by Behavioral Health and Recovery Services (f/k/a Kern County Mental Health)

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Attached is the proposed retroactive Amendment No. 1 to Agreement 717-2016 with the County of Kern, as represented by Behavioral Health and Recovery Services, for reciprocal mental health services. The parties have agreed to amend the certain terms related to the fee schedule, effective January 1, 2017, at no additional cost to the authority.

**AMENDMENT NO. 1 TO
AGREEMENT FOR MENTAL HEALTH SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – County of Kern)**

This Amendment No. 1 to the Agreement for Mental Health Services (“Amendment No. 1”) is made and entered into this _____ day of _____, 2017, by and between the KERN COUNTY HOSPITAL AUTHORITY, a local unit of government, (“KCHA”) which owns and operates Kern Medical Center (“KMC”) and the COUNTY OF KERN, a political subdivision of the state of California, (“County”) which contains the constituent department of Kern County Mental Health (“KCMH”) (each a “Party” and collectively, the “Parties”).

RECITALS

- A. KCHA and County have entered into an Agreement for Mental Health Services (Kern County Agt. #717-2016, dated June 21, 2016) for the period of July 1, 2016 through June 30, 2021, to provide medical and mental health services (“Agreement”); 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 January 1, 2017;

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 follow:

- 1. Exhibit C, Fee Schedule, Section 3d shall be deleted in its entirety and superseded by the following:

“KCMH agrees to a transition period from July 1, 2016 through December 5, 2016, wherein any denied claims will be reimbursed by KCMH through an alternative funding source. KCMH agrees to a transition period from December 6, 2017 through June 30, 2017, wherein any denied Treatment Authorization Requests (TAR) will be reimbursed by KCMH through an alternative funding source.

- 2. Subsection (h) shall be added to Exhibit C, Fee Schedule, Section 3 and incorporated herein by this reference:

“h. From July 1, 2016 through December 5, 2016, KCMH will use Short Doyle billing methodology to reimburse claims received from KMC. From December 6, 2016 through the termination of this Agreement, following the receipt of TARs from KMC, KCMH will use the fee for service methodology to reimburse/process claims from KMC.

1. KCHA is required to submit a Mental Health cost report on or before September 30th after the close of the county fiscal year. The cost report shall be prepared in the format required by the county and by the State of California. The costs reported shall be in compliance with Public Law 98-502, the Federal Single Audit Act of 1984, and the Single Audit Act Amendments of 1996, Office of Management and Budget (OMB) Circular A-133, 2 CFR Parts 200, 215, 220, 225, and 230, and CFR 48 subpart 31.2, as applicable. Compensation for services rendered subsequent to September 30th shall be withheld from KCHA until the cost report has been delivered.
2. Requests to extend the deadline of cost report submission must be made in writing to the Department's Finance Manager.
3. KCHA may use unaudited financial statements as the basis of cost information for completion of the cost report. KCHA shall forward a copy of the unaudited financial statements to county along with the completed cost report and any work papers necessary to support the amounts reported. Unaudited financial statements include, but are not limited, to trial balance and general ledger detail.
4. At the county's discretion, KCHA may be required to attend cost report training before the cost report due date. County staff will provide training. The training may be a group presentation or provided on an individual basis.
5. KCHA agrees to maintain and make available to county accurate books and records relative to all activities of the organization, including client information and information included in personnel records, limited to that needed for the verification of credentialing, experience and background. Review of the organization's personnel files shall be subject to applicable confidentiality laws. KCHA shall maintain such data and records in an accessible location and condition for a minimum of seven (7) years after the close of the fiscal year in which services are rendered or until all audit issues are resolved, whichever is later. The state of California and/or any federal agency having an interest in the subject of this agreement shall have the same rights conferred upon county herein.
6. Monitoring and other reviews may be conducted by DHCS or other governing bodies in accordance with regulations in effect during this agreement. County will recoup payments for all claims disallowed from KCHA as authorized by Title IX of the California Code of Regulations (CCR), Chapter 11, Section 1810.380. Upon receiving notification of disallowed claims, county will send a demand notice to KCHA. KCHA shall reimburse county within thirty (30)

days of the date of the demand notice. If disallowed claims are not paid to county within thirty (30) days of the date of the demand notice, county may exercise the option to withhold payments from KCHA until such time as payment is received in full. For all cases, county amounts withheld from KCHA shall be considered as payments to KCHA.

7. KCHA shall permit county to audit, examine, and make excerpts and transcripts from such records; and to conduct audits, reviews and monitoring of Medi-Cal and financial records; and all other data related to matters covered by this agreement. At county's discretion, county may request that KCHA deliver by mail or electronic transmission to the county, a copy of KCHA's accounting records prior to an on-site audit by the county. Failure by KCHA to allow review shall be a material breach of this agreement by KCHA. County, at its sole option, may terminate this agreement and obtain damages from KCHA resulting from said breach, or county may exercise the option to withhold payments from the KCHA until such time as all required documents are made available. Further, as one component of Medi-Cal records review and financial monitoring KCHA may be required, at the sole option of county, to complete a Corrective Action Plan. County may exercise the option to withhold payments from the KCHA until such time as the county accepts the Corrective Action Plan.
8. At KCHA's expense, KCHA is required to submit an independent audit report of its financial statements no later than nine (9) months after the close of KCHA's fiscal year. The audit report shall be performed by a Certified Public Accountant licensed to perform attestations in the state of California. The independent audit shall be conducted in conformity with Public Law 98-502, the Federal Single Audit Act of 1984, the Single Audit Act Amendments of 1996, OMB Circular A-133, 2 CFR Parts 215, 220, 225 and 230, and CFR 48 subpart 31.2, the American Institute of Certified Public Accountants, and/or Government Auditing Standards, as applicable.
 - a. The independent auditor engaged by KCHA shall be required by KCHA to prepare a description of KCHA's methods used to allocate costs to the various programs included in the Statement of Functional Expense. If the complete audit report is not submitted to the county by the due date, county may exercise the option to withhold payments from KCHA until such time as the audit report has been provided.
 - b. Failure to submit the independent audit within the timeframe stipulated in Paragraph 6.D.i. may result in sanctions such as withholding of

payments, corrective action notices, or any other actions deemed necessary to prompt and ensure contract and performance compliance.

- c. The independent auditor engaged by KCHA to conduct the independent audit shall be instructed and authorized by KCHA to send the Director and the Kern County Auditor-Controller-County Clerk a copy of the audit report and management report prepared by the independent auditor as a part of the engagement. Should the independent auditor prepare any other reports about KCHA's performance, internal control, adherence to applicable laws, rules and regulations or any other matters such other reports shall also be copied to Director and the Kern County Auditor-Controller-County Clerk by the independent auditor.
9. The annual cost report establishes state and federal liability to the Department for services represented in the cost report. The settlement process begins with the submission of the Department's cost report to the state, following the close of the fiscal year.
10. KCHA shall maintain and preserve all fiscal records, documents, and correspondence related to this agreement for a minimum period of five (5) years after the close of the fiscal year in which services are rendered, or three (3) years after final payment is made (Medi-Cal or MHSA), or until all audit issues are resolved, whichever is later.
11. KCHA shall maintain all financial, statistical or accounting records associated with the provision of each type of service described in Exhibit "A" of this agreement, necessary to support the costs claimed pursuant to this agreement or any other federal or state reimbursement claim report forms. Moreover, KCHA shall maintain all statistical data necessary to support the allocation of such cost among programs or types of programs and/or among payers; shall maintain auditable records, in accordance with generally accepted accounting principles, reflecting the methods and calculations used to make such allocations; and such other statistical data as shall be necessary to satisfy the requirements of state and federal law.
12. KCHA shall make any and all records, whether fiscal or other, generated pursuant to this agreement available for county's inspection. At county's discretion, county may request that KCHA deliver by mail or electronic transmission to the county, a copy of KCHA's accounting records prior to an on-site audit by the county. The State of California and/or federal agency having an interest in the subject of this agreement shall have the same rights conferred upon the county herein.

3. Subsection (i) shall be added to Exhibit C, Fee Schedule, Section 3 and incorporated herein by this reference:

“i. Funds provided to KMC may be from one or more of the funding sources detailed in Exhibit C -1; however, KCMH may vary the allocated amount of each funding source within a budget unit, by formal amendment, duly executed by the parties. All expenses must be necessary and reasonable for the proper and efficient administration of KMC’s services. KCMH shall pay KMC via journal voucher after KCMH has verified KMC’s services which were entered in the Cerner EHR by KMC staff.

1. Monitoring and other reviews may be conducted by DHCS or other governing bodies in accordance with regulations in effect during this agreement.
2. All of KCHA’s sites where contracted services are provided must be certified in accordance with Medi-Cal Regulations and the Americans with Disabilities Act (ADA). Official fire clearance must take place prior to service provision. If a site is not Medi-Cal certified, or if the renewal is delinquent, the KCMH will not bill Medi-Cal, or forward payment to KCHA until site certification is obtained.
3. KCMH and KCHA shall abide by KCMH’s Medical Records Review Policy 11.1.6 and attachments A, B, C, D, E and F of the policy.

4. Except as otherwise defined herein, all capitalized terms used in this Amendment No. 1 have the meaning set forth in the Agreement.

5. This Amendment No. 1 shall be governed by and construed in accordance with the laws of the state of California.

6. This Amendment No. 1 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.

7. 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 to Follow]

IN WITNESS TO THE FOREGOING, the Parties have executed this Amendment No. 1 as of the day and year first written above.

KERN COUNTY HOSPITAL AUTHORITY

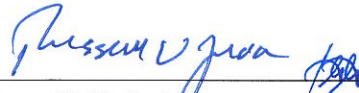
COUNTY OF KERN


By _____
Russell Bigler
Chairman, Board of Governors

By _____
Zack Scrivner
Chairman, Board of Supervisors

APPROVED AS TO CONTENT:
Kern Medical Center

APPROVED AS TO CONTENT:
Kern County Mental Health


By 
Russell V. Judd
Chief Executive Officer

By 
Bill Walker, LMFT
Director

APPROVED AS TO FORM:
Office of County Counsel

APPROVED AS TO FORM:
Office of County Counsel

By 
Deputy

By 
Deputy

BOARD OF GOVERNORS KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING

March 15, 2017

Subject: Proposed Agreement with Strata Decision Technology LLC

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Data access and utilization currently creates a roadblock to effective and informed decision making at Kern Medical. The lack of a central platform to analyze all the data produced in the clinical and financial segments of the hospital prohibits thorough decision making and the ability to identify problems and opportunities in all departments. Strata will increase the efficiency and increase the organizations capability for analytical and data driven decision making as well as providing a suite of tools to objectively measure performance and increase accountability. Strata is a key resource in a new effort to create a culture of continuous improvement which will encourage the organization to proactively identify opportunities for better patient outcomes and reduced costs.

Three main components comprise the Strata solution:

- The financial planning component of Strata will allow greater flexibility in forecasting and modeling of strategic initiatives and capital projects while also streamlining the process for budget development and management reporting.
- The decision support component will bring cost accounting and contract analytics to all services provided at Kern Medical. With detail down to the encounter level, administrators can determine margin levels across all levels of care, what methods create the best clinical outcomes and which physicians provide the best value to their patients.
- Continuous improvement will provide a platform where operations, clinicians and finance will work together to eliminate variance, waste and inefficiencies in hospital services. This component allows a project team to quickly analyze a potential area for cost savings or quality improvement and set up an initiative that identifies potential savings and tracks improvements as changes are implemented.

Examples include more efficient forecasting of staffing needs or identifying methods that reduce the potential for patient readmission. Once set-up, the continuous tracking of performance to goal for the initiatives will allow for greater accountability of the managers and project team

implementing the change. The ability to discover and reduce cost variances and quality will become ever more important as health care moves away from fee for service towards other reimbursement models that carry higher levels of risk for the hospital.

The main goal of engaging with Strata is to develop an environment at Kern Medical that aligns with the values of providing the highest quality care while maximizing the potential of limited resources. A software platform that connects and analyzes the various, sometimes isolated data flows throughout the hospital to provide insight for informed and timely decisions is instrumental to achieving those ends.

The agreement is for a term of five years from March 16, 2017 through March 15, 2022. The maximum payable, which includes the software license and implementation and subscription fees, will not exceed \$2,056,164 over the term of the agreement.



SOFTWARE USE AGREEMENT

THIS SOFTWARE USE AGREEMENT ("Agreement") is made and entered into March 16, 2017 (the "Effective Date"), by and between Strata Decision Technology LLC, an Illinois Limited Liability Company with principal offices at 200 East Randolph Street, 49th Floor, Chicago, Illinois 60601 ("Strata Decision") and the Kern County Hospital Authority, a local unit of government, which owns and operates Kern Medical Center, having its principal offices at 1700 Mount Vernon Avenue, Bakersfield, California 93306 ("Customer").

WITNESSETH:

WHEREAS, Strata Decision desires to grant to Customer, and Customer desires to obtain from Strata Decision, a non-exclusive right to use the computer software and related materials described below, all on the terms and conditions set forth in this Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Definitions. As used in this Agreement, the following definitions will apply:

"Affiliate" means, with respect to either party, any person or entity which such party controls. For purposes of the preceding sentence, the term "Control" means the ownership of more than fifty percent (50%) of an entity's voting securities;

"Authorized User" means a party granted the right to use the Program Assets at the User Sites, including and limited to only the following: (a) Customer, its Affiliates and their employees and authorized agents; (b) nurses, physicians and technicians or staff otherwise affiliated with Customer, including, without limitation, the medical staff members; (c) Third Party consultants and other independent contractors performing services for Customer; and (d) any governmental bodies lawfully requesting or requiring access. Notwithstanding the foregoing, the entities listed in Exhibit D, their respective personnel, and their respective Affiliates shall at no time be deemed to be an Authorized User;

"Contract Year" means each successive 12-month period after the Effective Date of this Agreement;

"Hospital" means a healthcare provider of inpatient and other healthcare services with a single National Provider Identifier (i.e. Medicare number) without regard for sub-provider identifiers;

"Input Data" means all data entered into the Programs by the Customer and/or its Affiliates;

"Programs" means the computer software identified in Exhibit A to this Agreement, which is hereby incorporated by reference and made a part of this Agreement, and also includes any subsequent upgrades provided by Strata Decision;

"Program Assets" means the Programs and the User Guides;

"Proprietary Assets" means the copyright, patent, trade secret and other proprietary rights of Strata Decision included in the Program Assets, including, without limitation, the Strata Decision's Confidential Information and Materials identified in Section 9.2;

"Report User" means individual user of the Programs with a specified name with a unique Windows or network logon name or ID who has read only report viewing access to the Programs;



"System User" means an individual user of the Programs with a specified name with a unique Windows or network logon name or ID who has full access to the Programs;

"User Guides" means the user manuals and user guides provided by Strata Decision to Customer pursuant to the terms of this Agreement which embody, represent, describe or specify the Programs or their uses, operations or applications;

"User Site" means the Hospitals identified in Exhibit B of this Agreement.

Other defined terms are contained in the body of this Agreement.

2. Customer Rights Under Agreement.

2.1 In accordance with the terms of this Agreement, Strata Decision grants to Customer, and Customer accepts from Strata Decision, a limited, non-transferable, non-exclusive right to use the Programs (or any version thereof provided to Customer pursuant to this Agreement) via Strata Decision's hosted application environment. Notwithstanding the foregoing, Strata Decision acknowledges that part of Customer's business may involve operating in a shared resource and/or service bureau environment, and in connection with such business, Customer will have, subject to the requirements set forth in this Agreement, the right to use the Programs for itself and the Affiliates listed as User Sites in Exhibit B, such right of use will include a right of access and direct use by Authorized Users at the User Sites.

2.2 Customer will have the right to modify the Program Assets and/or merge the same into other programs and materials to form an updated work for its own use.

2.3 A schedule listing the User Sites from which the Program Assets will be accessed (User Sites) is attached to this Agreement as Exhibit B and incorporated herein by this reference. Customer must obtain from Strata Decision advance written approval, which will not be unreasonably withheld, before any changes are made to the User Sites listed in Exhibit B. Customer recognizes the fees for the rights granted hereunder are based upon the number of System Users for the User Sites and a change may result in an increase in fees.

2.4 Customer must not access the Program Assets from any location other than the User Sites and must prevent use or access of the Program Assets by anyone other than Customer or other Authorized Users. Customer acknowledges that any use of the Program Assets in violation of this Section constitutes a material breach of the terms of this Agreement. Customer and Authorized Users are permitted to access the software from remote sites, so long as such access conforms to the Customer's policies for remote access to confidential information.

3. Term.

This Agreement will be effective on the date first written above and will be in effect through the Commitment Period outlined in Section 6.1, unless terminated pursuant to the express terms of this Agreement.

4. Delivery; Installation; Consulting Support.

4.1 In order to validate the Warranty and Support portions of this Agreement, Strata Decision will make the programs available for use by Customer (the "Installation Date") within fifteen (15) days of the Effective Date of this Agreement. If Customer does not agree that the Programs operate properly in accordance with the System Technical Requirements set forth on Exhibit C located at: <http://www.stratadecision.com/TechRequirements>, it will so advise Strata Decision in writing within thirty (30) days of the Installation Date. Strata Decision will then take corrective action to remedy the situation.

4.2 Strata Decision shall provide implementation consulting support for the Programs in accordance with a mutually agreed upon statement of work. The number of consulting support days, the corresponding fees, and the billing terms for those fees are outlined in Exhibit A to this Agreement (excluding travel and any other direct expenses which will be billed separately as they are incurred). These consulting days are to be used within one year from receipt of the Programs. Additional consulting services beyond the effort outlined in Exhibit A and the agreed upon statement of work or additional consulting time that may result from Customer implementation decisions contrary to Strata Decision's recommendations are not included in Strata Decision's support duties under this Agreement, but are available to Customer at Strata Decision's current rates. Customer further agrees to the following terms:

- Customer will form an executive steering committee to formulate and communicate the projects goals, objectives and expectations to the organization and will be responsible for internal-buy in and participation in the project.
- Customer will identify and assign needed staff (including IT Resources) and final decision makers prior to the project kick-off call and will provide access to the required subject matter advisors and key staff in a manner required to meet agreed upon timelines including but not limited to being accessible for kick-off meetings, working sessions, status updates, deliverable reviews, and directional decision-making as needed.
- Customer will provide requested data and other input needed to complete services provided by Strata Decision Technology in a timely manner per milestones mutually agreed-up by the Customer and Strata Decision
- Customer data reconciliation with Strata Decision will take no more than 3 iterations (i.e. data loads)
- Executive sponsors or final decision makers from Customer will review and sign-off on recommendations within 48 hours or 2 business days of request.
- Customer agrees to adhere to Strata's implementation recommendation including sequencing of modules.

4.3 Strata Decision shall make its resources available to Customer for a specified number of ongoing consulting support days pursuant to the details outlined in Exhibit A. The allotment of person-days for a given contract year is to be used within one year, and will not carry over from year to year. Additional consulting services beyond this allotment will not be included in Strata Decision's support duties under this Agreement, but are available to Customer at Strata Decision's then current rates for labor, food and travel expenses, materials, or other services.

5. Charges.

5.1 Customer will pay Strata Decision the fees set forth in Exhibit A, in accordance with the Payment Schedule set forth therein. Any and all other charges due under this Agreement will be due and payable within thirty (30) days of Customer's receipt of the applicable invoice.

5.2 Customer will be responsible for the payment of all taxes levied or based on this Agreement or the Program Assets, including state and local privilege or excise taxes; provided that Customer will not be responsible for the payment of taxes based on the net income of Strata Decision.

6. Annual Fees / Automatic Renewal / Upgrades / Tech Support.

6.1 Customer has made an irrevocable commitment to use the suite of Program Assets for a minimum of 5 years from the Effective Date (i.e., the "Commitment Period"). Notwithstanding a multi-year extension of this Agreement at the end of the Commitment Period as agreed by both parties, this Agreement may renew for successive one (1) year periods ("Renewal Period") by written amendment at least ninety (90) days prior to the end of the Commitment Period or a Renewal Period. At the end of the Commitment Period, if renewed within the required notice period, then Strata Decision may, in its sole and reasonable discretion, increase the annual fees outlined in Exhibit A by not more than five percent (5%) per year for renewals of two (2) years or more or ten percent (10%) per year for a renewal of one (1) year.

6.2 Customer must pay the annual fees outlined in Exhibit A for continued use of the suite of Program Assets beyond the first Contract Year. In the event that Customer fails to pay the annual fees outlined in Exhibit A, Customer's access to the Program Assets will be terminated, and Customer must immediately cease and desist from using the suite of Program Assets.

6.3 Payment of the annual fees outlined in Exhibit A entitles Customer to receive upgrades of the Programs in use that are of the same software platform and free Technical Support for unlimited support incidents for resolving incidents where software functionality does not perform in accordance with User Guides. Technical Support is defined to include, but not be limited to, the following: software system-related error messages, system performance issues, troubleshooting specific to system issues or error messages, software system errors. Support personnel will assist Customer in resolving issues with the use of the Program Assets and answer related general questions. For this Technical Support, Strata Decision's hours of operation are Monday through Friday, 7:00 a.m. to 7:00 p.m. United States Central Time.

6.3(a) Technical Support is available to Customer in the following way through the following communication:

- Telephone: Call 1-312-726-1227 and select the technical support option.
- E-Mail: Send messages to support@stratadecision.com
- Fax: 1-312-726-2947 (to be used only when telephone or email fails)

6.3(b) Strata Decision will enter Technical Support incident reports provided by Customer into Strata Decision's call tracking system, and prioritize requests using the following categories:

- Category 1 – Program malfunction that prevent substantial numbers of Customer's users from using Programs for substantially all normal functions using normal procedures.
- Category 2 – Same as Category 1, except that malfunction prevents some of Customer's users from using some normal functions using normal procedures.
- Category 3 – All normal functions of the Programs are operational and can be productively used, but one or more functions are degraded as a result of a malfunction.
- Category 4 – Cosmetic issues and other minor issues that do not result in degraded performance or otherwise materially affect use or functionality of the Programs.

Strata Decision will use commercially reasonable efforts to provide the following Response and Resolution times for the Categories. Response and Resolution times are measured from the time that the report is received by Strata Decision Technical Support staff:

Category	Standard Business Hours	
	Response Time	Resolution Time
1	2 business hours	1 business day
2	4 business hours	2 business days
3	8 business hours	5 business days
4	8 business hours	15 business days

Strata Decision will use commercially reasonable efforts to either fix or provide a workaround procedure for any material breach of functionality as described in the then current User Guides as long as the Program Assets are used with software and operating systems that match then-current Strata Decision technical standards. Resolution times are measured from the time a problem is reported until the time that Customer is sent notification that a solution has been tested and verified by Strata Decision staff, and does not include time required for the Customer to verify that solution. Resolution times exclude any time waiting for completion of reasonable requests from Strata Decision staff for testing, additional



information, or completion of problem resolution procedures when those step must be carried out by Customer's employees or third-party product and service providers.

Strata Decision will be in material breach pursuant to Section 10.1 of this Agreement for its failure to perform the obligations identified above if the following conditions occur:

1. Customer reports a software system-related error or issue which is classified as a Category 1 and Strata Decision does not provide a fix or workaround procedure that addresses such system-related error or issues within 10 business days.
2. Customer notifies Strata Decision that such software system-related error or issue is still unresolved after 10 business days have elapsed, and Strata Decision is still unable to provide a fix or workaround procedure that addresses such system-related error or issues within 5 additional business days.

6.4 Except in instances where this Agreement is terminated as a direct result of Strata Decision's material breach, nothing in this Agreement will relieve the Customer of its obligations to pay the fees outlined in Exhibit A for the full Commitment Period. Subject to the foregoing, Customer must remit to Strata Decision the fees outlined in Exhibit A during the Commitment Period even if the Agreement terminates prior to the end of the Commitment Period. Customer further understands that all fees are distinct and separate payment obligations of the Customer under the terms of this Agreement and that no refunds will be issued for an early termination of this Agreement.

6.5 As part of the payment of the fees outlined in Exhibit A, Strata Decision will host one (1) production version of the Programs and provide access to the Programs to Customer's users for the duration of the Commitment Period. Strata Decision's Hosting Service Level Agreement is attached as Exhibit E. Hosting fees are for the user counts outlined in Exhibit A to this Agreement, and any increase in the number of users will result in an increase in the fees set forth in Exhibit A. Strata Decision reserves the right to periodically archive and/or purge all data after five (5) years. Should Customer need to store additional data after five (5) years, they may do so in exchange for an annual fee of \$10,000 per year for each additional year of data stored.

6.6 The fees for the 3M Medicare Inpatient Grouper data feed associated with the use of StrataJazz Cost Accounting are included in the fees outlined in Exhibit A and are contingent on the number of Hospitals licensed under this agreement, as shown in Exhibit B. These fees are subject to change based on (i) increases in fees from the third party data provider; (ii) other third-party fees for data providers that may be assessed against Strata Decision for Customer's use of the Program Assets where such fees are tied to the number of Users or License Sites or (iii) additional data feeds which may be purchased by the Customer in the future.

6.7 Strata Decision will provide Customer with eLearning training modules to be used for end user training on the Programs for the duration of Customer's Commitment Period in exchange for the fees outlined in Exhibit A. These fees are subject to change based on (i) increases in fees from the third party eLearning provider (the Breakaway Group) or (ii) the purchase of additional System Users by Customer for the eLearning training. Customer agrees to the Acceptable Use Policy for the eLearning training module, which is outlined in Exhibit A-1.

7. Strata Decision Warranties.

7.1 During the one-year period following the Effective Date (the "Warranty Period"), Strata Decision warrants that the Programs will operate properly when used in the manner specified in the User Guides to be provided by Strata Decision. The extent of Strata Decision's obligations under the foregoing warranty will be limited to correcting or replacing defective Programs and User Guides, so as to satisfy such warranties, provided that, if Strata Decision fails to do so, at Customer's election, Customer may terminate this Agreement, and thereafter Customer will have no further obligations to make any payments under this Agreement and the parties will have no further rights or obligations under this Agreement except as set forth in Section 10.3 below. In addition, for the first six (6) months following the Effective Date, the Chairman of the Board of Governors or the Chief Executive Officer has the option



to cancel this Agreement for any reason and receive a refund of any subscription fees that have previously paid, excluding travel and any other direct expenses. Notwithstanding anything to the contrary contained in this Agreement, the foregoing warranty will not apply to malfunctions not promptly reported by Customer during the Warranty Period or from: (i) unapproved alteration or modification of the Programs or any component thereof by Customer or others (any update provided by Strata Decision is considered for this section an approved alteration or modification of the Programs), or (ii) use of the Programs in conjunction with software obtained from another source not indicated by Strata Decision to be compatible with the Programs.

7.2 EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, STRATA DECISION MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO THE PROGRAMS, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. STRATA DECISION DOES NOT WARRANT THE RESULTS OF ANY PROGRAM OR SERVICE OR THAT ANY ERRORS IN ANY PROGRAM WILL BE CORRECTED, OR THAT THE FUNCTIONALITY CONTAINED IN THE PROGRAMS WILL MEET CUSTOMER'S REQUIREMENTS.

7.3 EXCEPT AS SET FORTH IN SECTION 8 BELOW, STRATA DECISION'S TOTAL LIABILITY, IF ANY, INCLUDING BUT NOT LIMITED TO LIABILITY ARISING OUT OF CONTRACT, TORT, BREACH OF WARRANTY, INFRINGEMENT, PERSONAL INJURY, DAMAGE TO REAL PROPERTY OR PERSONAL PROPERTY OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE ANNUAL SUBSCRIPTION FEES PAID BY CUSTOMER TO STRATA DECISION IN THE YEAR GIVING RISE TO THE CLAIM. STRATA DECISION WILL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, THE COSTS OF ANY SUBSTITUTE PROCUREMENT) WHETHER OR NOT FORESEEABLE AND EVEN IF STRATA DECISION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.4 **Liability of Customer.** The liabilities or obligations of Customer with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Customer 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)

8. **Indemnity.**

8.1 Strata Decision shall indemnify, defend, and hold harmless Customer against any claim asserted against Customer alleging that the Program Assets infringe a United States patent or copyright. Strata Decision's obligation under this Paragraph is subject to Customer promptly notifying Strata Decision in writing of such claim and giving Strata Decision full and complete authority, information and assistance in the defense of such claim. Strata Decision shall have no liability or obligation to Customer with respect to any such claim if such claim is based upon: modification of the Program Assets made at the request of or according to the specifications of Customer; use by Customer of the Program Assets with non-Strata Decision software, data, or materials not indicated by Strata Decision to be compatible with the Program Assets; or for alterations to the Program Assets not approved by Strata Decision if such alleged infringement would not have occurred but for Customer's use of such non-Strata Decision software, data, or materials in conjunction with the Program Assets, or but for such alterations. In addition, Strata Decision shall not be responsible for the cost of any settlement of any such claim made without the prior written consent of Strata Decision, which shall not be unreasonably withheld. In the event that any such claim of infringement is made or threatened, or injunctive relief is granted to the third-party claimant, Strata Decision may, at its sole option, either: (a) secure the right for Customer to continue using the Program Assets, (b) substitute other software of like capability, or (c) refund to Customer an amount equal to the subscription fees paid by Customer per Exhibit A, whereupon Customer will discontinue its use of the Program Assets. This paragraph sets forth the complete liability of Strata Decision with respect to infringement of intellectual property rights.

8.2 Customer agrees that it will defend at its expense any action brought against Strata Decision to the extent that such action is based upon a claim that the Program Assets infringe upon or misappropriate a copyright, patent,



trade secret or other proprietary right of any third party if, and only if, such action is based upon use by Customer of the Program Assets with software, data, or materials not indicated by Strata Decision to be compatible with the Program Assets or for alterations to the Program Assets made by Customer and not approved by Strata Decision if such alleged infringement would not have occurred but for the use of such non-Strata Decision software, data or materials in conjunction with the Program Assets or but for such alterations, and Customer will pay any costs, damages and attorneys' fees incurred by or finally awarded against Strata Decision in such action which are attributed to such claim, provided that, Strata Decision notifies Customer promptly in writing of the claim and that Customer may fully control the defense and/or any settlement of such claim.

9. Ownership, Confidentiality and Protection of Proprietary Information.

9.1 It is agreed and understood by Customer that the Proprietary Assets are the sole property of Strata Decision; provided however that all Input Data, in all file formats, will be the sole and exclusive property of Customer.

9.2 During the course of this Agreement, each party and its Authorized Users will have access to the other party's "Confidential Information," which includes, without limitation, the User Guides, information pertaining to customer lists, services, methods, processes, profits, operating procedures, and any other information disclosed in confidence. Each party will, to the extent and in accordance with its policies used to protect its own Confidential Information, use commercially reasonable efforts to refrain from and prevent the use or disclosure of any such Confidential Information disclosed or obtained by it while performing its obligations under this Agreement, except where such use or disclosure is for internal purposes, is required pursuant to the governmental authority listed in Exhibit A, or by any other governmental authority. Such commercially reasonable efforts will include, at a minimum: (a) preventing the removal of any Confidential Information from such party's premises without the other party's prior written approval; (b) prohibiting the copying or distribution of any Confidential Information without the other party's prior written consent; and (c) prohibiting use of any Confidential Information for any purpose other than those contemplated by this Agreement. Notwithstanding the foregoing, each party's obligations to protect the confidentiality of any such Confidential Information will terminate if the same falls into the public domain without breach by such party of its obligations under this Agreement and such materials, but only such materials, will thereupon cease being Confidential Information. In addition, the foregoing obligations of the parties will not apply to information which is disclosed to a party by a third party with the right to do so. Strata Decision is aware that Customer 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. Termination and Remedies.

10.1 If either party materially breaches any provision of this Agreement and fails to cure the same within forty-five (45) calendar days of its receipt of written notice of such breach from the non-breaching party, then the non-breaching party may at its sole discretion declare this Agreement to be in default and all rights of Customer granted under this Agreement to be terminated.

10.2 Immediately following the termination of this Agreement pursuant to Section 10.1 above, Customer will cease to use the suite of Program Assets in the conduct of its business except to make an archival copy of data previously processed using the suite of Program Assets and to convert such data so that it may be processed by the software used to replace the Programs. Unless this Agreement otherwise provides, within five (5) calendar days of the termination of this Agreement, Customer will return to Strata Decision all physical embodiments of the suite of Program Assets and will continue to maintain the confidentiality thereof.

10.3 Non-appropriation. Customer, as a government entity, reserves the right to terminate this Agreement in the event insufficient funds are appropriated for this Agreement in any fiscal year under the provisions of California Constitution Article 16 section 18a. Customer's fiscal year is July 1 to June 30 of each calendar year.

Upon such termination, Customer will be released from any further financial obligation to Strata Decision 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. Strata Decision will be given 30 days' prior written notice in the event that Customer requires such an action.

10.4 The provisions of Sections 6.4, 7.2, 7.3, 8, 9, and 10.2 will survive the termination of this Agreement.

11. Data Security.

11.1 "Customer Data" means any data and information, that is stored in Strata Decision's system or software, provided by Customer and its users to Strata Decision, or otherwise obtained by Strata Decision from Customer and its users in connection with this Agreement.

11.2 Strata Decision shall not gather or pull any Customer Data or utilize Customer Data for any purpose, other than as expressly authorized by this Agreement or in writing by an authorized official of Customer.

11.3 With respect to system security as it pertains to Customer and Customer Data, Strata Decision agrees to:

- (a) segment Customer Data away from Strata Decision's internal users, so that only authorized employees of Strata Decision with a need to know such information can access it;
- (b) encrypt all back-up media, laptops, mobile devices, jump/USB or similar portable drives, and similar devices that interact with and/or store Customer Data ("Devices"), and keep audit logs of such Devices to verify, in the event of the loss of a Device, that such Device was encrypted;
- (c) put into place all other external controls on Customer Data necessary to prevent such data from being obtained, viewed, altered, or otherwise accessed by unauthorized users, and to prevent its systems from being compromised or breached (i.e., electronic defenses, Access Control Lists (ACLs) on routers, firewalls, etc.);
- (d) not use or permit generic account logins for multiple persons or generic root access to its information systems; i.e., all of Strata Decision's system administrators of information systems must have their own logins so they can be tracked and audited individually;
- (e) have adequate physical security controls in place at its data center and in all other areas or locations (physical or virtual) where Customer Data is stored or processed (voice, video, data, logs, etc.);
- (f) have company security policies documented and all of those policies implemented, and provide a copy of such policies to Customer for its review upon request, and require that any subcontractors of Strata Decision adhere to such security policies;
- (g) use adequate logical security controls to separate Customer Data from other customers' data;
- (h) encrypt data transmissions between Strata Decision and Customer using HTTPS, VPN, Secure FTP or other mutually approved method of encryption;
- (i) permit any and all off-site storage or backups of Customer Data only in a secure storage facility pre-approved by Customer.
- (j) ensure that its agents, subcontractors, third party providers, and users who have access to Customer Data are bound at least as stringent as those applicable to Strata Decision under this Agreement, with respect to data security and protection and non-use of Customer Data; and



11.4 **Destruction of Data Standards.** Upon termination of this Agreement, Strata Decision will destroy all Customer Data, including for purposes of this Section 11.4 any data that is created by Strata Decision using Customer Data or other Confidential Information of Customer, and neither Strata Decision nor any of Strata Decision's agents or subcontractors will retain any such Customer Data in any form. If Strata Decision believes it is not feasible to destroy all Customer Data, Strata Decision will promptly notify Customer and propose a plan for safeguarding the confidentiality and security of retained Customer Data. Upon Customer's agreement that the destruction of Customer Data is infeasible and its consent to Strata Decision's plan, Strata Decision may retain such Customer Data for a mutually agreeable period of time.

12. Data Submission.

12.1 Customer agrees to forward all data files to Strata Decision using secure file transfer protocol (SFTP) to Strata Decision's SFTP server. A unique SFTP account will be provided to the customer. Strata Decision shall assume no responsibility for any data file until receipt and unless sufficient security is maintained to protect the confidentiality and integrity of all data.

12.2 The parties will execute a mutually acceptable Business Associate Agreement (BAA) that complies with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Both parties agree that no work on StrataJazz Cost Accounting Implementation can begin until this BAA is executed by both parties.

13. General Provisions.

13.1 Except as specifically provided in this Agreement, neither this Agreement nor Customer's rights or duties under this Agreement may be assigned or delegated by Customer without Strata Decision's prior written consent; provided that, Customer may, upon written notice to Strata Decision, assign the rights granted under Section 2 to any Affiliate of Customer or to any entity which acquires all or substantially all of the assets of Customer if, in each instance, the party to whom Customer's rights under this Agreement are assigned agrees in writing to assume Customer's obligations under this Agreement.

13.2 Customer specifically recognizes that (i) Strata Decision owns the Proprietary Assets, (ii) the Proprietary Assets are of value to Strata Decision, and (iii) any unauthorized disclosure or use of the Program Assets will cause irreparable injury to Strata Decision and that actual damages may be difficult to ascertain, and in any event, may be inadequate. Accordingly, Customer agrees that in the event of any such unauthorized disclosure or use, Strata Decision will be entitled to injunctive relief, without bond, in addition to such other legal and equitable remedies that may be available.

13.3 This Agreement and the exhibits attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, and may only be modified by a written instrument signed by both parties hereto.

13.4 [INTENTIONALLY OMITTED.]

13.5 This Agreement will be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

13.6 If any provision of this Agreement is not enforceable in whole or in part, the remaining provisions of this Agreement shall not be affected. No failure or delay in exercising any right, power or privilege under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of such right, power or privilege preclude any other or further exercise of it or the exercise of any other right, power or privilege under this Agreement.



13.7 Customer agrees that Strata Decision may issue a press release announcing the Agreement between the parties. This press release will be drafted by Strata Decision and must be approved by Customer before being published.

13.8 Any litigation based on or arising out of this Agreement may be brought and maintained in any Federal or State court of competent jurisdiction located in the City of Chicago, Illinois, or Bakersfield, California.

13.9 The parties acknowledge and agree that nothing in this Agreement can be construed to create an employer/employee, agency or joint venture relationship between the parties.

13.10 Customer agrees to have at least one (1) Customer employee complete the following online surveys related to their experience with Strata Decision: (i) one post-implementation survey and (ii) semi-annual customer satisfaction surveys throughout the length of the Commitment Period.

13.11 The prices in this Agreement reflect discounts. To the extent required by 42 C.F.R. § 1001.952(h) (the Anti-Kickback Statute discount safe harbor regulations) or other applicable laws and regulations, Customer must fully and accurately reflect in cost reports or other submissions to federal healthcare programs all such discounts and, upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, must make available information provided to Customer by Strata Decision concerning the discounts.

13.12 Strata Decision shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

13.13 Customer understands that Strata Decision is subject to the U.S. Foreign Corrupt Practices Act of 1977 (as amended) (the "FCPA") and therefore risks serious civil and criminal penalties if Strata Decision becomes involved in making payments in cash or in kind to foreign government officials, political candidates or political parties to obtain and maintain business. Customer acknowledges that it has reviewed and understands the FCPA as it relates to the Programs. Accordingly, Customer shall not offer, promise, or pay any money, gift or any other thing of value to any person for the purpose of influencing official governmental actions or decisions in obtaining or retaining business for Strata Decision or take any other action which would violate the FCPA. If Customer becomes aware of any violation of the FCPA related to the Programs, Customer hereby covenants and agrees to promptly report the details of such violation to Strata Decision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

STRATA DECISION TECHNOLOGY, LLC:

By: [Signature]
Name: Don Michelson
Title: CEO
Date: 3.9.2017

CUSTOMER:
KERN COUNTY HOSPITAL AUTHORITY

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

APPROVED AS TO FORM
Office of County Counsel
Kern County
By: [Signature]
Date: 3/9/17



EXHIBIT A

Programs:

- StrataJazz Operating Budgeting for 65 System Users
- StrataJazz Management Reporting for 65 System Users
- StrataJazz Productivity Reporting for 65 System Users
- StrataJazz Capital Budgeting & Tracking for 65 System Users
- StrataJazz Equipment Replacement for 10 System Users
- StrataJazz Cost Accounting (Hospitals) for 2 System Users and 63 Report Users
- StrataJazz Cost Accounting (Physicians) for 2 System Users and 63 Report Users
- StrataJazz Contract Analytics (Hospitals) for 2 System Users
- StrataJazz Contract Analytics (Physicians) for 2 System Users
- StrataJazz Continuous Improvement for 10 System Users
- StrataJazz eLearning for 65 System Users

Fee Summary:

Description	Billed 3/16/2017	Due 3/16/2018	Due 3/16/2019	Due 3/16/2020	Due 3/16/2021
StrataJazz Implementation Fee	\$871,200	\$0	\$0	\$0	\$0
StrataJazz Subscription Fees	\$518,687	\$518,687	\$518,687	\$518,687	\$518,687
Discount	(\$543,547)	(\$216,231)	(\$216,231)	(\$216,231)	(\$216,231)
Total	\$846,340	\$302,456	\$302,456	\$302,456	\$302,456

Implementation Fees:

The Implementation Fee outlined in this Exhibit A corresponds to the following breakdown of consulting days by Program. Should Customer need additional consulting days from what is outlined below for implementation work that is due to a delay in the implementation caused by Customer (including changes in project scope), Strata Decision reserves the right to bill Customer for the extra consulting days without prior approval from Customer up to the amount of days shown in the column labeled "Pre-approved Extra Days" at a rate of \$1,565 per day. Strata Decision must seek written approval for any purchase of days beyond the total of the Number of Days and Pre-Approved Extra Days of each Added Program set forth below.

<u>Description</u>	<u>Number of Days</u>	<u>Pre-approved Extra Days</u>
Operating Budgeting	33 Days	3 Days
Management Reporting	23 Days	2 Days
Productivity Reporting	33 Days	3 Days
Capital Budgeting & Tracking	33 Days	3 Days
Equipment Replacement	15 Days	2 Days
Cost Accounting (Hospitals)	35 Days	4 Days
Cost Accounting (Physicians)	12 Days	1 Day
Contract Analytics (Hospitals)	23 Days	2 Days
Contract Analytics (Physicians)	21 Days	2 Days
Continuous Improvement	62 Days	6 Days
Project Management	36 Days	4 Days
Data Integration	70 Days	7 Days



Annual Consulting Support Days:

Customer is entitled to the following consulting days on an annual basis by Program:

<u>Description</u>	<u>Number of Days</u>
Operating Budgeting	3 Days
Management Reporting	1 Day
Productivity Reporting	1 Day
Capital Budgeting & Tracking	2 Days
Equipment Replacement	1 Day
Cost Accounting (Hospitals)	4 Days
Cost Accounting (Physicians)	4 Days
Contract Analytics (Hospitals)	2 Days
Contract Analytics (Physicians)	2 Days
Continuous Improvement	2 Days

Billing Information:

Invoices over thirty (30) days past due will be assessed a monthly interest charge based on a rate of twelve percent (12%) per annum (1% per month); provided, however, that Customer will not be assessed such monthly interest charge until forty-five (45) days after the payment due date.

Implementation and Subscription Fees will be due and payable on the dates shown in the table above.

Charges for travel and other direct expenses will be invoiced as they are incurred, terms net thirty (30) days. Consultant shall reimburse Strata Decision for all necessary and reasonable actual costs or travel expenses incurred on behalf of Consultant in an amount not to exceed \$90,000. If the reimbursable expenses include travel, the travel expenses must be reasonable and necessary and shall not exceed the following per diems: Lodging, \$221.00 per night plus tax; breakfast, \$13.00; lunch, \$15.00; dinner, \$26.00; economy rental car; and mileage, if by private automobile, at \$.54 per mile; and by common carrier at actual fare charged for economy or coach class.

Access to Books and Records:

Notwithstanding any other terms of this Agreement, Customer and Strata Decision will make available to the Secretary, U.S. Department of Health and Human Services, the U.S. Comptroller General, and their representatives, this Agreement and all books, documents, and records necessary to certify the nature and extent of the costs of the services rendered hereunder to the full extent required by the Centers for Medicare and Medicaid Services implementing Section 952 of the Omnibus Reconciliation Act of 1980 at 42 U.S.C. Section 1395 (x)(v)(1)(I). If Strata Decision carries out its duties under this Agreement through a subcontract worth \$10,000 or more over a 12-month period with a related organization, the subcontract will also contain an access clause to permit access by the Secretary, Comptroller General, and their representatives to the related organizations books and records.

If any service under this Agreement is in furtherance of a U.S. Government contract or subcontract or is otherwise subject to the provisions of the Equal Opportunity Clause as promulgated by Section 202 of Executive Order 11246, dated September 24, 1965, or to 41 C.F.R. 60-250 (requiring affirmative action to employ certain handicapped veterans), or to 41 C.F.R. 60-741 (requiring affirmative action to employ certain handicapped individuals) or to any other federal law, rule or regulation applicable to Customer or its Affiliates as U.S. Government contractors or subcontractors (including but not limited to any applicable Section of 48 C.F.R. Chapter 1), the contract provisions required therein are hereby incorporated by reference. Strata Decision also agrees to comply with all applicable local, state and federal laws and executive orders and regulations that are applicable to Customer and Affiliates as U.S. Government contractors or subcontractors.



EXHIBIT A-1
ACCEPTABLE USE POLICY FOR E-LEARNING

This Acceptable Use Policy ("AUP") describes prohibited uses of the eLearning Services (referenced as "Services") provided by the Breakaway Group ("Breakaway").

If Customer violates the AUP or authorizes or helps others to do so, Breakaway may suspend or terminate Customer's use of the Services. Any Strata Decision organization, individual or customer using the Breakaway Systems and/or Services is defined as a "Customer."

The following list represents direct violations by Customer of this AUP and will be subject to immediate action by Breakaway.

1. **Illegal Use:** Any use of Services in a manner which is defined or deemed to be statutorily illegal. This includes, but is not limited to: death threats, terroristic threats, threats of harm, multi-level marketing schemes, "Ponzi schemes," invasion of privacy, credit card fraud, racketeering, and other common illegal activities.
2. **Copyright and Trademark Infringement:** Any use of the Services in a manner that directly infringes a copyright (as defined and noted under Title 17, Section 512 of the United States Code) or trademark.
3. **Unsolicited Email:** Any use of the Services for sending or receiving of mass unsolicited email (SPAM). This includes the direct sending and receiving of such messages, support of such messages via web page, splash page or other related sites, or the advertisement of such services.
4. **Email Bombing:** Any use of the Services for the sending, return, bouncing or forwarding of email to specified user(s) in an attempt to interfere with or over flow email services is a direct violation of this AUP.
5. **Proxy Email (SPAM):** The use of Services to proxy email unsolicited users. Proxy email is defined as the use of dedicated services to act in concert with other services located inside and outside the network to achieve mass unsolicited email (SPAM) to unrelated third parties.
6. **UseNet SPAM:** The use of Services to send, receive, forward, or post UseNet unsolicited email or posts. This includes UseNet services located within the Breakaway network or unrelated third party networks.
7. **Child/Illegal Pornography:** Any use of the Services for the hosting of child/illegal pornography or related sites or contact information.
8. **Pornography:** Any use of Services to host or promote pornography of any kind.
9. **Threats & Harassment:** Any use of the Services to make threats to or harass individuals, organizations or businesses.
10. **Unlawful Internet Gambling Enforcement Act of 2006 (UIGE Act):** Any use of the Services for any activity in violation of the UIGE Act or promotion of any activities that would violate the UIGE Act.
11. **Fraudulent Activities:** Any use of the Services for fraudulent activities.
12. **No High Risk Use:** Any use of the Services in any situation where failure or fault of the Services could lead to death or serious bodily injury of any person, or to physical or environmental damage.
13. **Denial of Service:** Any use of Services for the origination or control of denial of service attacks or distributed denial of service attacks.
14. **Terrorist Websites:** Any use of the Services for the hosting of terrorist-related web sites. This includes sites advocating human violence and hate crimes based upon religion, ethnicity, or country of origin.
15. **Distribution of Malware:** Any use of the Services for the storage, distribution, fabrication, or use of malware, including without limitation, virus software, root kits, password crackers, adware, key stroke capture programs and other programs normally used in malicious activity. Programs used in the normal ordinary course of business are deemed acceptable.
16. **Phishing:** Any use of the Services for any activity associated with Phishing or systems designed to collect personal information (such as name, date of birth, account numbers, usernames, passwords, etc.) under false pretense, including phishing forms, email distribution, proxy email, splash pages or any relation to phishing activities.



17. **HYIP or Ponzi Schemes:** Any use of the Services to promote High Yield Investment Plans or Ponzi schemes with the intent to defraud Customers.
18. **Export Controls Noncompliance:** Any use of the Services to access, export, or transfer of data, software, and related output on the Breakaway Systems to unauthorized countries and individuals as controlled and sanctioned by the US Office of Foreign Assets Control (OFAC), the US Export Administration Regulations (EAR), the US International Traffic in Arms Regulations (ITAR), and other related laws and regulations. Any use of the Services in the development, production, or proliferation of weapons of mass destruction as prohibited in the aforementioned laws and regulations.

Subject to its confidentiality obligations pursuant to that certain Agreement between Strata Decision and Customer, Strata Decision will comply with and respond to jurisdictionally valid (as Strata Decision determines in its sole discretion) subpoenas, warrants, and/or court orders. If allowed, Strata Decision will forward such subpoenas, warrants, and/or orders to Customer and Customer may respond; however, Strata Decision reserves the right to respond as long as it is the named party in such subpoena, warrant, and/or order.



**EXHIBIT B
USER SITES**

User Sites:

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



EXHIBIT C
STRATAJAZZ TECHNICAL REQUIREMENTS

Please see: <http://www.stratadecision.com/TechRequirements> for the latest StrataJazz Technical Requirements.



**EXHIBIT D
EXCLUDED ENTITIES**

The following entities, their respective personnel, and their respective parents, subsidiaries, and affiliates shall at no time be deemed to be an Authorized User:

- 1) Allscripts Healthcare Solutions, Inc.
- 2) Attainia, Inc.
- 3) Change Healthcare
- 4) Cognos, Inc., a subsidiary of IBM Inc.
- 5) CostFlex Systems, Inc.
- 6) Health Catalyst, LLC
- 7) Kaufman Hall Inc./ Axiom / Kreg Information Systems
- 8) Kronos Inc.
- 9) Lawson Software Inc.
- 10) McKesson Corporation
- 11) MedAssets, Inc
- 12) MedAnalytics
- 13) Medical Information Technology, Inc. (Meditech)
- 14) Med-Metrix, LLC
- 15) MD Buyline, Inc.
- 16) Microsoft Inc.
- 17) Oracle Corp.
- 18) Pamplona Capital Management LLP
- 19) Parallon
- 20) Premier, Inc. / Healthcare Insights, LLC
- 21) RealCost.io, Inc.
- 22) SAP AG
- 23) VFA, Inc.
- 24) Vizient, Inc.
- 25) Any person or entity that Strata Decision subsequently designates and Customer approves in writing, which approval shall not be unreasonably withheld or delayed



EXHIBIT E

Strata Decision Technology Hosting Service Level Agreement

Business Hours

Strata Decision's servers are available 24 hours a day, 7 days a week, 365 days a year excluding scheduled downtime for maintenance. The standard business week for Strata Decision is defined as Monday through Friday, 7:00 a.m. – 7:00 p.m. United States Central Time, excluding national holidays.

Scheduled Maintenance & Software Upgrades

Scheduled maintenance shall mean any maintenance in the Strata Decision data center at which the Customer's data is located (a) of which the Customer is notified at least 24 hours in advance, or (b) that is performed during the standard maintenance window of Tuesday from 8pm to 12am US Central Time (this time is subject to change with advance notice). Notice of scheduled maintenance will be provided to the Customer's account contact(s) via email, fax, or phone.

As part of the Hosting Service, Strata Decision shall install, at no additional cost, any Updates to the Software, including code changes, which are developed or published by Strata Decision and which Customer is entitled to receive under Customer's Software Use Agreement.

Network Uptime

Strata Decision's network experience over the last twelve months has been the following: network uptime has been approximately 99.8%, corresponding specifically to no more than approximately 9.66 minutes of unscheduled downtime in a given month during Strata Decision business hours excluding scheduled maintenance. Downtime is defined as a period of time or a percentage of a timespan that the hosted application is offline or not functioning as a result of failure of software, servers, or network systems controlled and maintained by the Strata Decision (such as a crash or malfunction). Downtime does not include times when the system is unavailable for Scheduled Maintenance, provided that the Strata Decision announces the scheduled maintenance period at least 24 hours in advance. Downtime does not include times when the hosted application is unavailable due to circumstances or conditions that arise on systems or networks controlled and maintained by the Customer or third parties, including widespread Internet failures.

Network uptime includes functioning of all Strata Decision network infrastructure, including routers, switches and cabling, but does not include applications or services running on Customer's servers nor does it include general Internet outages beyond Strata Decision's ISP's local points of presence. Network downtime exists when (1) the Customer's server is unable to transmit and receive data due to a problem with the Strata Decision network infrastructure; (2) Strata Decision determines in its reasonable commercial judgment that a network outage does indeed exist; and (3) the Customer has opened a support incident with Strata Decision's Customer Support. Network downtime is measured from the time a support incident is opened by the Customer to the time the network outage is resolved.

Hardware Guarantee

Strata Decision represents the operability of all hardware components and will replace at no cost to the Customer any failed components. Hardware replacement for critical failures will begin upon identification of the problem. Hardware replacement for non-critical failures may be delayed until a Scheduled Maintenance period, at Strata Decision's sole discretion.



Server Availability

Strata Decision targets that its servers will experience no more than 2 hours of downtime in a given month excluding Scheduled Maintenance.

Server downtime exists when (1) any of the applicable monitored ports on Customer's server are no longer available for the service; (2) Strata Decision determines in its reasonable commercial judgment that a server outage does indeed exist; and (3) the Customer has opened a support incident with Strata Decision Customer Support. Server downtime is measured from the time a support incident is opened by the Customer to the time the server downtime issue is resolved.

Force Majeure

Neither party shall be in default of this Agreement or be liable for any delay or failure in performance resulting directly or indirectly from any cause beyond its reasonable control; provided however, that either party who fails because of force majeure to perform its obligations hereunder shall, upon the cessation of the force majeure, take all reasonable steps within its power to resume compliance under this agreement with the least possible delay.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is entered into by and between the Kern County Hospital Authority on behalf of Kern Medical Center (“Covered Entity”) and Strata Decision Technology, LLC (“Business Associate”) (each a “Party” and collectively the “Parties”), effective as of March 16, 2017 (the “Effective Date”).

RECITALS

WHEREAS, Covered Entity is a “Covered Entity” as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended, (“HIPAA”), and the regulations promulgated thereunder by the Secretary of the U.S. Department of Health and Human Services (“Secretary”), including, without limitation, the regulations codified at 45 C.F.R. Parts 160, 162, and 164 (“HIPAA Rules”);

WHEREAS, Business Associate performs Services for or on behalf of Covered Entity, and in performing said Services, Business Associate creates, receives, maintains, or transmits Protected Health Information (“PHI”);

WHEREAS, the Parties intend to protect the privacy and provide for the security of PHI Disclosed by Covered Entity to Business Associate, or received or created by Business Associate, when providing Services in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act (Public Law 111-005) (the “HITECH Act”) and its implementing regulations and guidance issued by the Secretary; and

WHEREAS, the Privacy and Security Rules (defined below) require Covered Entity and Business Associate to enter into a BAA that meets certain requirements with respect to the Use and Disclosure of PHI, which are met by this BAA.

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS

1.1 “Breach” shall have the meaning given under [45 C.F.R. § 164.402](#).

1.2 “Breach Notification Rule” shall mean the Breach Notification for Unsecured Protected Health Information interim final rule at 45 C.F.R. Parts 160 and 164, Subpart D, as may be amended from time to time.

1.3 “Designated Record Set” shall have the meaning given such term under [45 C.F.R. § 164.501](#).

1.4 **“Disclose” and “Disclosure”** mean, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of PHI outside of Business Associate or to other than members of its Workforce, as set forth in [45 C.F.R. § 160.103](#).

1.5 **“Electronic PHI” or “e-PHI”** means PHI that is transmitted or maintained in electronic media, as set forth in [45 C.F.R. § 160.103](#).

1.6 **“Protected Health Information” and “PHI”** mean any information created, received or maintained by Business Associate on behalf of Covered Entity, whether oral or recorded in any form or medium, that: (a) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (c) shall have the meaning given to such term under the Privacy Rule at [45 C.F.R. § 160.103](#). Protected Health Information includes e-PHI.

1.7 **“Privacy Rule”** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E, as may be amended from time to time.

1.8 **“Security Rule”** shall mean the Security Standards at 45 C.F.R. Parts 160 and 164, Subparts A and C, as may be amended from time to time.

1.9 **“Services”** shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to any service agreement(s) between Covered Entity and Business Associate which may be in effect now or from time to time (the **“Underlying Agreement”**), or, if no such agreements are in effect, then the services or functions performed by Business Associate that constitute a Business Associate relationship, as set forth in [45 C.F.R. § 160.103](#).

1.10 **“Subcontractor”** shall have the meaning given to such term under [45 C.F.R. § 160.103](#).

1.11 **“Unsecured PHI”** shall have the meaning given to such term under [42 U.S.C. § 17932\(h\)](#), [45 C.F.R. § 164.402](#), and guidance issued pursuant to the HITECH Act including, but not limited to the guidance issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009) by the Secretary.

1.12 **“Use” or “Uses”** mean, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within Business Associate’s internal operations, as set forth in [45 C.F.R. § 160.103](#).

1.13 **“Workforce”** shall have the meaning given to such term under [45 C.F.R. § 160.103](#).

Capitalized terms not otherwise defined in this Agreement shall have the meanings given to them in HIPAA or the HITECH Act, as applicable.

ARTICLE II OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate shall not Use or Disclose PHI other than as permitted or required by any Underlying Agreement, this BAA, or as Required by Law. Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the Privacy Rule if so Used or Disclosed by Covered Entity, except that Business Associate may Use or Disclose PHI (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate, provided that with respect to any such Disclosure either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and shall not Use and further Disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. Business Associate may perform Services, including Data Aggregation for the Health Care Operations purposes of Covered Entity and de-identification of PHI in accordance with 45 C.F.R. § 164.514, if required by any Underlying Agreement or with the advance written permission of Covered Entity.

2.2 Adequate Safeguards of PHI. Business Associate shall implement and maintain appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. Business Associate shall reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it creates, receives, maintains or transmits on behalf of Covered Entity and shall comply with Subpart C of 45 C.F.R. Part 164 to prevent Use or Disclosure of PHI other than as provided for by this BAA.

2.3 Reporting Non-Permitted Use or Disclosure.

2.3.1 Reporting Security Incidents and Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity in writing each Security Incident or Use or Disclosure that is made by Business Associate, members of its Workforce, or Subcontractors that is not specifically permitted by this BAA no later than three (3) days after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Notwithstanding the foregoing, Business Associate and Covered Entity acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and Covered Entity acknowledges and agrees that no additional notification to Covered Entity of such ineffective Security Incidents is required, as long as no such incident results in unauthorized access, Use or Disclosure of PHI. Business Associate shall investigate each Security Incident or non-permitted Use or Disclosure of Covered Entity's PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI and shall provide a summary of its investigation and risk assessment to Covered Entity. Business Associate shall document and retain records of its investigation of any suspected Breach, including its reports to Covered Entity under this Section 2.3.1. Business Associate shall take prompt corrective action and any action required by applicable state or federal laws and regulations relating to such Security Incident or non-permitted disclosure. If

Business Associate or Covered Entity, in its review of this initial report, determines that such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.3.2 below.

2.3.2 Breach of Unsecured PHI. If Business Associate or Covered Entity determines that a reportable Breach of Unsecured PHI has occurred, Business Associate shall provide a written report to Covered Entity without unreasonable delay but no later than five (5) calendar days after discovery of the Breach. To the extent that information is available to Business Associate, Business Associate's written report to Covered Entity shall be in accordance with 45 C.F.R. §164.410(c). Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HIPAA Rules with respect to such Breach. Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media. Business Associate shall reimburse Covered Entity for its reasonable and actual costs and expenses in providing the notification, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

2.3.3 Data Breach Notification and Mitigation Under Other Laws. In addition to the requirements of Sections 2.3.1 and 2.3.2, Business Associate agrees to implement industry standard systems for the discovery and prompt reporting of any breach of individually identifiable information (including but not limited to PHI, and referred to hereinafter as "Individually Identifiable Information") that, if misused, disclosed, lost or stolen, Covered Entity believes would trigger an obligation under applicable state security breach notification laws ("State Breach") to notify the individuals who are the subject of the information. Business Associate agrees to: (i) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach; (ii) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach conducted by a state agency or Attorney General; (iii) comply with Covered Entity's determinations regarding Covered Entity's and Business Associate's obligations to mitigate to the extent practicable any potential harm to the individuals impacted by the State Breach; and (iv) assist with the implementation of any decision by Covered Entity or any State agency to notify individuals impacted or potentially impacted by a State Breach.

2.4 Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this BAA.

2.5 Use of Subcontractors. Business Associate shall require each of its Subcontractors that creates, maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such Subcontractors substantially the same restrictions, conditions, and requirements that apply to Business Associate under this BAA with respect to PHI.

2.6 Access to Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) days of a request by Covered Entity, Business Associate shall make the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets available to Covered Entity for inspection and copying, or to an Individual to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524. If Business Associate maintains PHI in a Designated Record Set electronically, Business Associate shall provide such information in the electronic form and format requested by the Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by Covered Entity to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524(c)(2). Business Associate shall notify Covered Entity within five (5) days of receipt of a request for access to PHI from an Individual.

2.7 Amendment of Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) days of a request by Covered Entity, Business Associate shall amend the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets to enable the Covered Entity to fulfill its obligations under 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within five (5) days of receipt of a request for amendment of PHI from an Individual.

2.8 Accounting. Within thirty (30) days of receipt of a request from Covered Entity or an Individual for an accounting of disclosures of PHI, Business Associate and its Subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.528 and 42 U.S.C. § 17935(c). Business Associate shall notify Covered Entity within five (5) days of receipt of a request by an Individual or other requesting party for an accounting of disclosures of PHI from an Individual.

2.9 Delegated Responsibilities. To the extent that Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

2.10 Availability of Internal Practices, Books, and Records to Government. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity promptly available for inspection and copying to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the HIPAA Rules. In addition, Business Associate agrees that Covered Entity shall have the right to audit and monitor all applicable activities and records of Business Associate to determine Business Associate's compliance with the HIPAA Rules and shall promptly make available to Covered Entity such books, records, or other information relating to the Use and Disclosure of PHI provided, created, received, maintained or transmitted by Business Associate on behalf of Covered Entity for such purpose.

2.11 Minimum Necessary. Business Associate (and its Subcontractors) shall, to the extent practicable, limits its request, Use, or Disclosure of PHI to the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

2.12 Acknowledgement. Business Associate acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA, the HITECH Act, and the HIPAA Rules. Business Associate shall comply with all applicable state privacy and security laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

ARTICLE III OBLIGATIONS OF COVERED ENTITY

3.1 Covered Entity's Obligations.

3.1.1 Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

3.1.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

3.1.3 In the event Covered Entity agrees with an Individual to any restrictions on Use or Disclosure of PHI pursuant to 45 C.F.R. § 164.522(a) or if Covered Entity determines that it is obligated to accommodate a reasonable request of an Individual to receive communications of PHI pursuant to 45 C.F.R. § 164.522(b), Covered Entity promptly shall notify Business Associate of the same, as well as any revocation or modification of the same, and Business Associate thereupon shall observe such restriction or accommodation (or revocation or modification, if any, thereof) to the extent applicable to its Use or Disclosure of PHI hereunder, notwithstanding any other provision hereof, except as otherwise required by law.

3.1.4 Covered Entity agrees to obtain any consent or authorization that may be required under HIPAA or any other applicable law and/or regulation prior to furnishing Business Associate with PHI.

3.1.5 Covered Entity shall not request Business Associate to make any Use or Disclosure of PHI that would not be permitted under HIPAA if made by Covered Entity. Covered Entity agrees to fulfill its obligations under this BAA in a timely manner.

ARTICLE IV TERM AND TERMINATION

4.1 Term. Subject to the provisions of Section 4.1, the term of this BAA shall be the term of any Underlying Agreement.

4.2 Termination of Underlying Agreement.

4.2.1 A breach by Business Associate of their duty to protect the information as outlined in this BAA, shall constitute a material breach of the Underlying Agreement and shall provide grounds for immediate termination of the Underlying Agreement, any provision in the Underlying Agreement to the contrary notwithstanding.

4.2.2 Covered Entity may terminate the Underlying Agreement, effective immediately, if: (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

4.3 Termination for Cause. Notwithstanding the termination provisions set forth in any Underlying Agreement, upon either Party's knowledge of a material breach or violation of this BAA by the other Party, the non-breaching Party shall either:

4.3.1 Notify the breaching Party of the breach in writing, and provide an opportunity for the breaching Party to cure the breach or end the violation within ten (10) business days of such notification; provided that if the breaching Party fails to cure the breach or end the violation within such time period to the satisfaction of the non-breaching Party, the non-breaching Party may terminate this BAA and any Underlying Agreement upon thirty (30) calendar days written notice to the breaching Party; or

4.3.2 Upon thirty (30) calendar day written notice to breaching Party, immediately terminate this BAA and any Underlying Agreement if the non-breaching Party reasonably determines that such breach cannot be cured.

4.4 Disposition of Protected Health Information Upon Termination or Expiration.

4.4.1 Upon termination or expiration of this BAA, Business Associate shall return or destroy all PHI received from, or created or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, PHI shall be returned in a mutually agreed upon format and timeframe.

4.4.2 If return or destruction is not feasible, Business Associate shall: (a) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that the Business Associate still maintains in any form; (c) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains the PHI; (d) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions set out in Sections 2.1 and 2.2 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

ARTICLE V MISCELLANEOUS

5.1 **Regulatory References.** A reference in this BAA to a section or other part of HIPAA, the HIPAA Rules, or the HITECH Act means, as of any point in time, the section or part as it may be amended or in effect at such time.

5.2 **Amendment.** The Parties agree to take such action as is necessary to amend this BAA from time to time as necessary for Covered Entity to implement its obligations pursuant to HIPAA, the HIPAA Rules, or the HITECH Act.

5.3 **Relationship to Underlying Agreement Provisions.** In the event that a provision of this BAA is contrary to a provision of an Underlying Agreement, the provision of this BAA shall control. Otherwise, this BAA shall be construed under, and in accordance with, the terms of such Underlying Agreement, and shall be considered an amendment of and supplement to such Underlying Agreement.

5.4 **Headings.** The headings of the paragraphs and sections of this BAA are inserted solely for convenience of reference and are not a part or intended to govern, limit or aid in the construction of any term or provision hereof.

5.5 **Equitable Relief.** Each Party understands and acknowledges that any Disclosure or misappropriation of any PHI in violation of this BAA may cause the other Party irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that the other Party shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further Disclosure or Breach and for such other relief as the other Party shall deem appropriate. Such right of the other Party is to be in addition to the remedies otherwise available to the other Party at law or in equity. Each Party expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by the other Party.

5.6 **Insurance.** In addition to any general and/or professional liability insurance required of Business Associate, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis (except claims made basis for professional liability), covering any and all claims, liabilities, demands, damages, fines, losses, costs and expenses arising from a breach of the security or privacy obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity's request.

5.7 **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any Subcontractors or members of its Workforce assisting Business Associate in the performance of its obligations under this BAA available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claim of violation of the HIPAA or other applicable laws relating to privacy or security.

5.8 Indemnification. Notwithstanding anything to the contrary which may be contained in any Underlying Agreement, including but not limited to any limitations on liability contained therein, each Party hereby agrees to indemnify and hold harmless the other Party and its respective officers, directors, managers, members, employees and agents from and against any and all losses, damages, fines, penalties, claims or causes of action and associated expenses (including, without limitation, costs of judgments, settlements, court costs and reasonable attorney's fees) resulting from the indemnifying Party's (including its employees, directors, officers, agents, or other members of its Workforce, and its Subcontractors) breach of PHI or violation of the terms of this BAA, including but not limited to failure of the indemnifying Party to perform its obligations under this BAA, or to comply with HIPAA or applicable state privacy or security law.

5.9 Legal Actions. Promptly, but no later than five (5) business days after notice thereof, each Party shall advise the other Party of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of the other Party or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

5.10 Notice of Request or Subpoena for Data. Business Associate agrees to notify Covered Entity promptly, but no later than five (5) business days after Business Associate's receipt of any request or subpoena for PHI or an accounting thereof. Business Associate shall promptly comply with Covered Entity's instructions for responding to any such request or subpoena, unless such Covered Entity instructions would prejudice Business Associate. To the extent that Covered Entity decides to assume responsibility for challenging the validity of such request, Business Associate agrees to reasonably cooperate with Covered Entity in such challenge. The provisions of this Section shall survive the termination of this BAA.

5.11 Requests from Secretary. Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any inquiry by the Secretary concerning any actual or alleged violation of the Privacy Rule or the Security Rule.

5.12 Notices. Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic mail or facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt, in each case, addressed to a Party on the signature page(s) to this BAA, or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 5.12. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. mail as required herein.

Covered Entity's Notice Address:

Kern Medical Center
1700 Mount Vernon Avenue
Bakersfield, CA 93306
Attn: Chief Executive Officer
Fax: 661-326-2100
Email: _____

Business Associate's Notice Address:

Strata Decision Technology, LLC
200 East Randolph Street, 49th Floor
Chicago, IL 60601
Attn: CTO
Fax: 312-726-2947
Email: security@stratadecision.com

5.13 Relationship of Parties. Notwithstanding anything to the contrary in any Underlying Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all Business Associate obligations under this BAA.

5.14 Survival. To the extent that Business Associate retains PHI, the respective rights and obligations of the Parties set forth in Sections 2.3, 4.4, 5.8, and 5.10 of this BAA shall survive the termination, expiration, cancellation, or other conclusion of the BAA or any Underlying Agreement.

5.15 Interpretation. Any ambiguity in this BAA shall be interpreted to permit the Parties to comply with HIPAA, the HITECH Act, and the HIPAA Rules.

5.16 Governing Law; Applicable Law and Venue. This BAA shall be construed in accordance with the laws of the State of California applicable to agreements made and to be performed in such state.

5.17 Waiver of Provisions. Any waiver of any terms and conditions hereof must be in writing and signed by the Parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other term or condition hereof.

5.18 Assignment and Delegation. Neither this BAA nor any of the rights or duties under this BAA may be assigned or delegated by either Party hereto.

5.19 Disclaimer. Neither Party represents or warrants that compliance by the other Party with this BAA, HIPAA, the HIPAA Rules, or the HITECH Act will be adequate or satisfactory for the other Party's own purposes. Each Party is solely responsible for its own decisions regarding the safeguarding of PHI.

5.20 Certification. To the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA relating to certification of its security practices, Covered Entity or its authorized agents or contractors may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures, and records, as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HIPAA Rules, the HITECH Act, or this BAA.

5.21 Counterparts. This BAA may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement, binding on both Parties hereto.

The Parties hereto have executed this BAA as of the Effective Date.

COVERED ENTITY:

The Kern County Hospital Authority on behalf
of Kern Medical Center

BUSINESS ASSOCIATE:

Strata Decision Technology, LLC

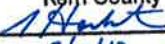
Title: _____

Date: _____


Title: _____

Date: _____

APPROVED AS TO FORM
Office of County Counsel
Kern County

By: 
Date: 3/9/17

CEO

3.19.2017

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

March 15, 2017

Subject: Proposed retroactive Amendment No. 1 to Kern County Hospital Authority Defined Contribution Plan for Physician Employees

Recommended Action: Approve; Authorize Chairman to sign

Summary:

The Authority maintains Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the “Plan”), in order to provide retirement and other incidental benefits to eligible physician employees of Kern Medical. The Plan is a defined contribution, money purchase pension plan, intended to meet the applicable requirements of Section 401(a) of the Internal Revenue Code. The Plan was most recently restated effective July 1, 2016.

The Pension Committee has determined that, in order to maintain the Plan’s tax-qualified status and conform the Plan to its operation, it is necessary to amend the definitions of “Full-Time Physician” and “Part-Time Physician” to link such definitions to each Participant’s individual contract for employment with the Authority. Amending the definitions will guarantee the mandatory employer and employee contributions are made timely and correctly by Kern Medical on behalf of each Plan participant, thus ensuring the Authority maintains the Plan’s tax-qualified status.

Therefore it is recommended that your Board retroactively approve Amendment No. 1 to the Kern County Hospital Authority Defined Contribution Plan for Physician Employees, effective January 1, 2017, and authorize the Chairman to sign.

**FIRST AMENDMENT
TO THE
KERN COUNTY HOSPITAL AUTHORITY
DEFINED CONTRIBUTION PLAN FOR PHYSICIAN EMPLOYEES**

WHEREAS, the Kern County Hospital Authority (the "Authority") maintains the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the "Plan"); and

WHEREAS, the Plan was most recently restated effective July 1, 2016; and

WHEREAS, the Pension Committee has determined that, to maintain the Plan's tax-qualified status and conform the Plan to its operation, it is necessary to amend the definitions of "Full-Time Physician" and "Part-Time Physician" to link such definitions to each Participant's individual contract for employment with the Authority; and

WHEREAS, the Plan is amended effective January 1, 2017;

NOW, THEREFORE, BE IT RESOLVED that effective as of the date set forth above and incorporating by this reference the foregoing recitals, the Authority hereby amends the Plan as follows:

1. Article 2, Definitions, section 2.12, Full-Time Physician, shall be deleted in its entirety and replaced with the following:

"2.12 "Full-Time Physician" means an Eligible Physician who is engaged in the practice of medicine on a full-time basis pursuant to the terms of his or her contract of employment with the Hospital Authority."

2. Article 2, Definitions, section 2.17, Part-Time Physician, shall be deleted in its entirety and replaced with the following:

"2.12 "Part-Time Physician" means an Eligible Physician who is engaged in the practice of medicine on a part-time basis pursuant to the terms of his or her contract of employment with the Hospital Authority."

[Signatures follow on next page]

IN WITNESS WHEREOF, this First Amendment to the Kern County Hospital Authority Defined Contribution Plan for Physician Employees is adopted by the Authority on this 15th day of March, 2017.

KERN COUNTY HOSPITAL AUTHORITY

By: _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By: _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
OFFICE OF COUNTY COUNSEL

By: _____
Karen S. Barnes, Chief Deputy

BOARD OF GOVERNORS KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING

March 15, 2017

Subject: Proposed liquidation of the Kern County Hospital Authority Defined Contribution Plan for Physician Employees Trust (a/k/a “Fund A”), and termination of the Trust Agreement with Wells Fargo Bank

Recommended Action: Approve; Adopt Resolution

Summary:

The Authority maintains the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the “Plan”), in order to provide retirement and other incidental benefits to eligible physician employees of Kern Medical. The Plan is a defined contribution, money purchase pension plan, intended to meet the applicable requirements of Section 401(a) of the Internal Revenue Code. The Plan was most recently restated effective July 1, 2016.

In 1980, the Plan was established as a Trust pursuant to a Trust Agreement with Wells Fargo Bank as Trustee. The Plan assets held in trust by Wells Fargo Bank are referred to as the “Fund A” assets. In 1994, the Plan was revised to specify that contributions to the Plan after a certain date in 1994 would be identified as “Fund B” and paid to TIAA-CREF under TIAA-CREF annuity contracts. The TIAA-CREF annuity contracts are authorized under Internal Revenue Code section 401(f) as an alternative to holding assets in the Trust. As of this date, all but one physician with assets in Fund A has transferred those assets to Fund B.

The Plan permits and the Pension Committee is recommending, the liquidation or termination of the Trust and transfer of Trust assets to TIAA-CREF. Specifically, section 9.2 of the Plan provides that “[i]n its discretion, the Pension Committee may recommend that the Hospital Authority Board of Governors terminate the Trustee, appoint new Trustees, and authorize the Pension Committee to instruct the Trustee to transfer assets to a successor Trustee or Trustees *or to the Insurer.*” The “Insurer” in this case is TIAA-CREF.

The Pension Committee is recommending the liquidation of the Trust for the following reasons:

- The duplicity of funds doubles the level of oversight required to administer the Plan
- Fund A, as an actively managed account, incurs additional management and accounting fees
- There have been no new participants in Fund A since 1994

Thus, with your Board's authorization, the Pension Committee may instruct the Trustee to terminate the Trust and transfer the Trust assets to TIAA-CREF. You do not need the loan physician's permission to transfer his Fund A assets to TIAA-CREF under the terms of the Plan and Trust. (The Authority has control under its group annuity contract with TIAA-CREF to establish an account for a participant.)

Therefore it is recommended that your Board authorize the liquidation of the Trust and termination of the Trust Agreement with Wells Fargo Bank, and adopt the attached Resolution.

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

In the matter of:

Resolution No. _____

**LIQUIDATION OF KERN COUNTY HOSPITAL
AUTHORITY DEFINED CONTRIBUTION PLAN
FOR PHYSICIAN EMPLOYEES TRUST (A/K/A
FUND A) AND TERMINATION OF TRUST
AGREEMENT WITH WELLS FARGO BANK**

I, RAQUEL D. FORE, 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 15th day of March, 2017, 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:

RAQUEL D. FORE
Authority Board Coordinator
Kern County Hospital Authority

Raquel D. Fore

RESOLUTION

Section 1. WHEREAS:

(a) The County of Kern, a political subdivision of the state of California, established the Kern County Pension Plan for Physician Employees (the "Plan"), effective August 1, 1980, in order to provide retirement and other incidental benefits to eligible physician employees of the Kern Medical Center. The Plan is a defined contribution,

money purchase pension plan, intended to meet the applicable requirements of Section 401(a) of the Internal Revenue Code; and

(b) The Plan was established initially as a Trust pursuant to a Trust Agreement with Wells Fargo Bank, National Association, as Trustee (“Wells Fargo Bank”). The Plan assets held in trust by Wells Fargo Bank are referred to as the “Fund A” assets. In 1994, the Plan was revised to specify that contributions to the Plan after a certain date in 1994 would be identified as “Fund B” and paid to TIAA-CREF under TIAA-CREF annuity contracts. The TIAA-CREF annuity contracts are authorized under Internal Revenue Code section 401(f) as an alternative to holding assets in the Trust; and

(c) The Plan was transferred to and assumed by the Kern County Hospital Authority, a political subdivision of the state of California, as Plan sponsor effective July 1, 2016, in connection with the transfer of ownership of the Kern Medical Center to the Kern County Hospital Authority by the County of Kern; and

(d) On October 19, 2016, the Board of Governors of the Kern County Hospital Authority restated the Plan in its entirety, effective July 1, 2016 (except as otherwise stated therein), as the Kern County Hospital Authority Defined Contribution Plan for Physician Employees; and

(e) Section 9.2 of the Plan provides that “[i]n its discretion, the Pension Committee may recommend that the Hospital Authority Board of Governors terminate the Trustee, appoint new Trustees, and authorize the Pension Committee to instruct the Trustee to transfer assets to a successor Trustee or Trustees *or to the Insurer.*”

(f) The authority is prohibited from receiving distributions of Fund A assets; and

(g) The Pension Committee has determined it is in the best interest of the Plan to liquidate the Trust and to transfer the remaining assets in the Trust to TIAA-CREF, as the Insurer, and to terminate the Trust Agreement with Wells Fargo Bank;

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. This Board hereby authorizes the Pension Committee to take appropriate measures to liquidate the Trust and to transfer the remaining assets in the Trust to TIAA-CREF, as the Insurer, pursuant to the terms of the authority’s group annuity contract with TIAA-CREF.

3. This Board hereby authorizes the Pension Committee to terminate the Trust Agreement with Wells Fargo Bank in accordance with the terms of the Trust Agreement.

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

Office of County Counsel
Kern Medical Center
Pension Committee
Wells Fargo Bank, National Association
RBC Wealth Management
TIAA-CREF

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

March 15, 2017

Subject: Proposed reappointments of Members Amir Berjis, M.D. and Stephen Pelz to the Kern County Hospital Authority Board of Governors

Recommended Action: Refer to Kern County Board of Supervisors to make reappointments

Summary:

Members Amir Berjis, M.D. and Stephen Pelz were appointed to the Board of Governors for initial terms of one year. Their terms expire June 30, 2017. Members may serve an unlimited number of terms if reappointed by the Kern County Board of Supervisors.

Members Berjis and Pelz, as required by the authority's Bylaws for Governance, have notified Chairman Bigler in writing of their intent to seek reappointment to the Board of Governors. They are not required to submit a new application for reappointment. The Bylaws requires your Board to notify the Board of Supervisors of their intent to continue to serve on the Board of Governors.

Therefore it is recommended that your Board refer this item to the Kern County Board of Supervisors to make the reappointments.

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

March 15, 2017

Subject: Kern County Hospital Authority, Chief Operating Officer Report

Recommended Action: Receive and File

Summary:

The Chief Operating Officer will present a physical facility review of hospital infrastructure systems, overview and prioritized repair/replacement.



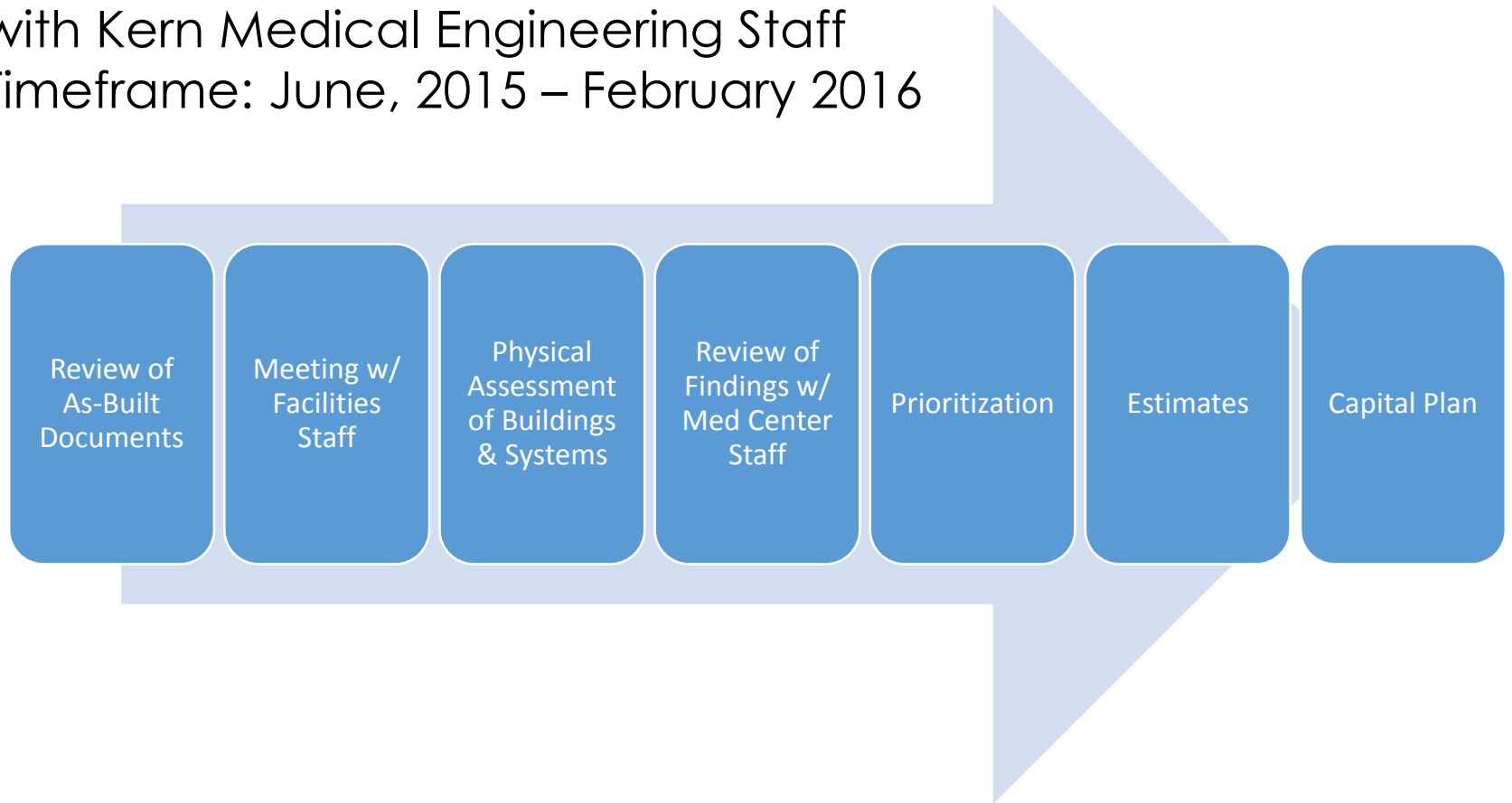
Facility & Infrastructure Update

Facility Condition Assessment

- ASSESSMENT GOALS:
- Thorough understanding of facility condition.
- Identify critical building systems that put continuity of operations at risk.
- Create Prioritized Infrastructure Repair/Replace Schedule.
- Understand needed resources to maintain operations in current facilities for the next 15 years.

Assessment Process

- Completed by Kitchell, in conjunction with Kern Medical Engineering Staff
- Timeframe: June, 2015 – February 2016



Facility Condition Assessment

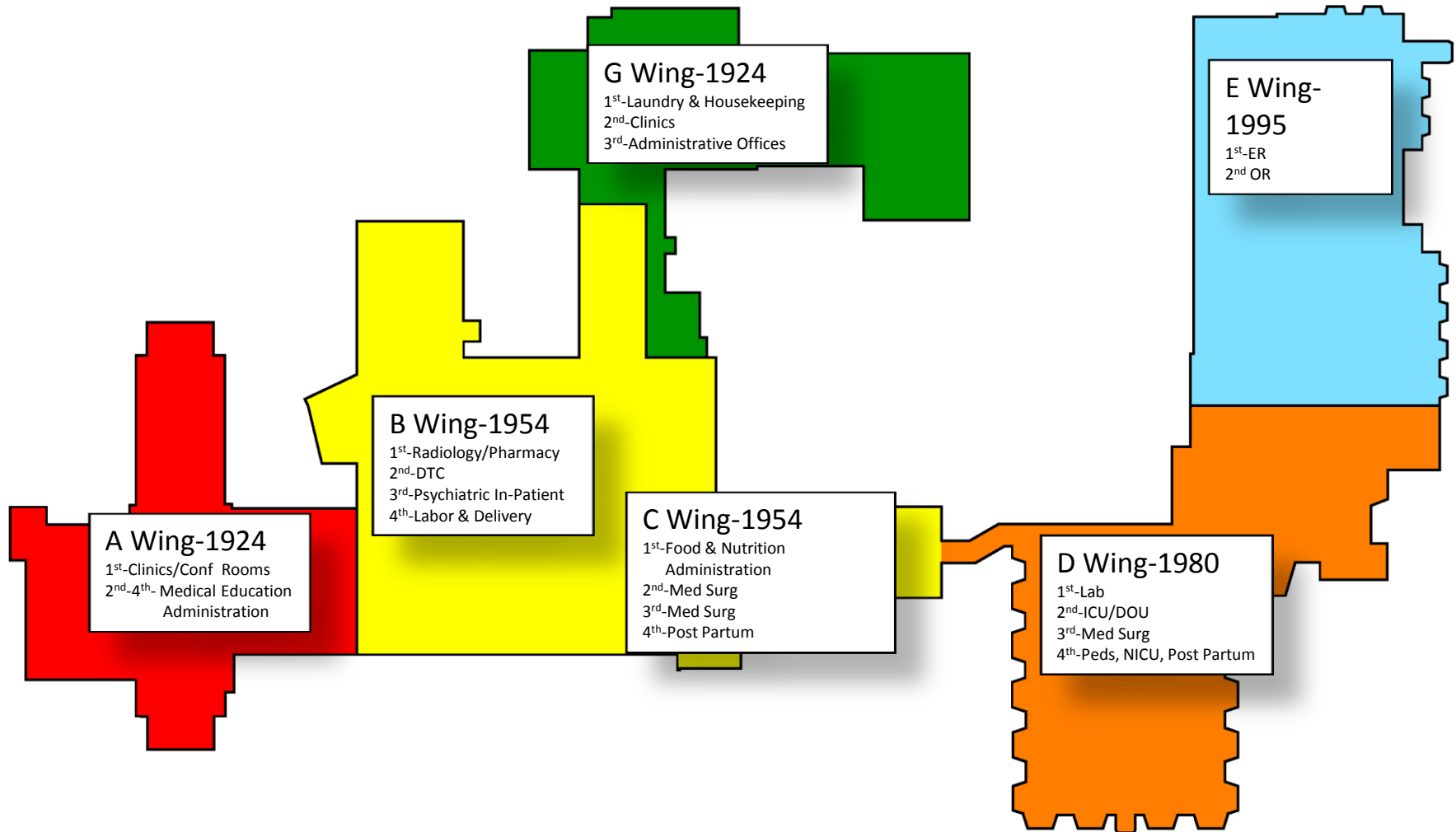
Facility Condition Need Index

0 to .05	Good
.06 to .10	Fair
Over .10	Poor

FCNI: a ratio of the estimated repair costs over the replacement cost

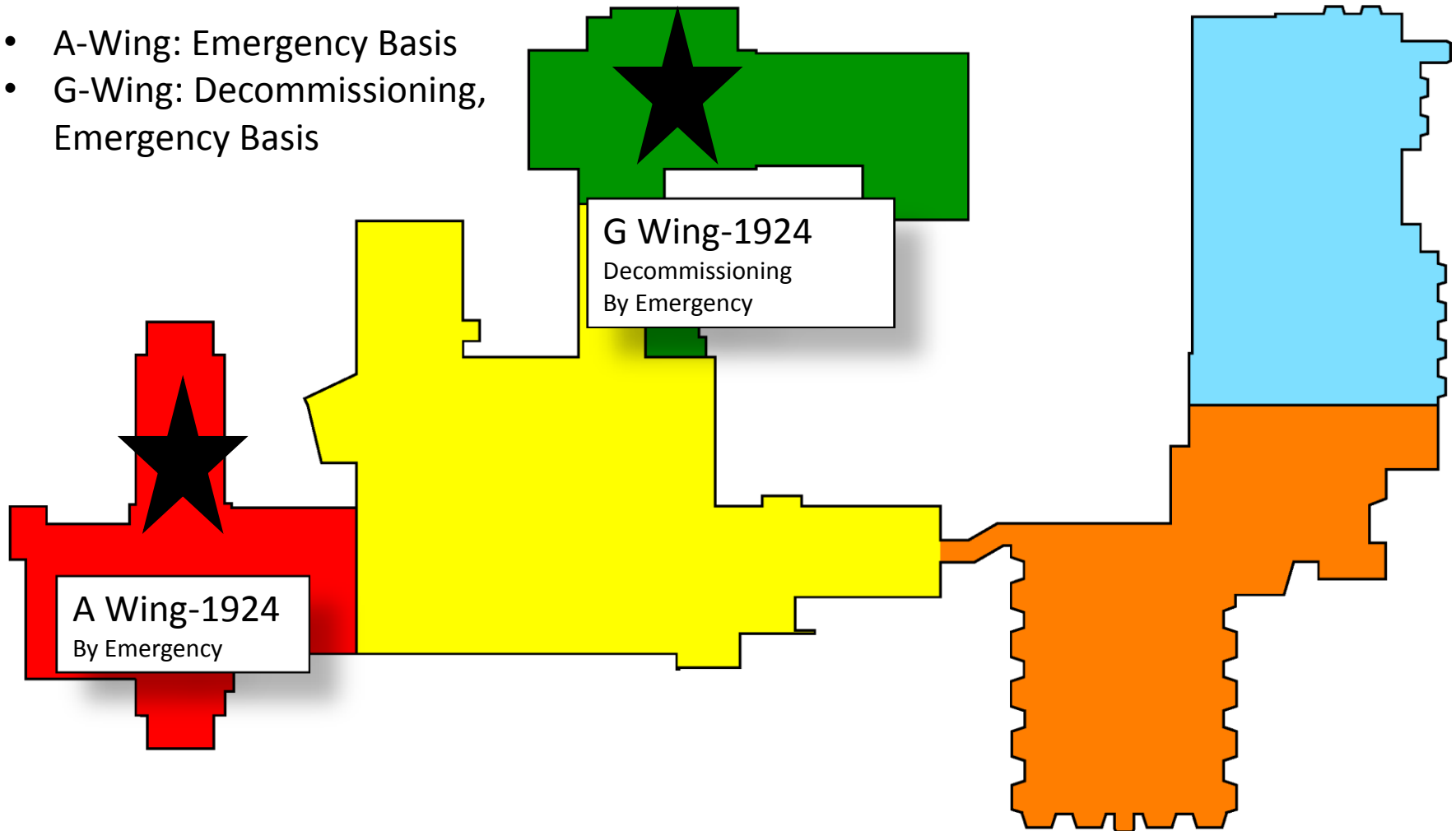
- If the number is greater than 10%, the building is in poor condition.
- Kern Medical was .37 or 37% repair vs. replace.
- = **\$120,276,486** in total repair dollars.

Kern Medical By Wing

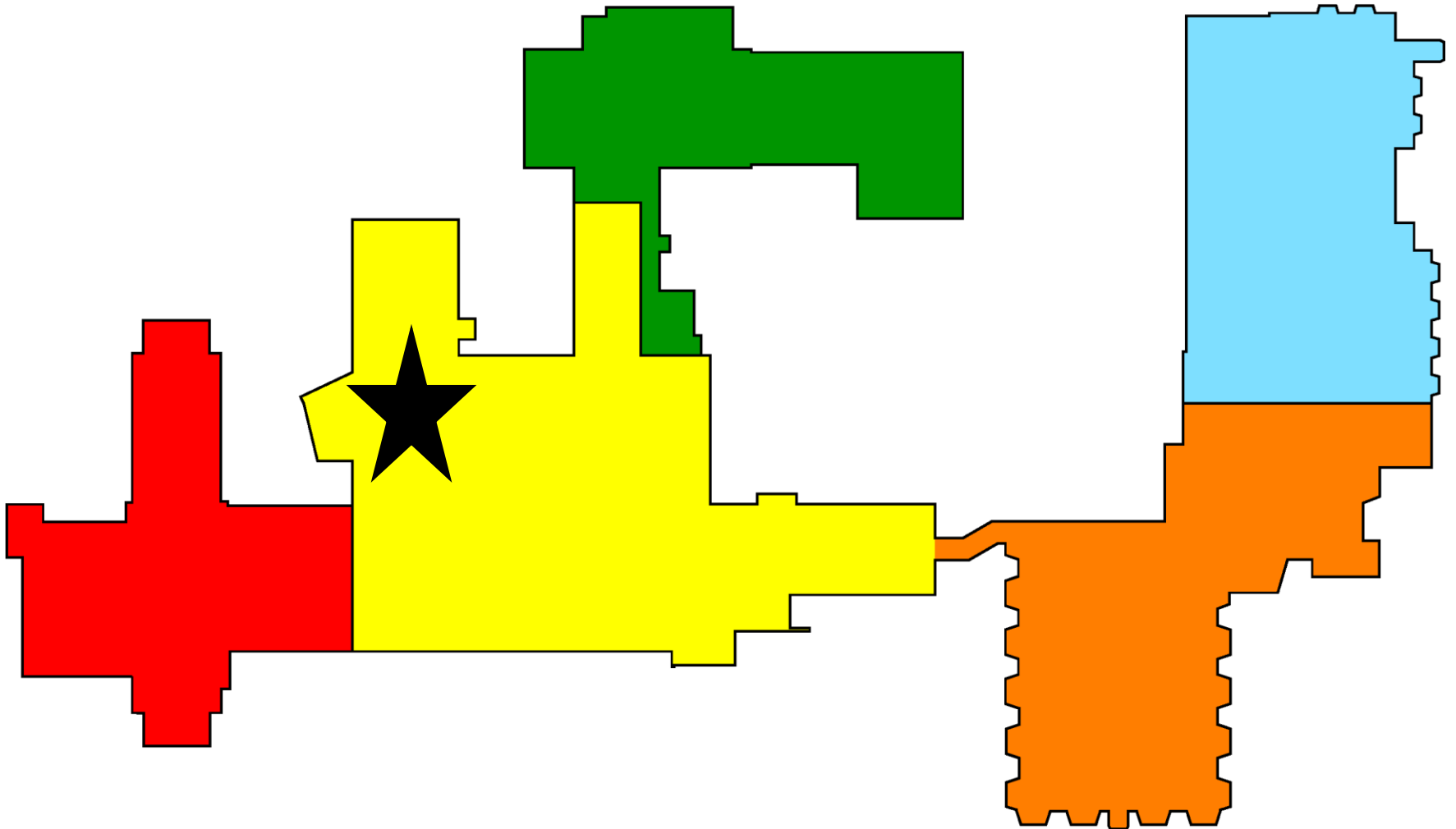


Repair Prioritization

- A-Wing: Emergency Basis
- G-Wing: Decommissioning, Emergency Basis



Repair Prioritization: B-WING



Repair Prioritization: B-WING

Year 1:

- Pharmacy sterile preparation regulatory upgrade
- Roof
- Targeted electrical and plumbing infrastructure – primarily in labor and delivery
- Targeted heating, ventilation and air conditioning updates
- labor and delivery aesthetic updates

Year 2:

- heating, ventilation and air conditioning controls
- Targeted heating, ventilation and air conditioning updates

Year 3:

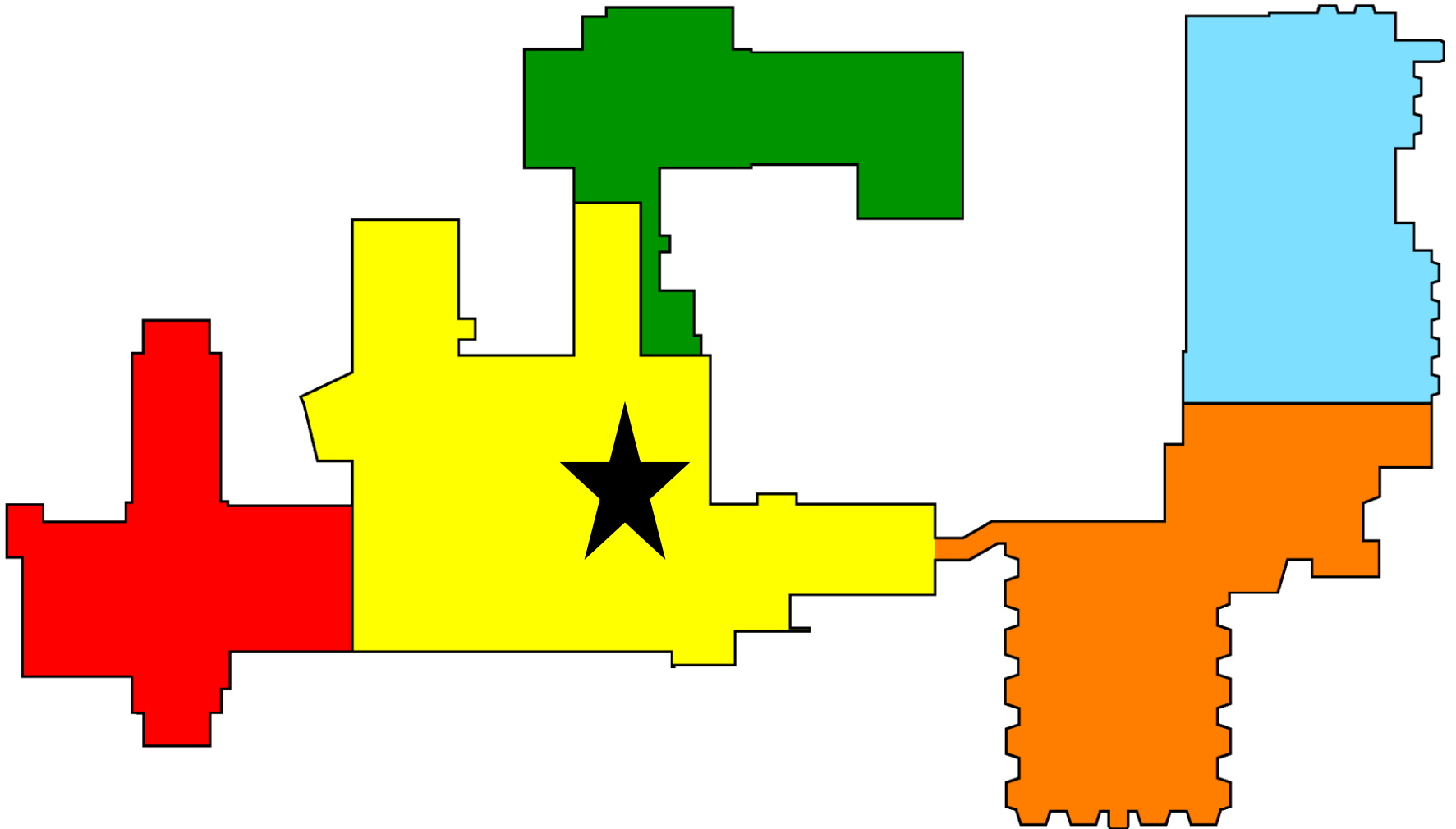
- Targeted heating, ventilation and air conditioning updates
- Air test & balance

Year 4:

- Elevators

Year 5 & Beyond: Emergency basis

Repair Prioritization: C-WING



Repair Prioritization: C-WING

Year 1:

- Targeted heating, ventilation and air conditioning updates
- Electrical upgrade

Year 2:

- Targeted heating, ventilation and air conditioning updates
- Re-open medical-surgical unit for patient care on 2C
- Open new Pediatric unit on 4C
- Roof

Year 3:

- Heating, ventilation and air conditioning controls

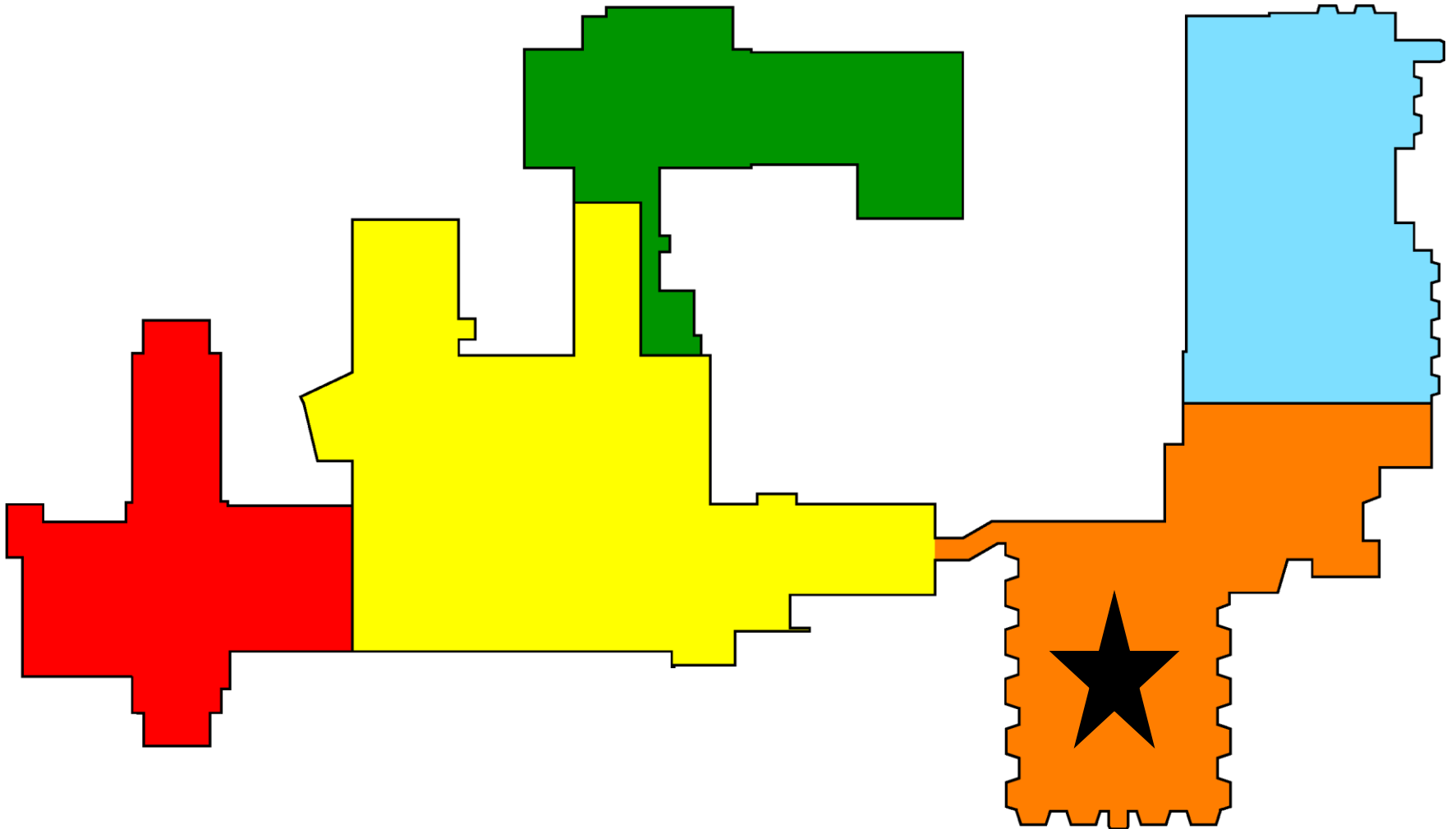
Year 4:

- Air test & balance

Year 5 & Beyond:

- Emergency basis

Repair Prioritization: D-WING



Repair Prioritization: D-WING

Year 1:

- Targeted heating, ventilation and air conditioning updates
- Targeted heating, ventilation and air conditioning controls
- 3rd Floor Room Renovations
 - Headwall, nurse call, aesthetics, targeted electrical and plumbing
- 1st Floor lobby aesthetic updates

Year 2:

- Targeted heating, ventilation and air conditioning updates
- Targeted heating, ventilation and air conditioning controls
- Add independent heating, ventilation and air conditioning system for 4th floor
- Emergency power generator
- 3rd Floor room renovations
 - Headwall, nurse call, aesthetics, targeted electrical and plumbing

Repair Prioritization: D-WING

Year 2 (Cont.):

- 4th Floor room renovations
 - Headwall, nurse call, aesthetics, targeted electrical and plumbing
- Elevators

Year 3:

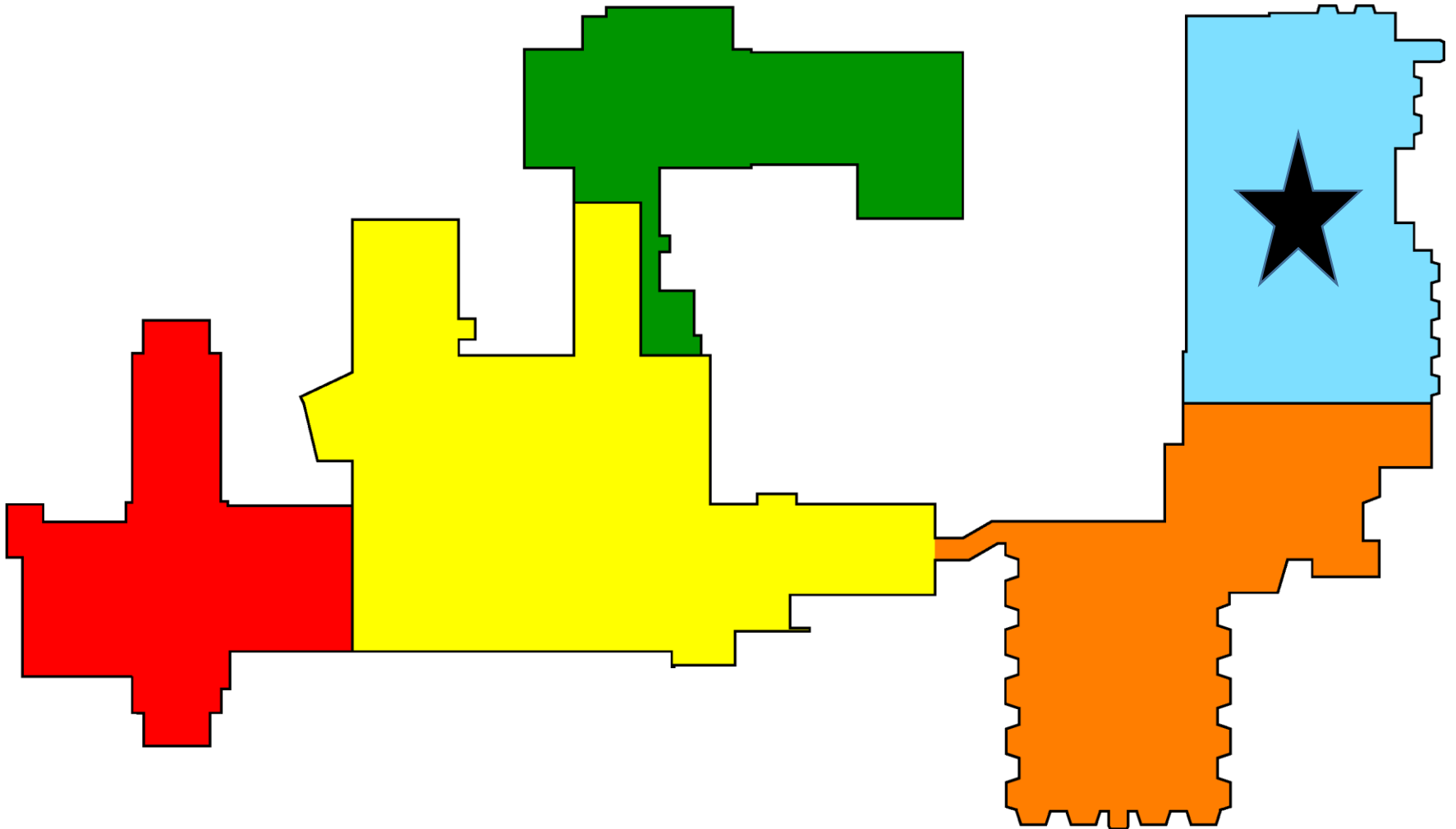
- 2nd Floor room renovations
 - Headwall, nurse call, aesthetics, targeted electrical and plumbing
- Elevators
- Roof

Year 4:

- Air test & balance

Year 5 & Beyond: Emergency basis

Repair Prioritization: E-WING



Repair Prioritization: E-WING

Year 1:

- Targeted heating, ventilation and air conditioning controls
- Separate heating, ventilation and air conditioning unit for sterile prep/processing in operating room
- Medical air dryers

Year 2:

- Re-tube boiler in operating room steam room.

Year 3:

- None

Year 4:

- Tie operating room steam room to central plant
- Roof

Year 5 & Beyond: Emergency basis

Current Projects:

- E-Wing controls – Prioritized infrastructure plan
- Labor and delivery remodel – Prioritized infrastructure plan
- E-Power to B/C-Wings – Prioritized infrastructure plan
- G-Wing decommissioning – Regulatory compliance
- Pharmacy sterile prep room – Regulatory compliance

Current Projects (cont.):

- New clinical space @ 1111 Columbus St. – Prioritized service-line plan
- New cancer center @ 1111 Columbus St. – Prioritized service-line plan
- Student union building – Combined project with Ross University
- IT infrastructure upgrade: hospital and 1111 Columbus St. - Prioritized infrastructure plan
- A/B/C-Wing controls – Emergency project due to failure

Projects in Design

- Pediatric unit – Prioritized service-line plan
- 4D Rooms remodeled/relicensed – Prioritized service-line plan, prioritized infrastructure plan
- 3D Rooms renovated – Prioritized infrastructure plan
- Independent heating, ventilation and air-conditioning unit – operating room – Prioritized infrastructure plan

Projects in Design

- Medical air dryers: operating room – Prioritized infrastructure plan
- Operating room washer – Emergency project due to failure
- D-wing elevators – Prioritized infrastructure plan
- ER Negative pressure room – Infectious disease grant

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

March 15, 2017

Subject: Kern County Hospital Authority, Chief Financial Officer Report

Recommended Action: Receive and File

Summary:

The Chief Financial Officer will provide a report on Finances for the period ending January 31, 2017. In addition the report will include:

Salaries and Benefits:

- Salaries and Benefits Expenses both have unfavorable budget variances for the month of January 2017 due to a large increase in holiday pay.

Supplies:

- Supplies have an unfavorable budget variance for the month of January 2017 due to an increase in Cardinal pharmaceutical expenses and to an invoicing issue with Synthes prostheses and medical devices that is currently being resolved. There was also a process change within the Materials Management inventory system. This process change has caused a temporary timing issue regarding supplies orders that has resulted in some duplication of orders.

Purchased Services:

- Purchased Services have an unfavorable budget variance for the month of January 2017 due in large part to a true-up for the Medi-Cal Inpatient Program (MCIP) claims. Kern Medical has been holding several claims for inmate services that were contracted out to local area providers for services that are not provided by Kern Medical, pending direction from the state regarding how to process the claims. The pending claims were entered into the system in January 2017.



**BOARD OF GOVERNORS' FINANCIAL REPORT
KERN MEDICAL – JANUARY 2017**

MARCH 2017

3-Month Trend Analysis: Revenue & Expense

January 31, 2017

	NOVEMBER	DECEMBER	JANUARY	BUDGET JANUARY	VARIANCE POS (NEG)	PY JANUARY
Gross Patient Revenue	\$ 63,484,833	\$ 65,634,927	\$ 69,400,017	\$ 64,810,882	7%	\$ 62,261,353
Contractual Deductions	(45,968,653)	(47,980,890)	(65,940,667)	(49,098,941)	34%	\$ (44,680,746)
Net Revenue	17,516,180	17,654,037	3,459,350	15,711,941	(78%)	17,580,607
Indigent Funding	7,795,895	7,874,837	28,757,643	6,876,296	318%	7,201,319
Correctional Medicine	1,976,045	1,976,045	1,976,045	1,942,469	2%	1,168,042
County Contribution	285,211	285,211	285,911	297,260	(4%)	631,414
Incentive Funding	0	0	0	833,334	(100%)	1,000,000
Net Patient Revenue	27,573,331	27,790,130	34,478,949	25,661,300	34%	27,581,382
Other Operating Revenue	903,502	946,219	959,344	1,301,414	(26%)	1,003,253
Other Non-Operating Revenue	42,750	44,663	214,826	22,188	868%	(53,971)
Total Operating Revenue	28,519,583	28,781,012	35,653,119	26,984,902	32%	28,530,664
Expenses						
Salaries	11,099,323	10,851,301	11,698,128	10,840,747	8%	10,947,328
Employee Benefits	5,337,301	5,780,062	6,200,345	5,351,543	16%	5,855,033
Contract Labor	918,282	946,017	814,787	624,523	30%	610,033
Medical Fees	1,419,622	1,432,227	1,373,065	1,391,774	(1%)	1,447,168
Other Professional Fees	978,458	2,009,171	1,409,998	1,546,276	(9%)	1,547,597
Supplies	4,248,469	4,669,782	3,994,162	3,564,344	12%	3,932,337
Purchased Services	1,477,496	1,418,012	1,486,495	1,214,263	22%	1,269,514
Other Expenses	1,289,292	83,171	1,476,020	1,521,764	(3%)	1,426,717
Operating Expenses	26,768,243	27,189,743	28,453,000	26,055,234	9%	27,035,727
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 1,751,340	\$ 1,591,269	\$ 7,200,119	\$ 929,668	674%	\$ 1,494,937
EBIDA Margin	6%	6%	20%	3%	486%	5%
Interest	18,550	24,207	19,168	49,972	(62%)	51,360
Depreciation	524,308	474,567	477,976	399,668	20%	419,671
Amortization	(3,253)	20,313	20,313	49,797	(59%)	52,468
Total Expenses	27,307,848	27,708,830	28,970,457	26,554,671	9%	27,559,226
Operating Gain (Loss)	\$ 1,211,735	\$ 1,072,182	\$ 6,682,662	\$ 430,231	1,453%	\$ 971,438
Operating Margin	4%	4%	19%	1.6%	1,076%	3%

Year-to-Date: Revenue & Expense

January 31, 2017

	ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
	FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Gross Patient Revenue	\$ 464,213,942	\$ 462,343,091	0.4%	\$ 414,176,699	12%
Contractual Deductions	(356,328,404)	(351,566,007)	1%	\$ (308,697,073)	15%
Net Revenue	107,885,538	110,777,084	(3%)	105,479,626	
Indigent Funding	73,041,039	47,690,445	53%	48,772,220	50%
Correctional Medicine	13,821,375	13,471,961	3%	8,186,346	69%
County Contribution	2,008,116	2,061,644	(3%)	4,379,163	(54%)
Incentive Funding	1,698,630	5,833,335	(71%)	7,000,000	(76%)
Net Patient Revenue	198,454,698	179,834,469	10%	173,817,355	14%
Other Operating Revenue	6,654,821	9,025,932	(26%)	7,379,040	(10%)
Other Non-Operating Revenue	597,853	153,883	289%	446,564	34%
Total Operating Revenue	205,707,372	189,014,284	9%	181,642,959	13%
Expenses					
Salaries	78,211,122	76,204,539	3%	71,796,327	9%
Employee Benefits	38,291,712	37,735,046	1%	36,891,294	4%
Contract Labor	6,131,515	4,454,846	38%	3,358,044	83%
Medical Fees	9,680,228	9,652,632	0%	8,992,868	8%
Other Professional Fees	11,285,468	10,724,184	5%	10,071,837	12%
Supplies	28,099,044	25,426,613	11%	26,621,888	6%
Purchased Services	9,541,782	8,422,840	13%	7,682,964	24%
Other Expenses	8,899,594	11,057,304	(20%)	8,820,433	1%
Operating Expenses	190,140,465	183,678,004	4%	174,235,655	9%
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 15,566,907	\$ 5,336,280	192%	\$ 7,407,303	110%
EBIDA Margin	8%	3%	168%	4%	86%
Interest	137,981	346,583	(60%)	343,225	(60%)
Depreciation	3,283,630	2,771,887	18%	2,745,028	20%
Amortization	168,411	345,368	(51%)	342,023	(51%)
Total Expenses	193,730,487	187,141,842	4%	177,665,931	9%
Operating Gain (Loss)	\$ 11,976,885	\$ 1,872,442	540%	\$ 3,977,027	201%
Operating Margin	6%	1%	488%	2%	166%

3-Month Trend Analysis: Cash Indicators

January 31, 2017

					BUDGET	VARIANCE	PY
		NOVEMBER	DECEMBER	JANUARY	JANUARY	POS (NEG)	JANUARY
CASH							
Total Cash	\$	60,613,182	\$ 82,059,137	\$ 68,479,100	\$ 40,391,428	70%	\$ 2,250,272
Days Cash On Hand		68	91	72	47	55%	2
Days In A/R - Gross		101.9	96.8	96.0	76.0	26%	86.2
Patient Cash Collections	\$	23,203,984	\$ 18,109,925	\$ 18,055,114	N/A	M/A	\$ 15,919,596
Patient Cash Goal	\$	17,742,157	\$ 17,369,639	\$ 17,573,818	N/A	M/A	\$ 13,373,586
Projected Year End Cash Balance	\$	44,855,082	\$ 44,855,082	\$ 44,855,082	N/A	M/A	N/A

3-Month Trend Analysis: Operating Metrics

January 31, 2017

					BUDGET	VARIANCE	PY
		NOVEMBER	DECEMBER	JANUARY	JANUARY	POS (NEG)	JANUARY
Operating Metrics							
Total Expense per Adjusted Admission	\$	19,094	\$ 19,549	\$ 19,061	\$ 19,660	(3%)	\$ 20,194
Total Expense per Adjusted Patient Day	\$	3,686	\$ 3,686	\$ 3,648	\$ 3,378	8%	\$ 3,834
Supply Expense per Adjusted Admission	\$	2,971	\$ 3,295	\$ 2,628	\$ 2,639	(0%)	\$ 2,881
Supply Expense per Surgery	\$	2,040	\$ 1,941	\$ 1,472	\$ 1,614	(9%)	\$ 1,533
Supplies as % of Net Patient Revenue		15%	17%	14%	14%	(0.3%)	14%
Pharmaceutical Cost per Adjusted Admission	\$	1,189	\$ 1,367	\$ 1,283	\$ 1,164	10%	\$ 1,319
Net Revenue Per Adjusted Admission	\$	12,247	\$ 12,455	\$ 13,393	\$ 11,632	15%	\$ 12,882

Year-to-Date: Operating Metrics

January 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Operating Metrics						
	Total Expense per Adjusted Admission	\$ 18,325	\$ 21,863	(16%)	\$ 20,974	(13%)
	Total Expense per Adjusted Patient Day	\$ 3,638	\$ 3,483	4%	\$ 3,464	5%
	Supply Expense per Adjusted Admission	\$ 2,658	\$ 2,970	(11%)	\$ 3,143	(15%)
	Supply Expense per Surgery	\$ 1,808	\$ 1,615	12%	\$ 1,606	13%
	Supplies as % of Net Patient Revenue	14%	14%	0.1%	15%	(8%)
	Pharmaceutical Cost per Adjusted Admission	\$ 1,065	\$ 1,310	(19%)	\$ 1,448	(26%)
	Net Revenue Per Adjusted Admission	\$ 10,205	\$ 12,942	(21.1%)	\$ 12,452	(18%)

INDIGENT PATIENT CARE FUNDING - MTD & YTD

FOR THE MONTH JANUARY 31, 2017

MTD ACT	MTD BUD	VAR \$ FAV/(UNFAV)	VAR %	DESCRIPTION	YTD ACT	YTD BUD	VAR \$ FAV/(UNFAV)	VAR %
311,379	345,977	(34,598)	-10.0%	MEDI-CAL HOSPITAL QUALITY ASSURANCE FEE	2,159,565	2,399,518	(239,953)	-10.0%
12,268,492	950,974	11,317,518	1190.1%	MEDI-CAL EXPANSION REVENUE FROM HMO	19,052,319	6,595,463	12,456,856	188.9%
63,008	196,257	(133,249)	-67.9%	COUNTY REALIGNMENT FUNDS	1,576,489	1,361,138	215,351	15.8%
9,511,870	960,365	8,551,505	890.4%	MEDI-CAL SUPPLEMENTAL FUNDING	15,547,666	6,660,600	8,887,066	133.4%
2,084,596	2,423,860	(339,264)	-14.0%	PRIME - NEW WAIVER	15,129,579	16,810,644	(1,681,065)	-10.0%
1,798,977	1,998,863	(199,886)	-10.0%	GPP - NEW WAIVER	16,856,100	13,863,082	2,993,018	21.6%
2,622,442	0	2,622,442	0.0%	WHOLE PERSON CARE	2,622,442	0	2,622,442	0.0%
96,879	0	96,879	0.0%	EMR	96,879	0	96,879	0.0%
28,757,643	6,876,296	21,881,347	318.2%	SUB-TOTAL - GOVERNMENTAL REVENUE	73,041,039	47,690,445	25,350,594	53.2%
1,976,045	1,942,469	33,576	1.7%	CORRECTIONAL MEDICINE	13,821,375	13,471,961	349,414	2.6%
285,911	297,260	(11,349)	-3.8%	COUNTY CONTRIBUTION	2,008,116	2,061,644	(53,528)	-2.6%
31,019,599	9,116,025	21,903,574	240.3%	TOTAL INDIGENT CARE & COUNTY FUNDING	88,870,530	63,224,050	25,646,480	40.6%

OTHER REVENUE

FOR THE MONTH JANUARY 31, 2017

OTHER OPERATING REVENUE

	<u>MTD ACTUAL</u>	<u>MTD BUDGET</u>	<u>VARIANCE</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>VARIANCE</u>
PARKING LOT REVENUE	718	509	209	5,244	3,534	1,710
OTHER CO. DEPT. REIMBURSEMENT	24,663	18,941	10,428	172,548	131,366	41,182
EMS REVENUE (SB-612)	0	71,264	(71,264)	192,502	494,250	(301,748)
FEDERAL INMATE REVENUE	0	54,598	(54,598)	(47,071)	378,664	(425,735)
MEDICAL RECORDS FEES	3,712	1,999	1,713	17,067	13,865	3,202
X-RAY COPY FEES	8	0	8	32	0	32
MEDICAL SCHOOL STUDENT FEES	333,587	383,616	(50,029)	2,336,607	2,660,560	(323,953)
JURY/WITNESS FEES	0	0	0	2,075	0	2,075
CANCELLED OUTLAWED WARRANTS	12,491	2,754	9,737	10,827	19,100	(8,273)
PROFESSIONAL FEES	265,224	501,009	(235,785)	1,971,061	3,474,737	(1,503,676)
CAFETERIA SALES	71,742	68,118	3,624	497,174	472,422	24,752
FEDERAL-OTHER AID	8,270	0	8,270	42,396	0	42,396
GRANTS	0	0	0	527	0	527
MENTAL HEALTH MOU	141,344	191,985	(50,641)	1,212,803	1,331,511	(118,708)
REBATES & REFUNDS	97,586	6,621	90,965	241,030	45,923	195,107
TOTAL OTHER OPERATING REVENUE	959,344	1,301,414	(337,364)	6,654,821	9,025,932	(2,371,111)
OTHER NON-OPERATING REVENUE						
INTEREST ON COLLECTIONS	28,219	12,881	15,338	133,002	89,337	43,665
OTHER MISCELLANEOUS REVENUE	91,990	4,154	83,130	234,759	28,807	205,952
INTEREST ON FUND BALANCE	94,617	5,153	89,464	230,092	35,739	194,353
TOTAL OTHER NON-OPER REVENUE	214,826	22,188	187,932	597,853	153,883	443,970

CORRECTIONAL MEDICINE P&L - MTD & YTD

FOR THE MONTH JANUARY 31, 2017

<u>MTD ACT</u>	<u>MTD BUD</u>	<u>VAR \$</u> <u>FAV/(UNFAV)</u>	<u>VAR %</u>	<u>DESCRIPTION</u>	<u>YTD ACT</u>	<u>YTD BUD</u>	<u>VAR \$</u> <u>FAV/(UNFAV)</u>	<u>VAR %</u>
1,976,045	1,942,469	33,576	1.7%	COUNTY INMATE REVENUE	13,821,375	13,471,961	349,414	2.6%
0	0	0	100.0%	FEDERAL INMATE REVENUE	0	0	0	100.0%
1,976,045	1,942,469	33,576	1.7%	TOTAL REVENUE	13,821,375	13,471,961	349,414	2.6%
				DIRECT INMATE EXPENSES				
1,231,444	1,139,474	91,970	8.1%	SALARIES & BENEFITS	7,743,311	7,902,802	(159,491)	-0.4%
546,440	42,152	504,288	1196.4%	SUPPLIES & OTHER EXP	2,585,516	292,344	2,293,172	201.5%
1,777,884	1,181,626	596,258	50.5%	TOTAL DIRECT INMATE EXPENSES	10,328,827	8,195,146	2,133,681	26.0%
				ALLOCATED INMATE EXPENSES				
125,208	166,111	(40,903)	-24.6%	INPATIENT	859,785	1,152,059	(292,274)	-25.4%
371,635	293,773	77,862	26.5%	OUTPATIENT	2,537,079	2,037,458	499,621	24.5%
496,843	459,884	36,959	8.0%	TOTAL ALLOCATED INMATE EXPENSES	3,396,864	3,189,517	207,347	6.5%
309,051	134,288	174,763	130.1%	AMBULANCE/OTHER HC PROVIDER EXPENSES	1,134,444	933,906	200,538	21.5%
2,583,777	1,775,798	807,979	45.5%	TOTAL EXPENSES	14,860,135	12,318,569	2,541,566	20.6%
(607,732)	166,671	(774,403)	-464.6%	NET INCOME	(1,038,760)	1,153,392	(2,192,152)	-190.1%

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

March 15, 2017

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 ending January 31, 2017.



**BOARD OF GOVERNORS' VOLUMES REPORT
KERN MEDICAL – JANUARY 2017**

MARCH 2017

3-Month Trend Analysis: Volume and Strategic Indicators

January 31, 2017

					BUDGET	VARIANCE	PY
		NOVEMBER	DECEMBER	JANUARY	JANUARY	POS (NEG)	JANUARY
VOLUME							
	Adjusted Admissions (AA)	1,430	1,417	1,520	1,351	13%	1,365
	Adjusted Patient Days	7,408	7,518	7,942	7,861	1%	7,188
	Admissions	769	797	791	723	9%	763
	Average Daily Census	133	136	133	136	(1.8%)	130
	Patient Days	3,983	4,227	4,133	4,208	(1.8%)	4,019
	Available Occupancy %	62.0%	63.7%	62.3%	63.4%	(1.8%)	60.6%
	Average LOS	5.2	5.3	5.2	5.8	(10%)	5.3
	Surgeries						
	Inpatient Surgeries (Main Campus)	220	263	222	237	(6%)	211
	Outpatient Surgeries (Main Campus)	272	256	251	235	7%	224
	Total Surgeries	492	519	473	472	0%	435
	Births	214	207	214	232		216
	ER Visits						
	Admissions	388	436	417	335	25%	430
	Treated & Released	3,119	3,250	3,542	3,067	15%	3,145
	Total ER Visits	3,507	3,686	3,959	3,402	16%	3,575
	Outpatient Clinic Visits						
	Total Clinic Visits	11,352	10,024	10,252	7,917	29%	8,482

Year-to-Date: Volume and Strategic Indicators

January 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
VOLUME						
	Adjusted Admissions (AA)	10,572	8,560	24%	8,471	25%
	Adjusted Patient Days	53,255	53,732	(1%)	51,284	4%
	Admissions	5,604	4,566	23%	5,282	6%
	Average Daily Census	131	136	(3%)	130	1%
	Patient Days	28,260	28,761	(2%)	28,251	0.03%
	Available Occupancy %	61.4%	62.5%	(2%)	61.4%	0.03%
	Average LOS	5.0	6.3	(20%)	5.3	(6%)
	Surgeries					
	Inpatient Surgeries (Main Campus)	1,630	1,595	2%	1,437	13%
	Outpatient Surgeries (Main Campus)	1,808	1,770	2%	1,831	(1%)
	Total Surgeries	3,438	3,365	2%	3,268	5%
	Births	1,583	1,731	(9%)	1,530	3%
	ER Visits					
	Admissions	2,814	2,323	21%	2,451	15%
	Treated & Released	23,825	21,287	12%	21,994	8%
	Total ER Visits	26,639	23,610	13%	24,445	9%
	Outpatient Clinic Visits					
	Total Clinic Visits	73,857	59,024	25%	65,032	14%

3-Month Trend Analysis: Payor Mix

January 31, 2017

					BUDGET	VARIANCE	PY
		NOVEMBER	DECEMBER	JANUARY	JANUARY	POS (NEG)	JANUARY
PAYOR MIX - Charges							
	Commercial FFS	3.4%	4.7%	4.1%	3.7%	10%	5.5%
	Commercial HMO/PPO	6.0%	6.5%	4.2%	7.0%	(40%)	4.9%
	Medi-Cal	29.2%	29.1%	29.3%	27.2%	8%	29.4%
	Medi-Cal HMO - Kern Health Systems	31.2%	31.7%	30.4%	21.8%	40%	20.3%
	Medi-Cal HMO - Health Net	9.0%	9.7%	9.3%	5.7%	63%	5.4%
	Medi-Cal HMO - Other	1.2%	1.1%	1.3%	13.9%	(91%)	10.3%
	Medicare	8.6%	5.9%	10.3%	9.4%	10%	9.4%
	Medicare - HMO	2.2%	1.0%	2.0%	2.7%	(25%)	2.4%
	County Programs	2.0%	3.0%	2.3%	0.8%	180%	3.2%
	Workers' Compensation	0.7%	0.6%	0.6%	1.3%	(53%)	1.3%
	Self Pay	6.4%	6.7%	6.2%	6.6%	(6%)	7.9%
	Total	100.0%	100.0%	100.0%	100.0%		100.0%

Year-to-Date: Payor Mix

January 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
PAYOR MIX - Charges						
	Commercial FFS	4.2%	4.1%	2%	5.3%	(21%)
	Commercial HMO/PPO	6.2%	4.2%	49%	5.4%	15%
	Medi-Cal	28.8%	28.4%	2%	30.1%	(4%)
	Medi-Cal HMO - Kern Health Systems	28.8%	24.3%	19%	21.2%	36%
	Medi-Cal HMO - Health Net	9.6%	8.5%	13%	7.3%	31%
	Medi-Cal HMO - Other	1.1%	9.3%	(88%)	8.0%	(86%)
	Medicare	9.6%	8.7%	10%	9.0%	7%
	Medicare - HMO	2.1%	2.6%	(19%)	2.0%	5%
	County Programs	2.2%	1.7%	32%	3.1%	(29%)
	Workers' Compensation	0.6%	1.1%	(46%)	1.3%	(54%)
	Self Pay	6.9%	7.3%	(6%)	7.3%	(5%)
	Total	100.0%	100.0%		100.0%	

3-Month Trend Analysis: Labor and Productivity Metrics

January 31, 2017

					BUDGET	VARIANCE	PY
		NOVEMBER	DECEMBER	JANUARY	JANUARY	POS (NEG)	JANUARY
Labor Metrics							
	Productive FTEs	1,230.89	1,200.25	1,221.27	1,277.52	(4%)	1,158.69
	Non-Productive FTEs	254.33	310.08	288.98	225.44	28%	296.51
	Contract Labor FTEs	68.91	62.96	57.86	44.35	30%	44.00
	Total FTEs	1,485.22	1,510.33	1,510.25	1,502.96	0%	1,455.20
	FTE's Per AOB Paid	6.01	6.23	5.89	6.46	(9%)	6.27
	FTE's Per AOB Worked	4.98	4.95	4.77	5.50	(13%)	5.00
	Labor Cost/FTE (Annualized)	125,077.40	124,455.58	132,544.25	119,603.87	11%	128,320.09
	Benefits Expense as a % of Benefitted Labor Expense	74%	75%	74%	73%	1%	77%
	Salaries & Benefits as % of Net Patient Revenue	63%	63%	65%	66%	(1%)	63%

Year-to-Date: Labor and Productivity Metrics

January 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Labor Metrics						
	Productive FTEs	1,224.96	1,273.76	(4%)	1,144.26	7%
	Non-Productive FTEs	229.95	224.78	2%	216.58	6%
	Contract Labor FTEs	64.35	46.75	38%	37.67	71%
	Total FTEs	1,454.91	1,498.54	(3%)	1,360.84	7%
	FTE's Per AOB Paid	5.88	6.00	(2%)	5.71	3%
	FTE's Per AOB Worked	4.95	5.10	(3%)	4.80	3%
	Labor Cost/FTE (Annualized)	128,677.25	120,648.34	7%	125,215.64	3%
	Benefits Expense as a % of Benefitted Labor Expense	72%	73%	(1%)	72%	0%
	Salaries & Benefits as % of Net Patient Revenue	62%	66%	(6%)	64%	(4%)

**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 March 15, 2017, 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**

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 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**

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on March 15, 2017, to consider:

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

**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 March 15, 2017, 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 - ANTICIPATED LITIGATION
(Government Code Section 54956.9(d)(2), (e)(2).) Number of cases: Three hundred sixty-seven (367) 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 –

**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 March 15, 2017, 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)) –