



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, February 17, 2021

11:30 A.M.

BOARD TO RECONVENE

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

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

STAFF RECOMMENDATION SHOWN IN CAPS



PUBLIC PRESENTATIONS

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

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

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

ITEMS FOR CONSIDERATION

CA

- 3) Minutes for Kern County Hospital Authority Board of Governors regular meetings on January 20, 2021 –
APPROVE

CA

- 4) Proposed Agreement with James E. Thompson, Inc., doing business as JTS Construction, an independent contractor, for construction management services related to the 4th Floor Pediatric and Postpartum Renovation Phase II project, in an amount not to exceed \$1,539,536, effective February 17, 2021 –
MAKE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301, 15302 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVE; AUTHORIZE CHAIRMAN TO SIGN; AUTHORIZE CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 10% OF THE TOTAL CONTRACT PRICE

CA

- 5) Proposed retroactive Amendment No. 1 to Agreement 006-2020 with Neurodiagnostic Workforce LLC, an independent contractor, for neurodiagnostic monitoring services for the period February 12, 2020 through February 11, 2021, extending the term for one year from February 12, 2021 through February 11, 2022, and increasing the maximum payable by \$376,000, from \$376,000 to \$752,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 6) Proposed Agreement with Arturo Gomez, M.D., a contract employee, for professional medical services in the Department of Surgery, Division of Orthopedic Surgery from March 16, 2021 through March 15, 2024, in an amount not to exceed \$3,690,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 7) Proposed Amendment No. 1 to Agreement 017-2020 with Eugene H. Roos, D.O., an independent contractor, for professional medical services in the Department of Radiology for the period April 1, 2020 through March 31, 2021, extending the term for one year from April 1, 2021 through March 31, 2022, and increasing the maximum payable by \$375,000, from \$375,000 to \$775,000, to cover the extended term, effective February 17, 2021 – APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

CA

- 8) Proposed Amendment No. 3 to Agreement 27716 with Hill-Rom Company, Inc., an independent contractor, for annual software upgrade, technical support and preventive maintenance services related to the 2C nurse call system project for the period November 17, 2016 until project completion, increasing the maximum payable by \$10,929, from \$646,107 to \$657,037, to cover the cost of additional services, effective February 17, 2021 – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed Product Sale Agreement with Medtronic USA, Inc., an independent contractor, for the purchase of implantable cardiac devices from February 17, 2021 through February 16, 2023, in an amount not to exceed \$3,000,000 – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed retroactive 340B Pharmacy Services Agreement with Optum Pharmacy 702, LLC, an independent contractor, containing non-standard terms and conditions, for 340B drug pricing on compounded pharmaceuticals from January 15, 2021 through January 14, 2024 – APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

CA

- 11) Proposed Amendment No. 3 to Agreement 36719 with Sepideh Babaei, M.D., a contract employee, for professional medical services in the Department of Radiology for the period July 7, 2018 through July 6, 2021, increasing the maximum payable by \$255,000, from \$1,495,000 to \$1,750,000, to cover the term, effective February 17, 2021 – APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Request to employ retired Kern County Hospital Authority employees during the COVID-19 pandemic in compliance with Executive Order N-25-20 issued by Governor Gavin Newsome on March 4, 2020 – APPROVE

CA

- 13) Proposed retroactive Agreement with the State of California, as represented by the California Emergency Medical Services Authority, an independent contractor, for supplemental contracted healthcare workers during the COVID-19 pandemic from February 5, 2021 until terminated, in an amount not to exceed \$760,000 – APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

- 14) Kern County Hospital Authority financial report – RECEIVE AND FILE

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

CA

- 16) Claims and Lawsuits Filed as of January 31, 2021 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 17) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 18) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Shine Villanueva, an individual v. Kern County Hospital Authority, et al., Kern County Superior Court Case No. BCV-19-101706 TSC –
- 19) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Kern County Hospital Authority, a Governmental entity v. California Department of Corrections and Rehabilitation, et al., Kern County Superior Court Case No. BCV-20-102979 DRL –
- 20) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: In the Matter of the Accusation Against County of Kern, California, DBA Kern Medical Center Campus Pharmacy, et al., Respondents, Case No. 7026 –
- 21) 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, MARCH 17, 2021 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.

16) CLAIMS AND LAWSUITS FILED AS OF JANUARY 31, 2021 –
RECEIVE AND FILE

- A) Summons and Complaint in the matter of Alizae Bagsby, a minor by and through her guardian ad litem, Abigail Bagsby v. Kern County Hospital Authority, et al., Kern County Superior Court Case No. BCV-20-102566
- B) Notice to Commence Action in the matter of Huver Perez Arreola
- C) Notice of Filing Discrimination Complaint in the matter of Amy Swidecki, DFEH Case No. 202101-12336614; EEOC No. 37A-2021-01007-C
- D) Summons and Complaint in the matter of Jihad Akil Hashim v. Kern County Hospital Authority, et al., Kern County Superior Court Case No. BCV-20-102398
- E) Claim in the matter of William Coughran



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, January 20, 2021

11:30 A.M.

BOARD RECONVENED

Board Members: Alsop, Berjis, Bigler, Brar, McLaughlin, Pelz
Roll Call: 5 Present; 1 Absent - Brar

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

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

BOARD ACTION SHOWN IN CAPS

PUBLIC PRESENTATIONS

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

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

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

CHAIRMAN BIGLER COMMENDED AND THANKED DR. GOLDIS FOR HIS KNOWLEDGE OF AND REPORTING ON COVID-19 DURING TELEVISED MORNING NEWS

ITEMS FOR CONSIDERATION

CA

- 3) Minutes for Kern County Hospital Authority Board of Governors regular meetings on November 18, 2020 and December 9, 2020 –
APPROVED
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 4) Proposed retroactive Resolution reaffirming the appointment of Russell V. Judd, Alton Scott Thygerson, Andrew J. Cantu, Glenn E. Goldis, M.D., and Antoinette C. Smith, RN, MSN, and affirming the appointment of Tyler S. Whitezell to serve as officers of the Kern County Hospital Authority, effective July 14, 2020 –
APPROVED; ADOPTED RESOLUTION 2021-001
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 5) Proposed retroactive Resolution in the matter of revising the extension of excess medical professional liability coverage for Kern Medical Center employed and independent contractor physicians, effective January 1, 2021 –
APPROVED; ADOPTED RESOLUTION 2021-002
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 6) Proposed retroactive Amendment No. 3 to Agreement 094-2017 with Kern Vascular Call Group, Inc., an independent contractor, for professional medical services in the Department of Surgery, for the period January 15, 2018 through January 14, 2021, extending the term for one year from January 15, 2021 through January 14, 2022, and increasing the maximum payable by \$565,000, from \$1,350,000 to \$1,915,000, to cover the extended term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 001-2021
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 7) Proposed Sales Order OPT-0008295 to Agreement 2016-036 with Cerner Corporation, an independent contractor, for purchase of the Patient Portal Scheduled Visits application from January 20, 2021 through January 19, 2024, in an amount not to exceed \$172,417 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 002-2021
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 8) Proposed Second Amendment to Agreement 011-2019 with PNC Bank, National Association (PNC Bank) for a revolving line of credit for the period March 1, 2019 through February 28, 2021, extending the maturity date of the line of credit on substantially the same terms set out in the Credit Agreement and the General Security and Pledge Agreement for one year from March 1, 2021 to March 1, 2022, and delegating authority to certain officers – APPROVED; ADOPTED RESOLUTION 2021-003; AUTHORIZED AND DIRECTED ANY TWO OF THE FOLLOWING OFFICERS (EACH, AN “AUTHORIZED OFFICER”) OF THE AUTHORITY, FOR AND IN THE NAME OF AND ON BEHALF OF THE AUTHORITY, TO EXECUTE THE SECOND AMENDMENT TO CREDIT AGREEMENT AND BANK NOTE (AGREEMENT 003-2021), SUBSTANTIALLY IN THE FORM PRESENTED TO THIS BOARD, WITH SUCH CHANGES AS THE AUTHORIZED OFFICERS EXECUTING THE SAME, TOGETHER WITH THE VICE PRESIDENT & GENERAL COUNSEL OF THE AUTHORITY, SHALL APPROVE: CHAIRMAN OF THIS BOARD, VICE-CHAIRMAN OF THIS BOARD, CHIEF EXECUTIVE OFFICER OF THE AUTHORITY, PRESIDENT, HOSPITAL & CLINIC OPERATIONS OF THE AUTHORITY OR CHIEF FINANCIAL OFFICER OF THE AUTHORITY
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 9) Proposed Engagement Letter and Agreement with Moss Adams LLP, an independent contractor, for the provision of external auditing services of Kern County Hospital Authority Deferred Compensation Plan for Physician Employees for the plan years ended December 31, 2020, 2019, 2018, 2017 and 2016, in an amount not to exceed \$100,000 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 004-2021
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 10) Proposed retroactive Agreement with Moss Adams LLP, an independent contractor, for the provision of external auditing services of Kern Medical Center financial statements for the fiscal years ended June 30, 2021, June 30, 2022, and June 30, 2023, from January 1, 2021 through March 31, 2024, in an amount not to exceed \$622,000 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 005-2021
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 11) Proposed retroactive ratification of signature on Certification of Medical Necessity for BD Alaris™ System Infusion Pump – RATIFIED SIGNATURE OF CHIEF EXECUTIVE OFFICE
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

- 12) Proposed Report of Independent Auditors from Moss Adams LLP regarding the audit of Kern Medical Center financial statements for the fiscal year ended June 30, 2020 – STELIAN DAMU AND KIMBERLY SOKOLOFF, MOSS ADAMS LLP, HEARD; RECEIVED AND FILED; REFERED TO KERN COUNTY BOARD OF SUPERVISORS
McLaughlin-Pelz: 5 Ayes; 1 Absent - Brar

- 13) Kern County Hospital Authority financial report – RECEIVED AND FILED
Pelz-McLaughlin: 5 Ayes; 1 Absent - Brar

- 14) Kern County Hospital Authority Chief Executive Officer report –
RECEIVED AND FILED
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

CA

- 15) Claims and Lawsuits Filed as of December 31, 2020 –
RECEIVED AND FILED
Berjis-Pelz: 5 Ayes; 1 Absent - Brar

ADJOURNED TO CLOSED SESSION

Alsop-Pelz

NOTE: DIRECTOR BRAR JOINED THE MEETING AFTER THE VOTE TO 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)) – SEE RESULTS BELOW
- 17) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
(Government Code Section 54956.9(d)(2), (e)(2).) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs – SEE RESULTS BELOW
- 18) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Kern County Hospital Authority, a Governmental entity v. California Department of Corrections and Rehabilitation, et al., Kern County Superior Court Case No. BCV-20-102979 DRL – SEE RESULTS BELOW
- 19) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: President, Hospital and Clinic Operations (Government Code Section 54957) – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION

Alsop-Pelz

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 16 concerning Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD, NO REPORTABLE ACTION TAKEN

Item No. 17 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2), (e)(2).) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs – HEARD, NO REPORTABLE ACTION TAKEN

Item No. 18 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Kern County Hospital Authority, a Governmental entity v. California Department of Corrections and Rehabilitation, et al., Kern County Superior Court Case No. BCV-20-102979 DRL – HEARD, NO REPORTABLE ACTION TAKEN

Item No. 19 concerning PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: President, Hospital and Clinic Operations (Government Code Section 54957) – HEARD, NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, FEBRUARY 17, 2021 AT 11:30 A.M.

Pelz

/s/ Mona A. Allen
Authority Board Coordinator

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



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

February 17, 2021

Subject: Proposed Agreement with James E. Thompson, Inc., doing business as JTS Construction

Recommended Action: Make finding the project is exempt from further CEQA review per sections 15301, 15302 and 15061(b)(3) of state CEQA guidelines; Approve; Authorize Chairman to sign; Authorize the Chief Executive Officer to sign future change orders in an amount not to exceed 10% of the total contract price

Summary:

Kern Medical requests your Board approve the proposed Agreement with James E. Thompson, Inc., doing business as JTS Construction, to provide renovation to existing patient care areas and upgrade five (5) patient rooms and private restrooms, a nurse station, playroom, treatment room, a patient tub room, and the required store rooms, as well as a new staff restroom in the South corridor. A new nurse call system and television upgrades will be complete at both North and South wings.

The Agreement is effective as of February 17, 2021 and construction is anticipated to be completed within 12 months, once construction commences, at a total potential cost of \$1,693,489, which includes future change orders up to 10% of the original contract price of \$1,539,536.

Funding for this project comes from the Grant Agreement with California Health Facilities Financing Authority under the Children's Hospital Bond Act of 2018 (Propositions 4) approved by your Board on November 18, 2020. The Grant was awarded in anticipation of funding projects for the Kern Medical 'Every Kid' program that will include updating and renovating both the inpatient and outpatient pediatric clinical areas.

Therefore, it is recommended that your Board make a finding that the project is exempt from further CEQA review per sections 15301, 15302 and 15061(b)(3) of state CEQA guidelines, approve the Agreement, authorize Chairman to sign, and authorize the Chief Executive Officer to sign future change orders in an amount not to exceed 10% of the total contract price.

DOCUMENT 00500

AGREEMENT

THIS AGREEMENT, dated this 17th day of February, 2021, is by and between James E. Thompson, Inc., dba: JTS Construction whose place of business is located at P.O. Box 41765, Bakersfield, California ("Contractor"), and the KERN COUNTY HOSPITAL AUTHORITY, a local unit of government (hereinafter "Owner and/or Authority"), acting under and by virtue of the authority vested in Owner by the laws of the State of California

WHEREAS, in consideration for the promises and payment to be made and performed by Authority, and under the conditions expressed in the incorporated Bid Proposal (Bid), bonds and related papers, Contractor agrees to do all the work and furnish all the materials at the expense of Contractor (except such as the Specifications state will be furnished by Authority) necessary to construct and complete in a good and workmanlike manner to the satisfaction of the Chief Executive Officer for the Kern County Hospital Authority all the work shown and described in the plans and specifications for the project known as:

4th Floor Pediatric & Postpartum Renovation Phase II (10075)

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Contractor and Owner agree as follows:

ARTICLE 1 - SCOPE OF WORK OF THE CONTRACT

1.01 Work of the Contract

- A. Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents (**Work**).

1.02 Price for Completion of the Work

- A. Owner shall pay Contractor the following Contract Sum **one million five hundred thirty-nine thousand five hundred thirty six dollars (\$1,539,536.00)** for completion of Work in accordance with Contract Documents as set forth in Contractor's Bid, attached hereto.

ARTICLE 2 - COMMENCEMENT AND COMPLETION OF WORK

2.01 Commencement of Work

- A. Contractor shall commence Work on the date established in the Notice to Proceed (**Commencement Date**).
- B. Owner reserves the right to modify or alter the Commencement Date.

2.02 Completion of Work

- A. Contractor shall achieve Final Completion of the entire Work **240 Working Days**, as defined in Document 01422, from the Commencement Date.

ARTICLE 3 - LIQUIDATED DAMAGES FOR DELAY IN COMPLETION OF WORK

3.01 Liquidated Damage Amounts

- A. As liquidated damages for delay Contractor shall pay Owner one thousand dollars (\$1,000.00) for each Calendar Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

3.02 Scope of Liquidated Damages

- A. Measures of liquidated damages shall apply cumulatively.
- B. Limitations and stipulations regarding liquidated damages are set forth in Document 00700 (General Conditions).

ARTICLE 4 - CONTRACT DOCUMENTS

4.01 Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Document 00001	Title Page
Document 00100	Notice to Contractors
Document 00200	Instruction to Bidders
Document 00300	Geotechnical Data and Existing Conditions
Document 00410	Bid Form
Document 00412	Bidder Registration Form
Document 00431	Subcontractors List
Document 00455	Bidder Certifications
Document 00500	Agreement
Document 00501	Proposed Contract Documents Transmittal
Document 00601	Construction Performance Bond
Document 00602	Construction Labor and Material Payment Bond
Document 00603	Guaranty
Document 00590	Release of Claims
Document 00700	General Conditions
Document 00738	Apprenticeship Programs
Document 00800	Supplementary Conditions – Insurance
Master Specifications	Divisions 1 through 16
Drawings	

4.02 There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented as provided in Document 00700 (General Conditions).

ARTICLE 5 – LIABILITY OF AUTHORITY

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

ARTICLE 6 – MISCELLANEOUS

6.01 Terms and abbreviations used in this Agreement are defined in Document 00700 (General Conditions) and Section 01422 (Definitions) and will have the meaning indicated therein.

6.02 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of Owner or acting as an employee, agent, or representative of Owner, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of Owner is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

6.02 In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing

with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time Owner tenders final payment to Contractor, without further acknowledgment by the parties.

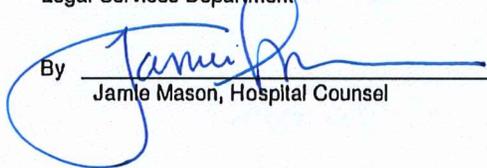
6.03 This project is subject to prevailing wage laws. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at Owner's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §§ 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees. Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

6.04 This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Kern, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Kern.

IN WITNESS WHEREOF the parties have executed seven original Agreements on the day and year first above written.

APPROVED AS TO FORM:
Legal Services Department

KERN COUNTY HOSPITAL AUTHORITY

By 
Jamie Mason, Hospital Counsel

By _____
Russell Bgler, Chairman, Board of Governors
"AUTHORITY"

APPROVED AS TO CONTENT:
KERN MEDICAL HOSPITAL

James E. Thompson, Inc., dba: JTS Construction

Type of Entity - Corporation

By _____
Russell V. Judd, Chief Executive Officer

By 
Signature

By _____
Scott Thygerson, President

Lee Hawkins
Typed Name

President
Title of Individual Executing
Document on behalf of Firm

"CONTRACTOR"

NOTICE: CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND ARE REGULATED BY CONTRACTORS' STATE LICENSE BOARD. QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR OF THAT BOARD, WHOSE ADDRESS IS: CONTRACTORS' STATE LICENSE BOARD, 1020 "N" STREET, SACRAMENTO, CALIFORNIA 95814.

END OF DOCUMENT



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

February 17, 2021

SUBJECT: Proposed Retroactive Amendment No. 1 to Agreement 006-2020 with Neurodiagnostic Workforce LLC

Requested Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed retroactive Amendment No. 1 to Agreement 006-2020 with Neurodiagnostic Workforce LLC, an independent contractor, for neurodiagnostic monitoring services.

This proposed agreement allows for Neurodiagnostic Workforce LLC to provide the non-physician staff, including three full-time EEG technicians and a Chief Technician, perform inpatient and outpatient monitoring services, including routine EEG monitoring services, for continuous monitoring of patients in the ICU, ambulatory and outpatient clinic setting, and epilepsy monitoring unit as well as services 24/7 on an “on-call” basis. These services are vital to the success of our neurosurgery and neurology programs and a critical component of the Epilepsy Monitoring Unit.

Therefore, it is recommended that your Board approve the Agreement with Neurodiagnostic Workforce LLC, for neurodiagnostic monitoring services for the period February 12, 2020 through February 11, 2021, extending the term for one year from February 12, 2021 through February 11, 2022, and increasing the maximum payable by \$376,000, from \$376,000 to \$752,000 to cover the extended term, and authorize the Chairman to sign.

**AMENDMENT NO. 1
TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Neurodiagnostic Workforce LLC)**

This Amendment No. 1 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2021, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Neurodiagnostic Workforce LLC, a California limited liability company (“Contractor”), with its principal place of business located at 11604 Crabbet Park Drive, Bakersfield, California 93311.

RECITALS

(a) Authority and Contractor have heretofore entered into an Agreement for Professional Services (Agt. #006-2020, dated April 3, 2020) (“Agreement”), for the period February 12, 2020 through February 11, 2021, for neurophysiological monitoring and EEG technician support at KMC; and

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

(c) The Agreement is amended effective February 12, 2021;

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 1, Term, shall be deleted in its entirety and replaced with the following:

“1. **Term.** This Agreement shall be effective and the term shall commence as of February 12, 2020 (the “Effective Date”), and shall end February 11, 2022, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.”

2. Section 4, Payment for Services, paragraph 4.2, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“4.2 **Maximum Payable.** The maximum payable under this Agreement shall not exceed \$752,000 over the two-year term of this Agreement.”

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

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

5. 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.

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

[Signatures follow on next page]

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

NEURODIAGNOSTIC WORKFORCE LLC

By 

Adora Calistro
Its Managing Member

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority



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

February 17, 2021

Subject: Proposed Agreement with Arturo Gomez, M.D., a contract employee, for professional medical services in the Department of Surgery, Division of Orthopedic Surgery

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical recommends your Board approve an agreement with Arturo Gomez, M.D., a contract employee, for professional medical services in the Department of Surgery. Dr. Gomez, who is trained as an orthopedic trauma surgeon, has been employed full-time by Kern Medical since 2005, and serves as the Chief, Division of Orthopedic Surgery.

The proposed agreement is for a term of three years from March 16, 2021 through March 15, 2024. The maximum payable not to exceed amount of the agreement is \$3,690,000 over the three-year term of the Agreement.

Dr. Gomez's annual salary is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey for specialty and represents the reasonable fair market value compensation for the services provided. Dr. Gomez's annual compensation is comprised of: (i) a base salary for teaching and administrative duties as Chief, Division of Orthopedic Surgery in the amount of \$55,824 per year; (ii) payment for care of Kern Medical patients based on his productivity; and, (iii) excess call coverage that exceeds one in four weekdays and weekends. Dr. Gomez will continue to receive the same complement of benefits, including eligibility to participate in the physicians' pension plan, health care coverage, vacation and sick leave, education days and CME reimbursement, and the option to elect voluntary benefits at no cost to Kern Medical.

Therefore, it is recommended that your Board approve the agreement with Dr. Gomez for professional medical services in the Department of Surgery, Division of Orthopedic Surgery from March 16, 2021 through March 15, 2024, in an amount not to exceed \$3,690,000, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Arturo Gomez, M.D.)**

This Agreement is made and entered into this ____ day of _____, 2021, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Arturo Gomez, M.D. (“Physician”).

**I.
RECITALS**

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

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

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

(d) Authority currently contracts with Physician as a contract employee for the provision of professional medical and administrative services in the Department (Agt. #008-2018, dated February 21, 2018), for the period March 16, 2018 through March 15, 2021; and

(e) Each party expressly understands and agrees that Agt. #008-2018 is superseded by this Agreement as of the Commencement Date;

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

**II.
TERMS AND CONDITIONS**

1. **Term.** The term of this Agreement (“Term”) shall be for a period of three (3) years, commencing as of March 16, 2021 (the “Commencement Date”), and shall end March 15, 2024 (the “Term”), unless earlier terminated pursuant to other provisions of this Agreement as herein stated. This Agreement may be renewed for additional terms, but only upon mutual written agreement of the parties. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.

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

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

4. **Obligations of Physician.**

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

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

4.3 **Qualifications.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. **Compensation Package.**

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

5.1.1 Annual Salary – March 16, 2021 through March 15, 2023. Authority shall pay Physician an Annual Salary comprised of the following: (i) a base salary for teaching and administrative services as Chief, Division of Orthopedic Surgery in the amount of \$55,824 per year; and (ii) payment for care of KMC patients using the current Medical Group Management Association Physician Compensation and Production Survey ("MGMA Survey") using the full time physician compensation with more than one year in the specialty for all physicians section. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the worked relative value unit ("Worked RVU") in that category. Physician will be compensated for each Worked RVU at the rate of \$69.74 ("RVU Effort").

5.1.2 Annual Salary – March 16, 2023 through March 15, 2024. Authority shall pay Physician an Annual Salary comprised of (i) a base salary for teaching and administrative services as Chief, Division of Orthopedic Surgery based on the actual number of documented hours for assigned teaching and administrative duties multiplied by the current MGMA Survey academic compensation rate of pay per hour and (ii) payment for care of KMC patients using the MGMA Survey physician compensation with more than one year in the specialty for all physicians section. This section is divided into four categories: 25th percentile, median, 75th percentile and 90th percentile. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the worked relative value unit ("Worked RVU") in that category. Physician will be compensated for each Worked RVU by multiplying the Worked RVU by the lowest conversion factor (25th percentile) for each KMC patient ("RVU Effort").

1) Time Logs. Physician shall, on a monthly basis on or before the fifth (5th) day of each calendar month during the Term of this Agreement, submit to KMC a written time log in the form attached hereto and incorporated herein as Exhibit "C," detailing to KMC's satisfaction the date, time, actual number of hours, and description of activities related to assigned teaching and administrative duties during the immediately preceding calendar month.

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

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

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

5.2 Excess Call Coverage. Authority shall pay Physician for call coverage as follows: (i) Physician shall be paid the greater of a fixed fee amount of \$2,500 or the Worked RVU per 24-hour day for weekend² call coverage that exceeds one weekend per month; and (ii) Physician shall be paid the greater of a fixed fee amount of \$2,500 or the Worked RVU per 24-hour day for weekday³ call coverage that exceeds one in four weekdays. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

² For purposes of weekend call coverage, a "weekend" is defined as Friday at 5:00 p.m. to Monday at 7:00 a.m. or, in the event of a holiday, Thursday at 5:00 p.m. to Monday at 7:00 a.m. or Friday at 5:00 p.m. to Tuesday at 7:00 a.m.

³ For purposes of weekday call coverage, a "weekday" is defined as Monday through Thursday or, in the event of a holiday, Tuesday through Thursday.

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

5.4 Professional Fee Billing.

5.4.1 Assignment. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Physician at the Practice sites during the Term of this Agreement. All professional fees generated by Physician for services rendered at the Practice Sites during the Term of this Agreement, including without limitation, both cash collections and accounts receivable, capitated risk pool fees, professional retainer fees, honoraria, professional consulting and teaching fees, and fees for expert testimony (but excluding Physician's private investment and nonprofessional income, intellectual property developed or work on similar development projects prior to the Commencement Date, and industry consulting, which includes honoraria, cadaver labs, and professional speaking, expert witness, and teaching fees), will be the sole and exclusive property of KMC, whether received by KMC or by Physician and whether received during the Term of this Agreement or anytime thereafter. Physician hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

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

5.4.3 Non-physician Medical Practitioners. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all billable services provided by non-physician medical practitioners (defined as physician assistants, nurse practitioners, and nurse midwives; pharmacists and all other allied health professionals are specifically excluded from the definition of non-physician medical practitioners) employed by Authority during the Term of this Agreement. KMC will pay Physician for supervision of physician assistants, nurse practitioners, and nurse midwives at 30% of professional fee net collections for supervision of direct patient care provided by these specific non-physician medical practitioners.

5.5 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$3,690,000 over the three-year Term of this Agreement.

6. **Benefits Package.**

6.1 Retirement. Physician shall continue to participate in the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the "Plan"), a qualified defined

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

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

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

6.4 Vacation. Physician shall retain his vacation leave credit balance, if any, as of the Commencement Date. Effective with the Commencement Date, Physician shall be entitled to vacation leave subject to Authority policy, as amended from time to time. Physician shall be paid for accrued and unused vacation leave, if any, upon termination or expiration of this Agreement calculated at Physician's current hourly rate (i.e., current Annual Salary divided by 2080 hours = hourly rate). All payments made by Authority to Physician under this paragraph will be subject to all applicable federal and state taxes and withholding requirements.

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

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

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

6.8 Flexible Spending Plan. Physician shall be eligible to participate in flexible spending plans to pay for dependent care, non-reimbursed medical expenses, and certain

insurance premiums on a pre-tax basis through payroll deduction. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

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

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

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

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

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

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

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

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

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

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

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

11. **Choice of Law/Venue.** This Agreement shall be construed and enforced under and in accordance with the laws of the state of California, with venue of any action relating to this Agreement in the County of Kern, state of California.
12. **Compliance with Law.** Physician shall observe and comply with all applicable Authority, local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.
13. **Confidentiality.** Physician shall maintain confidentiality with respect to information that he receives in the course of his employment and not use or permit the use of or disclose any such information in connection with any activity or business to any person, firm or corporation whatsoever, unless such disclosure is required in response to a validly issued subpoena or other process of law or as required by Government Code section 6250 et seq. Upon completion of the Agreement, the provisions of this paragraph shall continue to survive.
14. **Conflict of Interest.** Physician covenants that he has no interest and that he will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law (Gov. Code, § 81000 et seq.) or that would otherwise conflict in any manner or degree with the performance of his services hereunder. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may immediately terminate this Agreement by giving written notice thereof.
15. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
16. **Dispute Resolution.** In the event of any dispute involving the enforcement or interpretation of this Agreement or any of the rights or obligations arising hereunder, the parties shall first attempt to resolve their differences by mediation before a mediator of their mutual selection. If the parties are, after mutual good faith efforts, unable to resolve their differences by mediation, the dispute shall be submitted for trial before a privately compensated temporary judge appointed by the Kern County Superior Court pursuant to Article VI, section 21 of the California Constitution and Rules 3.810 through 3.830 of the California Rules of Court. All costs of any dispute resolution procedure shall be borne equally by the parties.
17. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to Authority is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
18. **Indemnification.** Authority shall assume liability for and indemnify and hold Physician harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Physician or for which Physician becomes liable, arising out of or

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

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

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

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

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

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

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

Notice to Physician:

Arturo Gomez, M.D.
7905 Avenida Derecho
Bakersfield, California 93309

Notice to Authority:

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

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

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

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

28. **Termination.**

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

28.2 **Immediate Termination.** Notwithstanding the foregoing, Authority may terminate this Agreement immediately by written notice to Physician upon the occurrence of any of the following events: (i) Authority determines that Physician does not have the proper credentials, experience, or skill to perform the required services under this Agreement; (ii) Authority determines the conduct of Physician in the providing of services may result in civil, criminal, or monetary penalties against Authority or KMC; (iii) Physician violates any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or Practice Sites is subject; (iv) Physician engages in the commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty against Authority or KMC; (v) the actions of Physician result in the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal; (vi) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or

other restriction; (vii) Physician's medical staff privileges are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (viii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (ix) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (x) Physician fails to make a timely disclosure pursuant to paragraph 4.4; (xi) Physician engages in conduct that, in the sole discretion of Authority, is detrimental to patient care or to the reputation or operations of Authority and/or KMC, which conduct persists for five (5) business days after written notice to Physician; (xii) Physician breaches the confidentiality provisions of this Agreement; (xiii) Physician dies; (xiv) Physician fails to follow Authority's policies and procedures and other rules of conduct applicable to all employees of Authority, including without limitation, policies prohibiting sexual harassment, which failure persists for five (5) business days after written notice to Physician; or (xv) Physician breaches any covenant set forth in paragraph 4.11.

29. **Effect of Termination.**

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

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

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

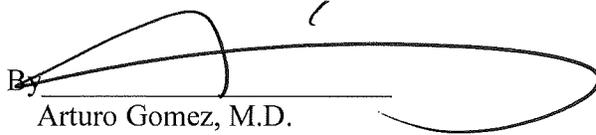
29.4 **No Hearing Rights.** Termination of this Agreement by Authority or KMC for any reason shall not provide Physician the right to a fair hearing or the other rights more particularly set forth in the KMC medical staff bylaws.

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

[Signatures follow on next page]

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

PHYSICIAN

By 
Arturo Gomez, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

EXHIBIT “A”
JOB DESCRIPTION
Arturo Gomez, M.D.

Position: Chief, Division of Orthopedic Surgery.

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

Essential Functions:

1. Clinical Responsibilities.

- Provides service and improves efficiency for orthopedic clinic activities
- Provides service and improves efficiency orthopedic surgery cases
- Provides faculty call coverage for acute trauma and fresh fracture call coverage

2. Administrative Responsibilities.

- Serves as Chief, Division of Orthopedic Surgery
- Leads clinical and administrative integration efforts across KMC as appropriate for orthopedic surgery ensuring proper program planning, surgeon recruitment and faculty development, resource allocation, analysis, communication and assessment
- Gathers data through best practices and collaborates with other members of the Department to recommend services that will increase productivity, minimize duplication of services, increase workflow efficiency, and provide the highest quality of care to KMC patients
- Prepares, monitors, reviews, and ensures performance of orthopedic budget and clinical activity
- Oversees the management of the QA divisional work; ensures the orthopedic service is monitored and evaluated for quality and appropriateness of care, and that opportunities for continuous improvements are regularly reviewed and implemented
- Supports the Department chair with development of monitoring tools to measure financial, access, quality and satisfaction outcomes for orthopedic surgery

3. Teaching Responsibilities.

- Provides didactic teaching and KMC resident education
- Sets goals and expectations for orthopedic surgery medical student rotations

4. Clinical Assignments.

- Operating room – three (3) full days per week
- Clinic – one (1) day per week, two (2) clinic sessions per day
- Call coverage – one (1) day per week and one (1) weekend per month

Employment Standards:

One (1) year of post-residency experience in orthopedic surgery

AND

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

AND

Certification by the American Board of Orthopaedic Surgery in orthopedic surgery-general

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

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

[Intentionally left blank]

EXHIBIT "B"
AUTHORIZATION TO RELEASE INFORMATION

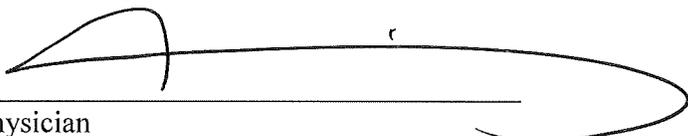
[See attached]

AUTHORIZATION TO RELEASE INFORMATION

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

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

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

 _____
Physician

2/4/2021
_____ Date

**EXHIBIT “C”
TIME LOG FORM**

[See attached]

TIME LOG FORM

Physician Name

Signature / Date

Department

Month / Year of Service

Total Hours / Month

Services Provided (please list specific activity performed)

Date

Hours

1. Medical Staff CME Activities

2. Hospital Staff Education and Training

3. Clinical Supervision

4. Quality Improvement Activities (committees, case review, etc.)

5. Administration Activities

6. Community Education

7. Medical Management Activities

8. Compliance Activities

9. Other Services



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

February 17, 2021

Subject: Proposed Amendment No. 1 to Agreement 017-2020 with Eugene H. Roos, D.O.

Recommended Action: Approve, Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve an Agreement with Eugene H. Roos, D.O., an independent contractor, for professional medical services in the Department of Radiology. Dr. Roos will provide remote radiology reading services on a permanent basis for Kern Medical.

Dr. Roos has provided radiology services at Kern Medical as an independent contractor since December of 2008. Kern Medical continues to require the services of Dr. Roos to provide scheduled and as-needed coverage in the Department and both parties have agreed to the terms of the one-year agreement.

Therefore, it is recommended that your Board approve the Agreement with Eugene H. Roos, D.O., an independent contractor, for professional medical services in the Department of Radiology, for the period April 1, 2020 through March 31, 2021, extending the term for one year from April 1, 2021 through March 31, 2022 and increasing the maximum payable by \$375,000, from \$375,000 to \$775,000, to cover the extended term, and authorize the Chairman to sign.

**AMENDMENT NO. 1
TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Eugene H. Roos, D.O.)**

This Amendment No. 1 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2021, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Eugene H. Roos, D.O., a sole proprietor (“Contractor”), whose principal place of business is located at 31562 Wildwood Road, Laguna Beach, California 92651.

RECITALS

(a) Authority and Contractor have heretofore entered into an Agreement for Professional Services (Agt. #017-2020, dated April 15, 2020) (“Agreement”), for the period April 1, 2020 through March 31, 2021, for professional medical services in the Department of Radiology at KMC; and

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

(c) The Agreement is amended effective April 1, 2021;

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 1, Term, shall be deleted in its entirety and replaced with the following:

“1. **Term.** This Agreement shall be effective and the term shall commence as of April 1, 2020 (the “Effective Date”), and shall end March 31, 2022, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.”

2. Section 4, Payment for Services, paragraph 4.2, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“4.2 **Maximum Payable.** The maximum payable under this Agreement shall not exceed \$775,000 over the two-year term of this Agreement.”

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

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

5. 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.

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

[Signatures follow on next page]

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

CONTRACTOR

By 
Eugene H. Roos, D.O.

Date: Feb 9, 2021

KERN COUNTY HOSPITAL AUTHORITY

By _____
Russell V. Judd
Chief Executive Officer

Date: _____

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Date: _____

Amend1.Roos.012921



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

February 17, 2021

Subject: Proposed Amendment No. 3 to Clinical Workflow Solutions Purchase and License Master Agreement with Hill-Rom Company, Inc. (“Hill-Rom”)

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Amendment No. 3 to the Agreement with Hill-Rom for the annual services of the 2C Nurse Call system, to include software upgrades, technical support, preventive maintenance and any system configurations needed to accommodate the connection of the new Nurse Call system being installed on 2nd Floor C Wing.

On November 17, 2016, the Agreement with Hill-Rom was executed to provide nurse call devices and services for the 2nd Floor C Wing project. On February 15, 2017, Amendment No. 1 was executed for the Nurse Call system for the 3rd Floor D Wing; however, no work has been initiated or funds spent relating to Amendment No. 1 as we continue to use the Nurse Call system currently in place. On November 18, 2020, Amendment No. 2 was executed for the Nurse Call system for the 4th Floor C Wing project.

Payment for Services	Previous Agreements	Proposed Agreement
Nurse Call 2nd Floor C Wing (original agreement)	\$173,916	
Nurse Call 3rd Floor D Wing (Amendment No. 1; no work initiated or funds spent)	\$265,000	
Nurse Call 4th Floor C Wing (Amendment No. 2)	\$207,192	
Nurse Call 2nd Floor C Wing Service Agreement (Amendment No. 3)		\$10,929

Therefore, it is recommended, that your Board approve Amendment No. 3 to the Agreement with Hill-Rom Company, Inc., effective February 17, 2021, for annual services of the 2nd Floor C Wing Nurse Call system, in the amount of \$10,929, with a total project cost not to exceed \$657,037, and authorize the Chairman to sign.

**AMENDMENT NO. 3 TO THE
CLINICAL WORKFLOW SOLUTIONS PURCHASE AND LICENSE
MASTER AGREEMENT
(Kern County Hospital Authority – Hill-Rom Company, Inc.)**

This Amendment No. 3 to the Clinical Workflow Solutions Purchase and License Master Agreement (“Amendment No. 3”) is entered into this 17th day of February 2021, by and between Hill-Rom Company, Inc., an Indiana Corporation, with offices at 1225 Crescent Green, Suite 300, Cary, North Carolina 27518 (“Hill-Rom”), and the Kern County Hospital Authority, a local unit of government, which owns and operates Kern Medical Center (“Customer”).

RECITALS

A. Hill-Rom and Customer have heretofore entered into a Clinical Workflow Solutions Purchase and License Master Agreement (Customer Agt. #27716PA, dated November 17, 2016), to provide Clinical Workflow Solutions Products and Services to Customer for the Nurse Call System located on the Second Floor of C Wing; Amendment No. 1 (Customer Agt. #HA 2017-021, dated February 15, 2017) to complete the phased installation of the New Nurse Call System located on the Third Floor of the D Wing; and Amendment No. 2 (Customer Agt. #HA 053-2020, dated November 18, 2020) to complete the phased installation of the New Nurse Call System located on the Fourth Floor of the C Wing; and

B. Customer requires additional services to complete the phased installation of the Nurse Call System located on the Second Floor of C Wing; and

C. Hill-Rom has agreed to provide such products and services as necessary to complete this project; and

D. The services and products needed to complete the Second Floor C Wing Nurse project, as outlined in Appendix #4, will increase by \$10,928.17 with a maximum not to exceed of 184,843.42; in addition to the cost of the Fourth Floor C Wing Nurse Call System which has a maximum not to exceed of \$207,191.39; and in addition to the cost of the Third Floor D Wing Nurse Call System which has a maximum not to exceed of \$265,000.00; and

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

G. The Agreement is amended effective February 17, 2021;

[Intentionally Left Blank]

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. Appendix #4

Appendix #4, Proposal Number CRYQ6405-01, to Amendment No. 3 is added to the Agreement and incorporated herein by this reference.

2. Except as otherwise defined herein, all capitalized terms used in this Amendment No. 2 have the meaning set forth in the Agreement.

3. This Amendment No. 3 shall be governed by and construed in accordance with the laws of the state of California.

4. This Amendment No. 3 may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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

IN WITNESS TO THE FOREGOING, the Parties have executed this Amendment No. 3 as of the day and year first written above.

KERN COUNTY HOSPITAL AUTHORITY

HILL-ROM COMPANY, INC.

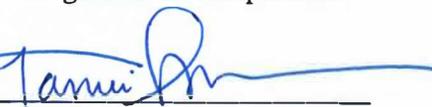
By _____
Russell Bigler
Chairman, Board of Governors

DocuSigned by:
Sheya Hummin
By _____
Printed Name: Sheya Hummin
Reason: I approve this document
Signing Time: 2/9/2021 8:24:07 AM PST
Title/Position: VP Sales
3917D7567F9147116C2959802FF962BD

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

APPROVED AS TO FORM:
KCHA Legal Services Department

By _____
Scott Thygerson
President, Hospital and Clinic Operations

By 
Jamie A. Mason
Hospital Counsel



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

February 17, 2021

Subject: Proposed Product Sale Agreement with Medtronic USA, Inc. (“Medtronic”) for purchase of implantable cardiac devices

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical is requesting your Board approve the proposed Agreement with Medtronic for the purchase of pacemakers, implantable cardioverter-defibrillators (ICD) and other cardiac devices for patient procedures in the Cardiac Catheterization Lab. The Agreement is for a two-year term, effective February 17, 2021, with an amount not to exceed \$3,000,000.

As part of our cost containment efforts, Kern Medical reached out to Medtronic to review opportunities for enhanced savings opportunities on implantable devices. Medtronic was able to provide discounted pricing to Kern Medical as part of their tiered pricing program which provides discounted pricing so long as 90% of these contracted items are purchased through Medtronic plus one additional vendor. Our previous agreement had a similar provision providing slightly less of a discount to purchase 80% of the contracted items solely through Medtronic.

The devices purchased through this Agreement are primarily for non-emergent procedures, which require prior authorization to ensure insurance coverage. Our current arrangement with health plans provides for reimbursement of these high-cost implants, similar to surgeries performed in the operating room. Utilization of these products is driven solely by the procedures performed and there is no minimum purchase commitment that would obligate Kern Medical to expend funds in the absence of a procedure.

Therefore, it is recommended that your Board approve the proposed Agreement with Medtronic for purchase of implantable cardiac devices from February 17, 2021 through February 16, 2023, in an amount not to exceed \$3,000,000, and authorize the Chairman to sign.

Medtronic

Medtronic Product Sale Agreement
CRHF Products
Customer Number:1106512

Medtronic USA, Inc.
8200 Coral Sea Street NE
Mounds View, MN 55112
("Medtronic")

Kern County Hospital Authority
1700 Mt Vernon Ave
Bakersfield, CA 93306
("Customer")

September 29, 2020

Medtronic offers to sell those certain Medtronic products identified in the attached Medtronic Products & Pricing Exhibit (each a "Medtronic Product" and, collectively, the "Medtronic Products") to Customer in accordance with the terms and conditions of this Medtronic Product Sale Agreement (the "Agreement"). This Agreement, including the following attachments, shall constitute the entire agreement between Medtronic and Customer (together, each a "Party" and, collectively, the "Parties" hereunder) for purchase of the Medtronic Products:

- Exhibit A (Medtronic Products and Pricing)
- Exhibit B (Pricing Discount Opportunities)
- Exhibit C (Terms and Conditions of Sale)
- Exhibit D (Medtronic Additional Terms)

By signing below, the Parties indicate their agreement to be bound by the terms and conditions outlined in this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and which together shall constitute one and the same Agreement. Medtronic reserves the right to withdraw this offer upon written notice to Customer at any time prior to Customer's proper execution of an unmodified version of this Agreement.

This Agreement will be effective on the date that it has been properly executed by both Parties ("Effective Date").

MEDTRONIC:

MEDTRONIC USA, INC.



Signature

Johnny Kroehle

Print Name

Contract Analyst

Title

February 4, 2021

Date Signed

CUSTOMER:

KERN COUNTY HOSPITAL AUTHORITY

Signature

Russell Bigler

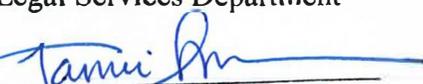
Print Name

Chairman, Board of Governors

Title

Date Signed

APPROVED AS TO FORM
Legal Services Department

By 
Kern County Hospital Authority

**EXHIBIT A
MEDTRONIC PRODUCTS AND PRICING**

BRADY - SYSTEM PRICING*					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
<i>Dual Chamber MR Conditional Safe Pacemaker Systems</i>					
Azure XT DR MRI	AZUREXTDRMRIMEEM	EA	\$21,900.00	\$5,564.00	\$5,200.00
Azure S DR MRI	AZURESDMRIMEEM	EA	\$20,900.00	\$5,194.00	\$4,900.00
Attesta DR MRI	ATTESTADMRIMEEM	EA	\$17,900.00	\$4,611.00	\$4,350.00
<i>Single Chamber MR Conditional Safe Pacemaker Systems</i>					
Azure XT SR MRI	AZUREXTSRMRIMEEM	EA	\$16,700.00	\$4,452.00	\$4,200.00
Azure S SR MRI	AZURESSMRIMEEM	EA	\$15,700.00	\$4,240.00	\$4,000.00
Attesta SR MRI	ATTESTASMRIMEEM	EA	\$14,700.00	\$4,028.00	\$3,800.00

* DR MR-Conditional System Includes: 1 MR-Conditional Device, 2 MR-Conditional Bradycardia Leads, and Standard Accessories

* SR MR-Conditional System Includes: 1 MR-Conditional Device, 1 MR-Conditional Bradycardia Lead, and Standard Accessories

* DR System Includes: 1 Bradycardia Device, 2 Bradycardia Leads, and Standard Accessories

* SR System Includes: 1 Bradycardia Device, 1 Bradycardia Lead, and Standard Accessories

BRADY DEVICES					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
<i>Dual Chamber MR Conditional Safe Pacemakers</i>					
Azure XT DR MRI	W1DR01	EA	\$18,000.00	\$4,659.85	\$4,355.00
Azure S DR MRI	W3DR01	EA	\$17,000.00	\$4,298.30	\$4,055.00
Attesta DR MRI	ATDR01	EA	\$14,000.00	\$3,604.00	\$3,400.00
Attesta DR MRI Small	ATDRS1	EA	\$14,000.00	\$3,604.00	\$3,400.00
Attesta DR MRI Longevity	ATDRL1	EA	\$14,000.00	\$3,604.00	\$3,400.00
<i>Single Chamber MR Conditional Pacemakers</i>					
Azure XT SR MRI	W1SR01	EA	\$15,000.00	\$4,028.00	\$3,800.00
Azure S SR MRI	W3SR01	EA	\$14,000.00	\$3,816.00	\$3,600.00
Attesta SR MRI	ATSR01	EA	\$13,000.00	\$3,604.00	\$3,400.00

BRADY LEADS					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
<i>MR Conditional Safe Pacing Lead</i>					
CapSure Fix Novus Lead 5076	407635, 407645, 407652, 407658, 407665, 407685, 5076-35, 5076-45, 5076-52, 5076-58, 5076-65, 5076-85	EA	\$1,200.00	\$520.00	\$520.00
CapSure Sense Lead	407452, 407458, 457445, 457453	EA	\$1,100.00	\$515.00	\$515.00

Premium Pacing Leads						
CapSure Fix Novus Lead 5076	407625, 4076110, 5076110	EA	\$1,200.00	\$520.00	\$520.00	
CapSure Sense Lead	407445, 407465, 407485	EA	\$1,100.00	\$515.00	\$515.00	
Standard Pacing Leads						
CapSure Fix Screw-In Lead	5568-45, 5568-53	EA	\$975.00	\$515.00	\$515.00	
CapSure SP Novus Leads	4092-52, 4092-58, 4592-45, 4592-53, 5092-52, 5092-58, 5592-53	EA	\$1,025.00	\$515.00	\$515.00	
CapSure SP Novus Lead 5594	559445, 559458	EA	\$1,075.00	\$520.00	\$520.00	
Specialty Pacing Leads						
CapSure VDD2 Lead 5038	5038L-65, 5038S-52, 5038S-58, 5038-58, 5038-65	EA	\$1,595.00	\$590.00	\$590.00	
CapSure EPI 4968 Lead	4968-25, 4968-35, 4968-60	EA	\$1,400.00	\$590.00	\$590.00	
CapSure EPI Lead 4965	4965-15, 4965-25, 4965-35, 4965-50	EA	\$1,100.00	\$590.00	\$590.00	
Epicardial Screw-In Lead 5071	5071-15, 5071-25, 5071-35, 5071-53	EA	\$900.00	\$520.00	\$520.00	

TACHY - SYSTEM PRICING*						
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1	
MRI Conditional Safe Dual Chamber ICD Systems						
Crome DR	CROMEDRMRIEMEM	EA	\$47,800.00	\$16,960.00	\$16,000.00	
Evera MRI S DR	EVERAMRISDRMEM	EA	\$47,800.00	\$15,889.40	\$14,990.00	
Primo MRI DR	PRIMOMRIDRMEM	EA	\$47,200.00	\$14,718.10	\$13,885.00	
MRI Conditional Safe Single Chamber ICD Systems						
Visia AF MRI VR	VISIAAFMRIEMEM	EA	\$47,500.00	\$15,900.00	\$15,000.00	
Crome VR	CROMEVRMRIEMEM	EA	\$45,500.00	\$15,370.00	\$14,500.00	
Primo MRI VR	PRIMOMRIVREMEM	EA	\$43,500.00	\$13,250.00	\$12,500.00	

* MR-Conditional Conditional DR System Includes: 1 MR-Conditional Tachyarrhythmia Device, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional RV Lead, and Standard Accessories

* MR-Conditional VR System Includes: 1 MR-Conditional Tachyarrhythmia Device, 1 MR-Conditional RV Lead, and Standard Accessories

* DR System Includes: 1 Tachyarrhythmia Device, 1 Bradycardia Lead, 1 RV Lead, and Standard Accessories

*VR System Includes: 1 Tachyarrhythmia Device, 1 RV Lead, and Standard Accessories

TACHY DEVICES						
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1	
MR Conditional Safe Dual Chamber ICDs						
Crome DR	DDPC3D1, DDPC3D4	EA	\$37,500.00	\$13,250.00	\$12,500.00	
Evera MRI S DR	DDMC3D1, DDMC3D4	EA	\$37,500.00	\$12,084.00	\$11,400.00	
Primo MRI DR	DDMD3D1, DDMD3D4	EA	\$36,000.00	\$11,018.70	\$10,395.00	
MR Conditional Safe Single Chamber ICDs						
Visia AF MRI VR	DVFB1D1, DVFB1D4	EA	\$37,500.00	\$12,810.10	\$12,085.00	
Crome VR	DVPC3D1, DVPC3D4	EA	\$37,000.00	\$12,481.50	\$11,775.00	
Primo MRI VR	DVMD3D1, DVMD3D4	EA	\$35,000.00	\$10,598.94	\$9,999.00	

TACHY LEADS					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
MR Conditional Safe Tachy Lead					
Sprint Quattro Secure RV 6947M	6947M49, 6947M55, 6947M62, 6947M72, 6947M97	EA	\$8,500.00	\$4,200.00	\$4,200.00
Sprint Quattro Secure RV 6946M	6946M55, 6946M62, 6946M72, 6946M97	EA	\$8,500.00	\$4,200.00	\$4,200.00
Sprint Quattro Secure S Lead 6935M	6935M49, 6935M55, 6935M62, 6935M72, 6935M97	EA	\$8,500.00	\$4,200.00	\$4,200.00
Tachy Leads					
Sprint Quattro Secure RV 6947	694758, 694765, 694775, 6947100	EA	\$8,500.00	\$4,200.00	\$4,200.00
Sprint Quattro RV Lead 6944	6944-58, 6944-65, 6944-75	EA	\$8,500.00	\$4,200.00	\$4,200.00
Sprint Quattro Secure S Lead 6935	693552, 693558, 693565, 693575, 6935100	EA	\$8,500.00	\$4,200.00	\$4,200.00

CARDIAC RESYNCHRONIZATION THERAPY - SYSTEM PRICING*					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
MR Conditional Safe CRT ICD Quadpole Systems					
Crome Quad CRT-D (w/ Stability LV Lead)	CROMEMRIQDCRTMMSM	EA	\$72,650.00	\$25,832.20	\$24,370.00
Compia MRI Quad CRT-D (w/ Stability LV Lead)	COMPIAMRIQDCRTMMSM	EA	\$69,850.00	\$20,532.20	\$19,370.00
Crome Quad CRT-D (w/ Performa LV Lead)	CROMEMRIQDCRTMMQM	EA	\$71,800.00	\$25,440.00	\$24,000.00
Compia MRI Quad CRT-D (w/ Performa LV Lead)	COMPIAMRIQDCRTMMQM	EA	\$69,900.00	\$20,140.00	\$19,000.00
MR Conditional Safe CRT ICD Systems					
Crome CRT-D (w/ Attain LV Lead)	CROMEMRICRTMMAM	EA	\$69,500.00	\$24,910.00	\$23,500.00
Compia MRI CRT-D (w/ Attain LV Lead)	COMPIAMRICRTDMMAM	EA	\$68,400.00	\$19,610.00	\$18,500.00
MR Conditional Safe CRT IPG Quadpole Systems					
Solara MRI Quad CRT-P (w/ Stability LV Lead)	SOLARAMRIQDMMMSM	EA	\$23,050.00	\$11,181.94	\$10,549.00
Solara MRI Quad CRT-P (w/ Performa LV Lead)	SOLARAMRIQDMMQM	EA	\$22,200.00	\$10,789.74	\$10,179.00
MR Conditional Safe CRT IPG Systems					
Solara MRI CRT-P (w/ Ability LV Lead)	SOLARAMRIMMAM	EA	\$21,700.00	\$10,789.74	\$10,179.00

* MR-Conditional CRT-DQuad Stability System Includes: 1 MR-Conditional Quad CRT-D Device, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional Stability Left Heart LV Lead, and Standard Accessories

* MR-Conditional CRT-DQuad Performa System Includes: 1 MR-Conditional Quad CRT-D Device, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional Performa Left Heart LV Lead, and Standard Accessories

* MR-Conditional CRT-D Advanced System Includes: 1 MR-Conditional CRT-D Device, 1 MR-Conditional Ability Left Heart LV Lead, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead and Standard Accessories

* MR-Conditional CRT-PQuad Stability System Includes: 1 MR-Conditional Quad CRT-P Device, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional Stability Left Heart LV Lead, and Standard Accessories

* MR-Conditional CRT-PQuad Performa System Includes: 1 MR-Conditional Quad CRT-P Device, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional Performa Left Heart LV Lead, and Standard Accessories

* MR-Conditional CRT-PPremium System Includes: 1 MR-Conditional CRT-P Device, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional Starfix Left Heart LV Lead and Standard Accessories

* MR-Conditional CRT-P Advanced System Includes: 1 MR-Conditional CRT-P Device, 1 MR-Conditional RV Lead, 1 MR-Conditional Bradycardia Lead, 1 MR-Conditional Ability Left Heart LV Lead and Standard Accessories

CARDIAC RESYNCHRONIZATION THERAPY DEVICES					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
MR Conditional Safe CRT ICD Quadpole					
Crome Quad CRTD	DTPC2QQ, DTPC2Q1	EA	\$53,900.00	\$19,504.00	\$18,400.00
Compia MRI Quad CRT-D	DTMC1QQ	EA	\$52,200.00	\$15,476.00	\$14,600.00
MR Conditional Safe CRT ICD					
Crome CRTD	DTPC2D4, DTPC2D1	EA	\$51,600.00	\$19,292.00	\$18,200.00
Compia MRI CRT-D	DTMC1D1	EA	\$51,200.00	\$15,423.00	\$14,550.00
MR Conditional Safe CRT IPG Quadpole					
Solara MRI Quad CRT-P	W4TR03	EA	\$16,000.00	\$8,432.30	\$7,955.00
MR Conditional Safe CRT IPG					
Solara MRI CRT-P	W1TR03	EA	\$15,500.00	\$8,432.30	\$7,955.00

CRT LEADS					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
MR Conditional Quadpole LV Lead					
Attain Stability™ Quadpole Lead	479878, 479888	EA	\$6,850.00	\$4,085.00	\$4,085.00
Attain Performa™ Quadpole Lead	429878, 429888, 439878, 439888, 459878, 459888	EA	\$6,000.00	\$3,715.00	\$3,715.00
MR Conditional Attain Ability LV Lead					
Attain Ability 4196	419678, 419688	EA	\$3,800.00	\$2,000.00	\$2,000.00
Attain Ability Plus 4296	429678, 429688	EA	\$3,800.00	\$2,000.00	\$2,000.00
Attain Ability Straight 4396	439678, 439688	EA	\$3,800.00	\$2,000.00	\$2,000.00

CRHF Lead Delivery Systems and Standard Accessories					
PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
Lead Delivery Systems					
Attain Deflectable Cath System	6227DEF04	EA	\$700.00	\$630.00	\$560.00
6250VC/6250VS Attain Command System	6250VC, 6250VS	EA	\$935.00	\$799.00	\$748.00
CRHF Standard Accessories					
DF1 Epicardial Patches	6721S-50, 6721M-50, 6721L-50	EA	\$1,000.00	\$900.00	\$800.00
5846A/V Disposable Safety Cable (5 Pk)	5846A, 5846V	5 Pk	\$355.00	\$320.00	\$284.00
Flowguard Introducer (Single)	10729-001, 10729-002, 10729-003, 10729-004	EA	\$61.00	\$55.00	\$49.00
Flowguard Introducer (5 Pack)	10730-001, 10730-002, 10730-003, 10730-004	5 Pk	\$305.00	\$275.00	\$244.00
SoloTrak Introducer Long	6207BTKL1, 6207BTKL1S, 6208BTKL1, 6209BTKL1, 6210BTKL1, 6210BTKL1S	EA	\$85.00	\$77.00	\$68.00
5846AL/VL Disposable Safety Cable (5 Pk)	5846AL, 5846VL	5 Pk	\$375.00	\$338.00	\$300.00
Merit Medical Contrast Injection Kit (10 pk)	K12M-02489	10 Pk	\$230.00	\$207.00	\$184.00
5487 Disposable Safety Cable (5 Pk)	5487	5 Pk	\$430.00	\$387.00	\$344.00

PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
6250V Attain Command Catheters	6250V-45S, 6250V-50S, 6250V-57S, 6250V-AM, 6250V-MB2, 6250V-MP, 6250V-EH, 6250V-MPR, 6250V-EHXL, 6250V-MB2X, 6250V-MPX, 6250V-3D	EA	\$347.00	\$312.00	\$278.00
6248V Attain Select II Catheters	6248V-90, 6248V-130, 6248V-90S, 6248V-90L, 6248V-130L, 6248V-90P, 6248V-130P, 6248V-90SP	EA	\$303.00	\$273.00	\$242.00
Attain Guidewire	GWR419378, GWR419388, GWR419478, GWR419488, GWR419578, GWR419588, GWR419678, GWR419688	EA	\$200.00	\$180.00	\$160.00
Epicardial Lead Placement Tool	10626	EA	\$950.00	\$855.00	\$760.00
Attain Venogram Balloon	6215, 6225	EA	\$125.00	\$113.00	\$100.00
TVI07 Insertion Tool (5 Pk)	TVI07	5 Pk	\$100.00	\$90.00	\$80.00
Pinch-On Fixation Tool	5866-45, 5867AS, 6056	EA	\$25.00	\$23.00	\$20.00
End Cap for 6.5mm Leads	5867-3M	EA	\$25.00	\$23.00	\$20.00
6701 End Cap	6701	EA	\$25.00	\$23.00	\$20.00
Medical Adhesive	080118	EA	\$30.00	\$27.00	\$24.00
Hemostasis Valve	6248VAL	EA	\$35.00	\$32.00	\$28.00
Universal / Adjustable Slitter	6230UNI, 6232ADJ	EA	\$35.00	\$32.00	\$28.00
Stylets	6048-45, 6048-52, 6048-58, 6048-65, 6048-85, 6052-45, 6052-53, 6052-58, 6054-45A, 6054-52, 6054-53, 6054-58, 6054-65, 6054-75, 6054-85, 6054-110, 6056M, 6057-45, 6057-52, 6057-53, 6057-58, 6057-65, 6057-75, 6057-110, 6082-45, 608249, 6082-52, 608255, 6082-58, 608262, 6082-65, 608272, 6082-75, 608297, 6082-110, 6091-45, 6091-53, 6091-58, 6091-65, 609349, 6093-52, 609355, 6093-58, 609362, 6093-65, 609372, 6093-75, 6093-85, 609397, 6093-110, 6094-45, 6094-52, 6094-58	EA	\$40.00	\$36.00	\$32.00
Service Kit / Wrench Kit	5873C, 5873W	EA	\$45.00	\$41.00	\$36.00
Pin Plug Kit	6717, 6719, 6920	EA	\$50.00	\$45.00	\$40.00
Pin Plug Kit Dual Chamber	6725, 672625, 672637	EA	\$100.00	\$90.00	\$80.00
Sterile RF Header Cover (10 Pk)	6177	10 Pk	\$150.00	\$135.00	\$120.00
5433A/V 5832S Cable	5433A, 5433V, 5832S	EA	\$175.00	\$158.00	\$140.00
5433AL/VL Cable	5433AL, 5433VL	EA	\$195.00	\$176.00	\$156.00
RightSite Catheter	C315H2002, C315H4002, C315HIS02, C315J02, C315S1002, C315S402, C315S502	EA	\$440.00	\$396.00	\$352.00
SafeSheath Sealing Adapters (5 Pk)	SSSA-09, SSSA-EW-09	5 Pk	\$275.00	\$248.00	\$220.00
OptiSeal/ SafeSheath II/ Ultra Intros (5 Pk)	SS6, SS7, SS8, SS85, SS9, SS95, SS10, SS105, SS11, SS12, SS125	5 Pk	\$325.00	\$293.00	\$260.00
OptiSeal/SafeSheath II/ Ultra Lg Intros (5 Pk)	SSL6, SSL7, SSL8, SSL9, SSL10, SSL105, SSL11	5 Pk	\$365.00	\$329.00	\$292.00
OptiSeal/SafeSheath Ultra Intros (5 Pk)	1000093001, 1000093002, 1000093003, 1000093004, 1000093005, 1000093006, 1000093007, HLS1007M, HLS1008M, HLS10095MCN, HLS1009M, HLS10105M, HLS1011M, HLS10125M, HLS1012M, SU10, SU105, SU11, SU12, SU125, SU5, SU6, SU7, SU8, SU85, SU9, SU95	5 Pk	\$325.00	\$293.00	\$260.00

PRODUCT NAME	PRODUCT NUMBER(S)	UOM	LIST PRICE	ACCESS	TIER 1
OptiSeal/SafeShth Ultra Lg Intros (5 Pk)	1000093008, 1000093009, 1000093010, 1000093011, 1000093012, 1000093013, 1000093014, HLS2507M, HLS2507MCN, HLS2508M, HLS2508MCN, HLS2509M, HLS2509MCN, HLS25105MCN, HLS2511MCN, SUL6, SUL7, SUL8, SUL9, SUL10, SUL105, SUL11	5 Pk	\$365.00	\$329.00	\$292.00
SelectSite Catheters	C304L6906, C304S5906, C304XL7405	EA	\$800.00	\$720.00	\$640.00
Peelable Introducer (5 Pk)	6207-S5, 6208-S5, 6209-S5, 6210-S5, 6211-S5, 6212S5, 6214-S5	5 Pk	\$325.00	\$293.00	\$260.00
Peelable Introducer (Ea.)	6207-S1, 6208-S1, 6209-S1, 6210-S1, 6211-S1, 6212-S1, 6214-S1	EA	\$65.00	\$59.00	\$52.00
SoloTrak Introducer	6207BTK-1, 6208BTK-1, 6209BTK-1, 6210BTK-1, 6211BTK-1	EA	\$70.00	\$63.00	\$56.00
SoloTrak Lead Introducers (5 Pk)	6207BTK-5, 6208BTK5, 6209BTK-5, 6210BTK-5, 6211BTK5, 6212BTK-5	5 Pk	\$350.00	\$315.00	\$280.00
6 Ft Disposable Safety Cable (5 Pk)	5833S	5 Pk	\$355.00	\$320.00	\$284.00
12 Ft Disposable Safety Cable (5 Pk)	5833SL	5 Pk	\$375.00	\$338.00	\$300.00
5487/L Disposable Safety Cable (5 Pk)	5487L	5 Pk	\$450.00	\$405.00	\$360.00
Tunneling Tool	6996T	EA	\$500.00	\$450.00	\$400.00
Adapter Kit	BIS-IS-15, BIS-IS-15SS2, BIS-BIS-17, BIS-BIS-40, BLV-BIS-10, BLV-BIS-40, M/IS-10	EA	\$500.00	\$450.00	\$400.00
Worley Catheter (5 Pk)	CSGWORL19M, CSGWORLEY109M	5 Pk	\$1,625.00	\$1,463.00	\$1,300.00
Worley Catheter BC (5 Pk)	CSGWORBC19M, CSGWORBC29M, CSGWORLBC19M	5 Pk	\$1,925.00	\$1,733.00	\$1,540.00
5019 DF4 High Voltage Adapter	5019	EA	\$5,000.00	\$4,500.00	\$4,000.00
Merit Medical Impress Catheters (5 Pk)	1628-017M, 1628-019M, 1628-Y8M	5 Pk	\$645.00	\$581.00	\$516.00

To place your order, please call 800.854.3570, or send Purchase Order (PO) to: Medtronic USA, Inc

ATTN: Customer Products Services

800 53rd Avenue NE Columbia Heights, MN 55421

FAX: 800.477.5467

EXHIBIT B
PRICING DISCOUNT OPPORTUNITIES

1. **DEFINITIONS.** The following capitalized terms shall have the meanings given below. Capitalized terms used but not otherwise defined in this Exhibit shall have the meanings assigned to them in the Medtronic product sale agreement ("**Agreement**") to which this Exhibit is attached. **Note: In some cases, not every term defined below will be used in the Exhibit.**
- a) "**Applicable Products**" shall mean all Medtronic Products available for purchase under the Agreement, as the same are set forth in the Medtronic Products and Pricing Exhibit to the Agreement, and all competitive products in the same product categories, that are at such time considered FDA-approved or cleared and available for sale in the U.S., provided, however, that: (i) the term shall specifically exclude all products that are approved for sale pursuant to specific pre-market regulatory exemption (e.g. HDE, IDE, etc.), and (ii) competitive products shall, for purposes of this Exhibit, be deemed to fall within the definition of Applicable Products regardless of whether their respective product indications mirror substantially those of the Medtronic Products.
 - b) "**Compliance Form**" shall mean a Compliance Form in substantially the form attached as Schedule 1 to this Exhibit.
 - c) "**Compliance Period**" shall mean each Medtronic fiscal quarter commencing with the Effective Date. If the Effective Date is not the first day of a Compliance Period, the first Compliance Period will be shortened to the remaining days in the first Compliance Period and Performance Targets will be pro-rated on a per-day basis if required. If prior to the end of a full Compliance Period, the Agreement expires, is terminated by Customer for breach by or insolvency of Medtronic, or is terminated by Medtronic for no cause, the final Compliance Period shall be shortened and shall end on the date of such expiration or termination.
 - d) "**Dual Vendor Status**" shall mean, with respect to any Business Unit identified in Section 2 below, at least the percentage identified in Section 2 below of all Net Purchases in such Business Unit were made from Medtronic and only one other vendor.
 - e) "**Access Pricing**" shall mean the applicable Medtronic Product pricing identified in the column entitled "ACCESS" in the table set forth in the Products and Pricing Exhibit to the Agreement.
 - f) "**Medtronic Market Share**" shall mean, with respect to Applicable Products, the percentage derived by dividing Medtronic Net Purchases by total Net Purchases from all vendors.
 - f) "**Net Purchases**" shall mean total invoiced purchases of Applicable Products by Customer during a Compliance Period, including initial and replacement procedures and any volume purchases made during such Compliance Period, in each case net of all returns, exchanges, credits and rebates received by Customer during such Compliance Period with respect to such purchases or prior purchases of such Applicable Products whether under this or any other agreement. "**Medtronic Net Purchases**" shall mean the total Net Purchases of Applicable Products by Customer from Medtronic during a Compliance Period.
 - g) "**Tier 1 Performance Target**" shall mean, with respect to any Business Unit or Product Category identified in Section 2 below, at least the percentage Dual Vendor Status for such Tier.
 - h) "**Tier 1 Pricing**" shall mean the applicable pricing for Medtronic Products identified in the column entitled "TIER 1" in the table set forth in the Products and Pricing Exhibit to the Agreement.

2. DISCOUNT OPPORTUNITY AND PERFORMANCE TARGETS.

- a) Customer will be eligible for the Access or Tiered Pricing indicated below on all purchases of all Medtronic Products purchased hereunder, in each case dependent upon Customer’s ability to demonstrate that it achieved the applicable Performance Target during the prior Compliance Period. Accordingly, Customer will, as of the Effective Date and based on its good faith commitment to achieve the Access or Tiered Pricing Performance Target indicated below, receive the Access or indicated Tiered Pricing on all Medtronic Products purchased hereunder during the initial Compliance Period.

BUSINESS UNIT/PRODUCT CATEGORY	ACCESS	TIER 1 (≥ 90% Dual Vendor)
CRHF	<input type="checkbox"/>	<input type="checkbox"/>

- b) In order for Customer to receive, or remain eligible to receive, the indicated Tiered Pricing following the initial Compliance Period, Customer must demonstrate, in each case in a Compliance Form as and in the manner required in Section 3 below, that it has achieved for the prior Compliance Period the corresponding Tiered Pricing Performance Target. Failure of the Customer to either (i) provide a completed Compliance Form within 30 days of the end of a Compliance Period, or (ii) achieve the indicated Performance Target in any Compliance Period will be deemed a material breach of this pricing Agreement and, as its remedy for such breach, Medtronic may, at its discretion and upon written notice to the Customer either (i) permit the Customer to continue receiving the pricing it had been receiving for the next Compliance Period, (ii) revert the pricing to the next highest price level, or (iii) terminate this pricing agreement. Action taken by Medtronic with respect to one breach will not be binding on Medtronic for any future breaches.

3. COMPLIANCE PROCESSING.

- a) Customer shall, within 30 days of the end of each Compliance Period, complete, execute and return a Compliance Form with respect to purchase activity that occurred during such Compliance Period. Medtronic will, within 30 days of its receipt of each properly submitted and undisputed Compliance Form evidencing Customer’s compliance with the pricing requirements hereunder, notify Customer in writing of any resulting pricing adjustments for Medtronic Products purchased hereunder.
- b) Customer Reporting of Discounts: The Parties intend that all discounts earned by Customer under this Agreement shall constitute discounts as that term is defined in the Discount Safe Harbor to the Anti-Kickback Statute (42 U.S.C. 1320a-7 (b)). Customer is responsible for reporting all discounts and rebates earned under this Rebate Program to its respective state and federal payors if required by applicable state and federal laws and regulations.

**SCHEDULE 1
TO PRICING DISCOUNT OPPORTUNITIES EXHIBIT**

COMPLIANCE FORM

Customer is required to complete, execute and submit to Medtronic one Compliance Form following the end of each Compliance Period.

Account Name:	Kern County Hospital Authority
Account Number:	1106512
Compliance Period Dates:	

		CRHF
A.	Net Invoice Purchases from Medtronic	N/A*
B.	Net Invoice Purchases from Vendor #2	\$
C.	Net Invoice Purchases from All Other Vendors	\$
D.	Total Net Invoice Purchases	N/A*
Performance (DV) Calculation (A + B) / D ≥ X%		N/A*

* MEDTRONIC TO PROVIDE THIS INFORMATION.

CUSTOMER SIGNATURE:

By signing below I represent that, to the best of my knowledge, the information above is true and correct.

Customer Representative Signature:	
Print Name:	
Title:	
Date:	

Please send to the Medtronic Pricing and Contracts Department at rs.cspandc@medtronic.com

EXHIBIT C
Terms and Conditions of Sale

1. **DEFINITIONS.** Capitalized terms used but not defined in this Exhibit shall have the meanings assigned to them elsewhere in that certain Medtronic Product Sale Agreement to which it is attached (the "Agreement").
2. **PRODUCT PRICES.** During the term of the Agreement, Customer may purchase the Medtronic Products at the prices indicated in the attached Medtronic Products and Pricing Exhibit, in each case subject to the other terms set forth in the Agreement.
3. **RESTRICTION ON RESALE.** Customer agrees to purchase Product from Medtronic only for its own account and not to resell, exchange, or otherwise transfer such Products to or with any third party.
4. **TERM AND TERMINATION.** The term of the Agreement (the "Term") shall commence on the Effective Date and shall continue for a two year period thereafter. Upon expiration of the Term, the pricing, discounts and all other terms of the Agreement will remain in effect and the Term will continue until either a new contract is executed by the Parties with respect to subject matter contained in the Agreement or a Party terminates the Agreement as provided herein. The Agreement may be terminated by either Party upon written notice to the other Party as follows:
 - (a) Effective immediately, if the other Party has become insolvent, has filed for bankruptcy, or has been debarred or excluded from participating in federal health care programs;
 - (b) Effective 30 calendar days after written notice of breach by a Party of a material term of the Agreement, unless such breach is fully remedied within that 30 day period; or
 - (c) Effective 60 days after the date of notice of termination for any other or no cause.
5. **PAYMENT TERMS.** Payment terms are NET 30 days from date of invoice.
6. **DELIVERY.** All Products will be shipped F.O.B. shipping point. Unless otherwise specified, Medtronic will pay standard freight charges and actual shipping and handling charges may be added to each invoice. Additional charges related to special shipment and/or air shipment requested by Customer shall be prepaid by Medtronic, invoiced to Customer, and a reasonable shipping and handling charge may be added to each invoice for Products shipped in that manner.
7. **RETURN POLICY.** If a Product ordered or purchased under this Agreement: (a) was shipped in error; (b) was delivered after the Product's expiration date; or (c) was one which Medtronic specifically authorized for return, Medtronic agrees to accept the return of the Product for full credit, provided: (i) the Product is returned to Medtronic within forty-five (45) working days from the date the Product was received, and (ii) the Product is returned to Medtronic in its original packaging, in saleable condition, unopened, and undamaged. If the Customer desires to return Product, the Customer shall contact its local Medtronic Sales Representative for instructions on how to return the Product and for information on credit or replacement in accordance with Medtronic's standard practices. Customer acknowledges that Products have varying shelf lives and that certain restrictions and/or restocking charges may apply based on the remaining shelf life of the returned Product. Non-damaged and conforming Products with a security package seal broken after delivery may not be returned for credit or replacement, except with specific authorization from Medtronic. Returns based on a defect or malfunction of a Product will be handled in accordance with the applicable product warranty.
8. **CONFIDENTIALITY.** Customer agrees that the pricing and other terms of the Agreement are proprietary and confidential in nature and shall not be disclosed to any third party or otherwise made public, without prior written authorization of Medtronic, except where such disclosure is required by law in which case such disclosure shall be limited to that which is legally required.
9. **WARRANTY.** The written product warranty or warranty disclaimer that (a) is available in electronic format on-line or otherwise or (b) accompanies a Product at the time of delivery sets forth the entire warranty applicable to such Product and the limitations set forth in this paragraph apply.

EXCEPT AS EXPRESSLY SET FORTH IN THE PRECEDING PARAGRAPH, MEDTRONIC DISCLAIMS ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE REMEDIES SET FORTH IN THIS WARRANTY ARE THE EXCLUSIVE REMEDIES AVAILABLE TO CUSTOMER FOR BREACH OF WARRANTY.

10. **TREATMENT OF DISCOUNTS.** The Parties intend to establish a business relationship in which any rebates, discounts, payments and credits that may be provided to Customer comply with the exceptions to the Medicare and Medicaid Anti- Kickback statute set forth at 42 U.S.C. § 1320a-7b(b)(3) and the "Safe Harbor" regulations regarding discounts set forth in 42C.F.R. § 1001.952(h); and the Parties believe that the relationship contemplated by the Agreement is in compliance with those requirements. As to such discounts and rebates, the Parties agree to fulfill their obligations under the Safe Harbor and the Customer agrees to report the discounts and rebates to its state or federal payors in accordance with the requirements of the Medicare/Medicaid Anti-Kickback Statute and Regulations and any applicable state or federal laws or regulations.
11. **ACCESS TO RECORDS.** To the extent required by the Social Security Act, as amended: (a) Medtronic will, upon request, allow the United States Department of Health and Human Services, the Comptroller General of the United States, the State Department of Health, the State Department of Finance, and their duly authorized representatives access to the Agreement and to all books, documents, and records necessary to verify the nature and extent of the costs of Products or services provided by it under the Agreement, at any time during the term of the Agreement and for an additional period of four (4) years following the last date services are furnished under the Agreement; and (b) if Medtronic carries out any of its duties under the Agreement through an Agreement between it and an individual or organization related to it, Medtronic shall require that a clause be included in such Agreement to the effect that until the expiration of four (4) years after the furnishing of Products or services pursuant to such Agreement the related organization shall make available, upon request by the United States Department of Health and Human Services, the Comptroller General of the United States, the State Department of Health, the State Department of Finance or any of their duly authorized representatives, all agreements, books, documents, and records of such related organization that are necessary to verify the nature and extent of the costs of services provided under that agreement.
12. **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).
13. **INDEMNIFICATION.** Medtronic agrees to indemnify, defend and hold harmless Customer, its employees or agents ("Indemnitees") against any claims, actions, losses, suits, judgments, awards, and expenses associated thereto (hereinafter "Claims") for personal injury, property damage or death to any third party, made or instituted by a third party against Indemnitees to the extent said Claims allege the injury or damage was caused by the malfunction or defect of the Medtronic Product purchased under the terms of this Agreement (the "Product") (hereinafter said Claims are referred to as the "Indemnifiable Claims").

Indemnitees agree to (i) notify Medtronic as soon as they become aware of any Claim in which it is alleged that the loss was caused by the malfunction or defect of the Product, (ii) cooperate with and authorize Medtronic to carry out the sole investigation, management and defense of any such Indemnifiable Claim, and (iii) not compromise or settle any Indemnifiable Claims without the prior written consent of Medtronic. Medtronic agrees, at its expense, to provide attorneys to defend any such Indemnifiable Claims brought or filed against Indemnitees, whether or not such Indemnifiable Claims are rightfully brought or filed.

Medtronic's obligations set forth in the preceding paragraphs shall not apply to any liability arising out of or attributable to: (a) any negligence, willful misconduct, gross negligence, or criminal acts by Indemnitees; (b) any modification made to any Product by Indemnitees; or (c) any actions taken, or statements made by Indemnitees that constitute the unauthorized practice of medicine. Indemnitees agree and understand that failing to provide reasonable notice of a Claim to Medtronic or settling or compromising any Indemnifiable Claims without Medtronic's prior consent or failing to cooperate with or

authorize Medtronic to investigate, manage or defend an allegedly indemnifiable claim shall constitute prejudice to Medtronic and shall void Medtronic's obligation to indemnify, defend and hold Indemnitees harmless with respect to such Claim.

14. **LIMITATION OF LIABILITY.** In no event shall a Party be liable to the other Party for special, incidental, consequential, punitive or indirect damages in connection with the creation, existence, or performance of the Agreement..
15. **MODIFICATION/WAIVER.** The Agreement may be amended, changed, or modified only by mutual written agreement of the Parties; provided, for clarification, it may not be amended by an agreement required by Customer for Medtronic's representatives to gain access to Customer's facility. No waiver of a breach by a Party will be a waiver of any subsequent breach.
16. **ENTIRE AGREEMENT.** The Agreement, including the exhibits, sets forth the entire agreement of the Parties regarding the sale and purchase of the Products.

EXHIBIT D
MEDTRONIC ADDITIONAL TERMS

SHIPPING/FREIGHT:

1. All Medtronic products will ship **FOB Shipping Point** (Medtronic's facility). Medtronic will retain title and risk of loss until delivery to the carrier.
2. Medtronic will ship all **standard orders** [2-3 business days] via delivery by a national carrier of Medtronic's choice. Freight charges for these shipments will be paid by Medtronic.
3. Medtronic will ship all orders requiring **priority or expedited delivery** [next day/courier/Saturday delivery] via delivery by a national carrier of Medtronic's choice. Freight charges for these shipments will be prepaid by Medtronic and added to Customer's invoices. Customer agrees to reimburse Medtronic fully for such priority or expedited delivery charges.

RETURN OF GOODS POLICY:

All returns of Medtronic products for replacement or credit that were shipped in error; were delivered after the expiration date for the product; or have been specifically authorized for return by Medtronic, will be processed in accordance with the requirements stated herein ("Return of Goods Policy").

1. All implants, instruments, disposables and related accessories returned to Medtronic ("Returned Products") for replacement or credit must be in saleable condition, defined as follows:
 - a. unopened (no damage to sterile seal);
 - b. unmarked;
 - c. undamaged;
 - d. temperature controls uncompromised (for select temperature sensitive products eligible for return); and
 - e. in original packaging.
2. All Returned Products must include a Returned Goods Authorization ("RGA") number. Customer must contact the respective Medtronic Customer Service department in order to request such RGA number. The following information will be required for the assignment of the RGA number:
 - a. Reason for the Return
 - b. Item/Product Number
 - c. Quantity of Returned Products
 - d. Original Purchase Invoice Number
 - e. Date of Invoice
 - f. Purchase Order Number
 - g. Lot Number (if applicable)
 - h. Serial Number (if applicable)
3. All Returned Product requests must be initiated with Medtronic Customer Service within ninety (90) days following the date of invoice for the Returned Product.
4. A prepaid shipping label will be provided via email to Customer upon issuance of the RGA #. All returns must include the RGA # to ensure the applicable credit is applied to the respective return product order. If a Returned Product does not have a RGA #, a credit cannot be processed.
5. All RGA #s and prepaid shipping labels not used within sixty (60) days of issuance will be deemed cancelled and null and void. The Customer must contact Medtronic Customer Service for issuance of a new RGA # and prepaid shipping label, provided the product is still eligible for return.
6. The following items are not eligible for return:
 - a. select temperature sensitive products;
 - b. capital equipment;
 - c. special/custom orders;

- d. bulk purchased products;
 - e. software and/or digital items;
 - f. discontinued products;
 - g. expired products or products having less than 120 days shelf life before expiration;
 - h. Medtronic products that were not purchased directly from Medtronic or Medtronic's authorized distributor/representative; or
 - i. products with no RGA #.
7. **Restocking Fee.** All Returned Products are subject to a restocking fee of 20% of the purchase price of the Returned Product with \$300.00 as a maximum restocking fee charge per selling unit of measure for Medtronic's Restorative Therapies Group and Cardiovascular Group.
8. **Repacking Fee.** All Returned Products are subject to a repacking fee of \$75.00 (in addition to the restocking fee), if the Returned Products are part of a 'repack program' and are not in saleable condition as described below (not inclusive):
- a. opened (damage to sterile seal);
 - b. marked;
 - c. damaged;
 - d. temperature controls compromised (for select temperature sensitive products eligible for return); and
 - e. not in original packaging.
9. **Damaged in Transit/Shipped in Error/Shortages/Overages.**
- a. **Damaged in Transit/Shipped in Error.** In the event damage or breakage that occurred during or resulting from Medtronic's packing and / or loading is noted upon arrival at Customer's location, the Customer should do the following or no credit will be allowed:
 - i. Accept the Products delivered by the carrier and note the visible damage or breakage on the carrier's delivery documents and have the carrier sign the document.
 - ii. Within forty-eight (48) hours of receipt from the carrier, promptly notify Medtronic's Customer Service Department of the damage or breakage.
 - b. **Shortages.** To ensure appropriate credit is issued in the event a shortage occurs in transit, Customers should accept all Products delivered by carrier, note visible shortages on the carrier's delivery documents and contact Medtronic Customer Service.
 - i. Medtronic will make arrangements for a replacement shipment, if requested by Customer.
 - ii. Medtronic will investigate shortage claims by reviewing carrier Proof of Delivery, pallet architecture (for pallet shipments) and distribution center product cycle count.
 - iii. Medtronic will issue a credit for shortages if Medtronic concludes the shortage is validated and subject to the following conditions:
 - 1. Shortages must be reported to the Medtronic Customer Service Department within five (5) business days of receipt. This applies to dropped trailers, live unload palletized and small package shipments, and includes shortages within an over-packed corrugate. Note, Customer must sign for number of pallets received.
 - 2. Shortages within full cases should be reported to Medtronic Customer Service immediately when encountered.
 - c. **Overages.** To ensure appropriate processing (billing or return authorization) is completed in the event an overage occurs in transit, Customers should accept all Products delivered by carrier, note visible overage on the carrier's delivery document and report the overage to Medtronic Customer Service.
 - i. Medtronic will make arrangements for a carrier to pick up the over-shipped Product within a reasonable timeframe.
 - ii. Medtronic will issue an invoice for over-shipped Product at Customer request.
 - iii. Overages must be reported to the Medtronic Customer Service Department within five (5) business days of delivery. This applies to dropped trailers, live unload palletized and small shipments and includes overages within an over-packed corrugate.
10. **Concealed Damage.** Concealed damage or breakage which occurred during or resulting from Medtronic's packing or loading of Products must be reported within five (5) business days of delivery. Customer must

notify Medtronic Customer Service of the following concealed damage or breakage:

- a. Over-packs (e.g., multiple SKUs in a master case); or,
- b. Damage or breakage concealed within palletized shipments.

11. **Defective/Mislabeled Products.** The Customer must report receipt of any defective/mislabeled product to Medtronic Customer Service within twenty-four (24) hours of discovery, providing the following information:
 - a. Customer name and address;
 - b. Customer contact and phone number;
 - c. Product number and description
 - d. Lot number, if applicable
 - e. Nature of problem and quantity involved

Medtronic will investigate the potential defect/mislabeled and will notify the Customer of any action to be taken. Determination of a product defect or mislabeling will be made by Medtronic, which determination will be final.

12. The authorization to accept any Returned Product, and provide a replacement or credit for such return, will be granted in Medtronic's sole discretion and Medtronic reserves the right to refuse the return of any Medtronic product.



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

February 17, 2021

Subject: Proposed retroactive 340B Pharmacy Services Agreement with Optum Pharmacy 702, LLC (“Optum”) for 340B drug pricing on compounded pharmaceuticals

Recommended Action: Approve; Authorize Chief Executive Officer to sign

Summary:

Kern Medical requests your Board retroactively the Agreement with Optum, which contains non-standard terms and conditions. Failure to sign the Agreement would have prevented Kern Medical from access to 340B drug pricing for compounded pharmaceuticals.

The Agreement, effective January 15, 2021, is for a three-year term, and does not obligate Kern Medical to expend funds but does allow Kern Medical to maintain access to 340B pricing in the event that Kern Medical does pursue a further purchase agreement. The Health Resources & Services Administration (HRSA) oversees the 340B program and only allows for certain registration windows for new contracted pharmacies. In order to be eligible for the April 1, 2021 start date, Kern Medical needed to provide a signed Pharmacy Services Agreement to HRSA no later than January 15, 2021. Access to 340B savings on compounded chemotherapy will save Kern Medical approximately \$250,000 per month, depending on utilization.

Counsel is unable to approve the Agreement as to form due to non-standard terms, which include the inability to terminate the Agreement prior to the one-year anniversary of the Agreement. Counsel attempted to negotiate more favorable terms to no avail.

Therefore, it is recommended that your Board retroactively approve the 340B Pharmacy Services Agreement with Optum Pharmacy 702, LLC from January 15, 2021 through January 14, 2024, and authorize the Chief Executive Officer to sign.

340B PHARMACY SERVICES AGREEMENT

THIS 340B PHARMACY SERVICES AGREEMENT (hereinafter "Agreement") is made by and between Kern County Hospital Authority, a local unit of government, which owns and operates, KERN MEDICAL CENTER, eligible under the Section 340B Drug Pricing Program ("340B Program"), (hereinafter "Covered Entity"), on the one part, and Optum Pharmacy 702, LLC, on behalf of itself and its affiliated licensed pharmacies listed in Attachment B (hereinafter "Pharmacy"), on the other part, as of January 1, 2021 (the "Effective Date"), and will become operational effective as of April 1, 2021, or the date on which it has been registered and made effective by the Health Resources and Services Administration ("HRSA") (the "Operational Date").

WHEREAS, Covered Entity is a "Covered Entity" as defined in Section 340B of the Public Health Service Act ("Section 340B") and is eligible to purchase certain outpatient drugs at reduced prices for use by Eligible Patients, as defined in this Agreement, from drug manufacturers who have signed a drug purchasing agreement with the United States Department of Health and Human Services (hereinafter "DHHS") and/or the manufacturers' wholesalers;

WHEREAS, Covered Entity provides health care services to Eligible Patients at Covered Entity eligible sites described on Attachment A (each, the "Covered Entity Site", collectively "Covered Entity Sites");

WHEREAS, Pharmacy is duly licensed as a pharmacy in the states requiring such licensure for Pharmacy to conduct its business operations; and

WHEREAS, Covered Entity desires to engage Pharmacy to provide 340B Pharmacy Services, as defined in this Agreement, to Eligible Patients with respect to outpatient drugs Covered Entity purchases pursuant to Section 340B ("340B Drugs").

NOW, THEREFORE, the parties agree as follows:

1. **Eligible Patients.** Covered Entity represents and warrants that:
 - 1.1. Covered Entity will consider a patient as an "Eligible Patient" under this Agreement only if the individual meets the prescribed patient definition criteria as set forth at 61 Fed. Reg. 55156 (Oct. 24, 1996), as may be amended from time to time by HRSA;
 - 1.2. Covered Entity shall be responsible for determining whether a patient is an Eligible Patient and identifying such Eligible Patients to Pharmacy; and
 - 1.3. Pharmacy shall be entitled to rely on the Covered Entity's determination and identification of Eligible Patients.
2. **Relationship of the Parties.**
 - 2.1. Pharmacy is an independent contractor and shall be solely responsible for its acts and omissions regarding advice and 340B Pharmacy Services it is required to provide to Eligible Patients and Covered Entity. Pharmacy agrees to render all 340B Pharmacy Services provided under this Agreement in accordance with professional standards applicable to 340B Pharmacy Services and in accordance with rules and regulations of the relevant State Board of Pharmacy. Pharmacy shall have the right to refuse to service any Eligible Patient where such service would violate any statute, regulations, or professional standards applicable to 340B Pharmacy Services or such refusal is appropriate in the pharmacist's professional judgment. Pharmacy shall notify the health care professional prescriber of any refusal of requested service within twenty-four (24) hours of such refusal.

- 2.2. Covered Entity agrees that Covered Entity and/or its 340B administrator will use commercially reasonable efforts to provide Pharmacy data integration, 340B eligibility determination, 340B Drug inventory control, reports related to the 340B Drugs, and related 340B administrative services on behalf of Covered Entity as outlined in Attachment D.
- 2.3. Covered Entity acknowledges that Pharmacy is relying on the Covered Entity and/or its 340B administrator and their systems, policies and procedures, including Covered Entity and/or 340B administrator's tracking system and information system and the Operational Procedures set forth in Attachment D, to support 340B Pharmacy Services.
3. **340B Pharmacy Services and Site(s)**. Pharmacy shall provide services based on Claim Inclusion (as defined below) relating to the receipt, replenishment, and shipment of 340B Drugs purchased by Covered Entity pursuant to Section 340B for patients determined to be Eligible Patients by Covered Entity ("340B Pharmacy Services") and provide related pharmacy services consistent with Pharmacy's standard business practices. Pharmacy agrees it will provide 340B Pharmacy Services through the site(s) listed on Attachment B (or Attachments B-1, B-2, and/or B-3, as applicable).
- 3.1. "Claim Inclusion" means those claims determined by Pharmacy, at its discretion and subject to third party contractual obligations and Attachment D, for which Pharmacy will provide 340B Pharmacy Services.
- 3.2. **"Ship To, Bill To" Arrangement**. The parties shall use a "ship to, bill to" procedure, pursuant to which the Covered Entity (or its designee) shall order 340B Drugs directly from the drug manufacturer, a designated sales representative, or a drug wholesaler, which shall bill Covered Entity for the 340B Drugs but ship the 340B Drugs directly to Pharmacy. Covered Entity is responsible for compliance with the 340B requirement for contract pharmacy arrangement(s) and must maintain ownership of the 340B Drugs as required by law.
4. **Payment for 340B Pharmacy Services**. Pharmacy shall be timely paid for 340B Pharmacy Services in accordance with the terms provided on Attachment C to this Agreement. The parties have freely negotiated the terms of this Agreement and neither has offered or received any inducement or other consideration from the other party for entering into this Agreement. The compensation to be paid to Pharmacy is consistent with fair market value in arms-length transactions for 340B Pharmacy Services and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under a federal or state health care program. Nothing in this Agreement shall be construed to require Covered Entity to make referrals of patients to Pharmacy or Pharmacy to make referrals to Covered Entity.
5. **Pharmacy Dispensing Fee**. The parties agree that Pharmacy shall receive a dispensing fee, as set forth in Attachment C, for each prescription of 340B Drugs filled for Eligible Patients and providing 340B Pharmacy Services, (the "Dispensing Fee") and that such Dispensing Fee covers Pharmacy's costs and constitutes the sole and exclusive payment Pharmacy is entitled to receive from Covered Entity under this Agreement. Pharmacy may revise the Dispensing Fee after the Initial Term upon providing thirty (30) days prior written notice to Covered Entity, and thereafter no more than once annually. The 503A Pharmacy Dispensing Fee applies to eligible claims dispensed from a 503A compounding pharmacy listed on Attachment B.
6. **Patient Choice**. Pharmacy understands and agrees that Eligible Patients of Covered Entity may elect not to use Pharmacy for 340B Pharmacy Services. In the event that an Eligible Patient elects not to use Pharmacy for such services, the patient may obtain the prescription from the health care professional prescriber and then obtain the drugs from the pharmacy provider of his or her choice.
7. **Final Reconciliation Reports**. A final reconciliation report shall occur no later than thirty (30) days from the date of termination of this Agreement. The provisions of this Section 7 shall survive the expiration or

termination of this Agreement for any reason. Covered Entity acknowledges that all information and reports related to the 340B Drugs will be provided by the Covered Entity or its 340B administrator, and not Pharmacy. Pharmacy will submit claims for drugs dispensed by Pharmacy to Covered Entity or its 340B administrator to support the Covered Entity or its 340B administrator's reporting and tracking requirements for the Covered Entity.

8. **Prohibition on Resale or Transfer of 340B Drugs.** The parties agree that they will not knowingly resell or transfer a 340B Drug to an individual who is not an Eligible Patient of Covered Entity. Covered Entity acknowledges and agrees that it is solely responsible for verifying the eligibility of a patient to Pharmacy, and that so long as Pharmacy sells a 340B Drug only to Eligible Patients of Covered Entity as so verified by Covered Entity, Pharmacy shall not be in violation of this Section 8.
9. **Audits/Contract Pharmacy Compliance.**
 - 9.1. Pharmacy understands and agrees that both Pharmacy and Covered Entity are subject to audit by DHHS and by drug manufacturers who have signed a drug purchasing agreement with DHHS, which audits may pertain to the Covered Entity's compliance with the prohibition on drug resale or transfer and the prohibition on duplicate Medicaid rebates and discounts. Pharmacy agrees to reasonably cooperate with such audits and to comply with applicable provisions of the audit guidelines and amendments thereto that may be published from time to time.
 - 9.2. Pharmacy grants Covered Entity, and its duly authorized representatives, the right, on behalf of Covered Entity, to audit its applicable books and records, including all applicable electronic records, to verify and ensure compliance with the duties, obligations and transactions outlined hereunder. Any such audit shall be conducted during reasonable business hours, upon reasonable prior written notice and approval, once per calendar year, and in a manner so as not to interfere with the conduct of Pharmacy's business. Pharmacy agrees to use commercially reasonable efforts to cooperate with such audits in good faith.
 - 9.3. Pharmacy agrees to cooperate with Covered Entity to identify necessary information for Covered Entity to meet its ongoing responsibility of ensuring that the contract pharmacy services guidelines as promulgated by HRSA's Office of Pharmacy Affairs ("OPA") are being complied with and establish mechanisms to ensure the availability of that information for periodic independent audits (no less frequently than annually) that shall be performed by Covered Entity's independent auditors. In complying with these requirements, Covered Entity will register Pharmacy with HRSA using the online Contract Pharmacy Registration as required by OPA.
 - 9.4. Provisions of this Section 9 shall survive the expiration or termination of this Agreement for any reason.
10. **Inspection by DHHS.** Pharmacy and Covered Entity understand and agree that a copy of this Agreement will be provided, upon written request, to DHHS. The provisions of this Section 10 shall survive the expiration or termination of this Agreement for any reason.
11. **Insurance.** Pharmacy shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate and which includes in its coverage loss of, or damage to, the 340B Drugs during the period they are in the possession of Pharmacy. Covered Entity shall maintain during the term of this Agreement a policy of liability insurance with a responsible insurance carrier with at least the minimum limits that are customary in its industry. Covered Entity may satisfy such insurance requirements through a self-insurance program maintained in accordance with the requirements of state law and the Medicare program.
12. **Assignment.** A party may not assign or transfer this Agreement without the prior written consent of the other party, except that Pharmacy may assign this Agreement to any affiliate upon 30-day notice to Covered Entity. This Agreement will bind the parties and their respective successors and assigns and will inure to the benefit of

the parties and their respective permitted successors and assigns.

13. **Term and Termination.**

13.1. This Agreement shall commence on the Effective Date, and shall continue for a term of three (3) years (“Initial Term”), unless terminated earlier as stated below.

13.1.1. **For Cause.** Either party may terminate this Agreement following a material breach by the other party which is not timely cured. The non-breaching party shall notify the breaching party of the breach and the breaching party shall have thirty (30) days (the “Cure Period”) to cure the breach. If the breaching party fails to cure the breach within the Cure Period, then the non-breaching party may terminate the Agreement upon written notice to the breaching party. Either party’s waiver or failure to take action with respect to the other party’s failure to comply with any term or provision of this Agreement shall not be deemed to be a waiver of the right to insist on future compliance with such term or provision.

13.1.2. **Adverse Legal Determination.** Either party may immediately terminate this Agreement upon written notice to the other party (a) following a judgment, writ, order, or injunction for equitable relief, award or decree of or by any governmental authority or change in any laws that would make performance of this Agreement, in any material respects, unlawful or illegal for the terminating party, or (b) if a governmental authority requires either party to terminate this Agreement.

13.1.3. **Termination Due to Loss of Covered Entity Status.** Either party may immediately terminate this Agreement, upon written notice to the other party, if Covered Entity ceases to qualify as a “covered entity” under the 340B Program.

13.1.4. **Termination With or Without Cause.** Notwithstanding the foregoing, either party may terminate this Agreement with or without cause, upon thirty (30) days written notice to the other party after the one year anniversary of the Agreement.

13.2. Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested or by overnight delivery by a nationally recognized courier, to the parties at the addresses set forth on the signature pages hereto (or such other address as the parties may specify in writing). Notice shall be effective on the day it is received.

13.3. Except when termination is pursuant to Section 13.1.3, upon the request of Covered Entity, Pharmacy agrees to continue to provide 340B Pharmacy Services on the payment and other terms of this Agreement for a period of up to sixty (60) days after the date this Agreement expires or is terminated in order to ensure an effective transition of services and continuation of quality care for Eligible Patients.

14. **Compliance with Laws.** The parties hereto shall comply with all applicable federal, state and local laws, rules, regulations and requirements. Each party is aware of the potential for civil or criminal penalties if the party violates federal, state, or local laws.

15. **Dispute Resolution.** If a dispute occurs between the parties, the complaining party may request a meeting by executive officers of each party who will attempt to resolve the dispute in good faith before beginning a legal action, except for matters subject to injunctive relief. If the parties’ executive officers do not resolve the dispute within 30 days after the notice, then legal action may be commenced.

16. **Governing Law.** This Agreement and each party’s rights and obligations under it will be governed by and construed in accordance with the laws of California without giving effect to conflicts of law principles. Each party waives any right it might have to a jury trial with respect to any matter arising under this Agreement.

17. **Representations of Pharmacy.** Pharmacy represents to and agrees with Covered Entity that:

- 17.1. it employs, and will continue to employ throughout the term of this Agreement, sufficient qualified and credentialed personnel needed to manage and operate the Pharmacy and provide the 340B Pharmacy Services anticipated hereunder in a timely, professional, competent and ethical manner;
- 17.2. it owns, possesses and employs, and will continue to employ throughout the term of this Agreement, sufficient technology and equipment as needed to manage and operate the Pharmacy and provide the 340B Pharmacy Services in the manner anticipated hereunder;
- 17.3. it will render the 340B Pharmacy Services hereunder in accordance with prevailing pharmaceutical and medical standards that are applied in the same fashion to all of its patients;
- 17.4. it will render all 340B Pharmacy Services to Eligible Patients without regard to race, creed, color, age, sex, sexual orientation, citizenship, marital status, veteran status, national origin, disability, religion, arrest record or other protected status;
- 17.5. it will not use 340B Drugs to dispense Medicaid prescriptions, except as provided in an arrangement with the State Medicaid agency as approved by Covered Entity, to prevent duplicate discounting, and as required by law.

18. **Representations of Covered Entity and Pharmacy.** Covered Entity and Pharmacy each represent to and agree with the other that:

- 18.1. neither it, nor any of its members, directors, officers, agents, employees or members of its workforce (a) have been convicted of a criminal offense that would trigger exclusion pursuant to 42 USC 1320a-7(a) or (b) unless such entity or individual has been reinstated, is not listed by a federal or state agency as currently suspended, debarred, excluded or otherwise ineligible for state or federal program participation. Covered Entity and Pharmacy further agree to immediately notify the other party after it becomes aware that any of the foregoing representations may be inaccurate or may become incorrect. In the event any of the foregoing representations become inaccurate or incorrect, it shall be a material breach and the other party may immediately terminate this Agreement without penalty to the non-breaching party. Each party hereby agrees that, in the event an employee is suspended, debarred, excluded or otherwise ineligible from a federal or state healthcare program, immediate corrective action will be taken to ensure that such employee will not thereafter be directly or indirectly involved in the 340B Pharmacy Services related to this Agreement.
- 18.2. all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Agreement are or shall be appropriately informed of the terms of this Agreement and are under legal obligation, by contract or otherwise, sufficient to enable each of Covered Entity and Pharmacy to fully comply with all provisions of this Agreement;
- 18.3. the parties will reasonably cooperate with each other in the performance of the mutual obligations under this Agreement; and
- 18.4. the execution and delivery of this Agreement and the performance of the duties obligations and transactions contemplated do not and will not contravene, conflict with or violate any agreement, commitment, plan or instrument binding on Covered Entity or Pharmacy, including, without limitation, any participating provider agreement and any third party payor or pharmacy benefit management agreement.

19. **Representations of Covered Entity.** Covered Entity represents to and agrees with Pharmacy that:

- 19.1. it is a Covered Entity as defined in Section 340B and will notify Pharmacy immediately if its covered entity status ends during the term of this Agreement;
- 19.2. it has the authority to enter into this Agreement and will perform its responsibilities hereunder, and will ensure that its 340B administrator performs its responsibilities outlined hereunder and in Attachment D, in a professional and diligent manner consistent with industry standards reasonably applicable to the performance thereof;
- 19.3. it will be solely responsible for ensuring its compliance with 340B Program guidelines, including the actions and inactions of its 340B administrator; and
- 19.4. it will be solely responsible for compliance with all federal and state laws, regulations and guidance prohibiting duplicate discounting by: (1) carving out from its definition and determination of Eligible Patient any patient that is a beneficiary of Medicaid, Medicaid managed care, AIDS Drug Assistance Program ("ADAP") coverage or other coverage if the use of 340B Drugs for such patients results in prohibited duplicate discounts, and/or (2) making other arrangements to prevent duplicate discounting, when required, including arrangements to comply with requirements applicable to covered entities or contract pharmacies to identify 340B claims and/or to submit 340B claims at legally or contractually specified pricing, with Medicaid agencies, Medicaid managed care organizations, ADAPs or other payers.

20. **Confidentiality and Non-disclosure.**

- 20.1. Patient Privacy and HIPAA Compliance. The parties recognize that each is a covered entity within the meaning of the federal Health Insurance Portability and Accountability Act ("HIPAA") and agree to protect and respect the patient rights to privacy and confidentiality concerning their medical and pharmaceutical records. Each party agrees to comply with HIPAA and other applicable state and federal laws. Failure by either party to abide by these requirements shall be a basis for immediate termination of this Agreement. In furtherance of the foregoing and during the term of this Agreement, Covered Entity shall enter into a HIPAA-compliant Business Associate Agreement with its 340B administrator, whereby its 340B administrator is Covered Entity's business associate.
- 20.2. Non-disclosure. In the course of performing under this Agreement, either of the parties may receive, be exposed to or acquire Confidential Information including but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer data base or computer readable form, as well as any information identified as confidential of the other party ("Confidential Information"). Without limiting the foregoing, the parties acknowledge and agree that this Agreement, including the pricing terms of this Agreement, constitutes Confidential Information. For purposes of this Agreement, Confidential Information shall not include Protected Health Information, the security of which is the subject of this Agreement and is provided for elsewhere. The parties, including their respective employees, agents or representatives (i) shall only use the other party's Confidential Information as necessary and appropriate for the performance of this Agreement, (ii) shall not disclose to any third party the other party's Confidential Information except as otherwise permitted by this Agreement, (iii) only permit use of such Confidential Information by employees, agents and representatives having a need to know in connection with performance under this Agreement, and (iv) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential. This provision shall not apply to Confidential Information: (1) after it becomes publicly available through no fault of either party hereto; (2) which is later publicly released in writing by the party hereto owning such Confidential Information; (3) which is lawfully obtained from third parties without restriction; or (4) which can be shown to be previously known or developed by either party hereto independently of the other party. Pharmacy is aware that Covered Entity 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.

20.3. **Enforcement.** Each of the parties acknowledges and agrees that any breach by it of any of the provisions of Section 20.2 ("Restrictive Covenants") would result in irreparable injury and damage for which money damages would not provide an adequate remedy. Therefore, if either party hereto breaches, or threatens to commit a breach of, any of the Restrictive Covenants, the other party shall have the right and remedy (upon compliance with any necessary prerequisites imposed by law upon the availability of such remedy), which shall be independent and severally enforceable, and which shall be in addition to, and not in lieu of, any other rights and remedies available to it under law or in equity (including, without limitation, the recovery of damages), to seek to have the Restrictive Covenants specifically enforced (without posting bond and without the need to prove damages) by any court having equity jurisdiction, including, without limitation, the right to seek an entry against breaching party of restraining orders and injunctions (preliminary, mandatory, temporary and permanent), without posting bond and without the need to prove damages, against violations, threatened or actual, and whether or not then continuing, of the Restrictive Covenants. The existence of any claim or cause of action by the breaching party, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of the Restrictive Covenants. In addition, any breach of the Restrictive Covenants shall constitute a material breach of this Agreement.

20.4. **Survival of Obligations.** The rights and obligations set forth in this Section 20 shall survive the termination of this Agreement.

21. **Force Majeure.** If any party is unable to perform any of its obligations under this Agreement because of any cause beyond the reasonable control of and not the fault of the party invoking this section, including any act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection or material unavailability, and if the non-performing party has been unable to avoid or overcome its effects through the exercise of commercially reasonable efforts, this party will give prompt notice to the other party, its performance will be excused, and the time for its performance will be extended for the period of delay or inability to perform due to such occurrences, except that if performance is extended under this section for more than 60 days, then at any time before reinstatement of the performance, the other party may terminate this Agreement upon notice to the non-performing party. Pharmacy will maintain commercially reasonable business continuity and disaster recovery plans.
22. **Indemnification.** Each party shall indemnify, defend, and hold harmless the other party from and against all third party claims, damages, causes of action, costs or expense, including court costs and reasonable attorneys' fees, which may arise as a result of the indemnifying party's breach of applicable law or of any material term or condition of this Agreement. The obligation to indemnify shall survive termination of this Agreement regardless of the reason for termination.
23. **Limitation of Liability.** The parties agree that neither party, and neither party's officers, directors, employees or agents shall be liable to the other party for any claims, liabilities, or expenses relating to this Agreement for an aggregate amount in excess of the aggregate Dispensing Fees paid to Pharmacy pursuant to this Agreement, except (1) for amounts owed under Section 22 of this Agreement or (2) to the extent finally judicially determined to have resulted primarily from the breach of law by, or bad faith or intentional misconduct of, the party. In no event shall any party or any party's officers, directors, employees, or agents be liable for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this Agreement. NOTWITHSTANDING ANYTHING THE CONTRARY, LIMITATIONS OF LIABILITY SHALL NOT APPLY TO, AFFECT, OR LIMIT: (i) ANY DUTIES TO INDEMNIFY IN ACCORDANCE WITH THIS AGREEMENT AND/OR (ii) ANY THIRD PARTY CLAIMS.
24. **Relationship of the Parties: Third Party Beneficiaries.** The sole relationship between the parties is that of independent contractors. This Agreement will not create a joint venture, partnership, agency, employment or

other relationship between the parties. Nothing in this Agreement will be construed to create any rights or obligations except among the parties; no person or entity will be regarded as a third party beneficiary of this Agreement.

- 25. **Survival.** Any term of this Agreement that contemplates performance after termination of this Agreement will survive expiration or termination and continue until fully satisfied, including Section 20.2, which will survive so long as the information is Confidential Information or the data is proprietary to either party or its successors, successors-in-interest or assigns, and Sections 23 and 24, which will survive indefinitely.
- 26. **Waiver: Severability.** The failure of any party to insist in any one or more instances upon performance of any term of this Agreement will not be construed as a waiver of future performance of the term, and the party's obligations for the term will continue in full force and effect. The provisions of this Agreement are severable. The invalidity or unenforceability of any term or provision in any jurisdiction will be construed and enforced as if it has been narrowly drawn so as not to be invalid, illegal or unenforceable to the extent possible and will in no way affect the validity or enforceability of any other terms or provisions in that jurisdiction or of this entire Agreement in that jurisdiction.
- 27. **Entire Agreement: Amendment.** This Agreement and Attachments A, B, C and D represent the entire understanding of the parties in the subject matter hereof. Such attachments are incorporated herein and made a part hereof. There are no other agreements or understandings among the parties, either oral or written, relating to the subject matter hereof. Any amendments to this Agreement shall be in writing and signed by all parties hereto. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which taken together shall be deemed one and the same instrument. A copy of this Agreement executed by electronic signatures and transmitted by email, shall be binding upon the parties as an original, executed and delivered in person.

The parties' duly authorized representatives are signing this 340B Pharmacy Services Agreement as of the Effective Date.

COVERED ENTITY

Optum Pharmacy 702, LLC.

By: 

By: 

Name: Russell V. Judd

Name: Jeff Grosklags

Title: Chief Executive Officer

Title: CFO

Date: 1/15/2021

Date: 1/15/2021

Address: 1700 MT. VERNON AVE.
BAKERSFIELD, CA 93306

Address: 1600 McConnor Parkway
Schaumburg, IL 60173-6801

ATTACHMENT A

ELIGIBLE COVERED ENTITY SITES

**KERN MEDICAL CENTER
1700 MT. VERNON AVE.
BAKERSFIELD, CA 93306
DSH050315**

ELIGIBLE COVERED ENTITY SITES SHALL INCLUDE THE PARENT ENTITY AND ALL ACTIVE CHILD SITES, AND ITS ASSOCIATES, CURRENTLY REGISTERED AND/OR REGISTERED IN THE FUTURE UNDER COVERED ENTITY'S 340B ID NUMBER.

ATTACHMENT B**CONTRACTED PHARMACY LOCATIONS-503A PHARMACIES**

<u>Pharmacy Name</u>	<u>Address</u>	<u>NPI#</u>	<u>NCPDP#</u>	<u>DEA#</u>
Optum Pharmacy 801, Inc.	23620 N. 20th Drive, Suite 12 Phoenix, AZ 85085	1649317579	0354643	FA7972789
OPTUM INFUSION SERVICES 500, INC.	4900 RIVERGRADE RD STE E120, IRWINDALE, CA 91706-1419	1699262808	5666283	FB8055495

When registering the pharmacies on the HRSA website, please use the information below as the pharmacy contact:

Nancy McCutcheon
Sr. VP of Strategic Sales
651-983-0677

Nancy.mccutcheon1@optum.com

In the event there is a nonmaterial discrepancy between the information in the above chart and the 340B OPAS listing, e.g. a typographical error, punctuation, abbreviation, additional descriptive such as store number, etc., the 340B OPAS listings shall control and the parties agree a amendment to this agreement shall not be required.

ATTACHMENT C

COMPENSATION FOR SERVICES – PHARMACY’S DISPENSING FEE

Dispensing Fee.

1. **340B 503A Pharmacy Dispensing Fee:** For each eligible claim dispensed from a Pharmacy listed on Attachment B-4, Covered Entity agrees to pay Pharmacy a Dispensing Fee for 340B Pharmacy Services equal to the sum of ten percent (10%), based on the Reference Price of the drug dispensed, plus ten dollars (\$10.00) for such claim.

“Reference Price” means the basis used to pay Covered Entity before the applicable Dispensing Fee is applied. The Reference Price is based on the Acquisition Cost, and is dictated by Pharmacy. The Reference Price equation is different for specialty pharmacies, home delivery pharmacies, infusion, and 503A pharmacies.

“Acquisition Cost” means the Pharmacy's acquisition cost for the drug dispensed to an Eligible Patient, net of prompt pay or other discounts, for the most recent month for which the information is available, as reported by Pharmacy.

Remittance to Covered Entity’s 340B administrator. For each eligible claim dispensed to an Eligible Patient (as determined by its 340B administrator), Pharmacy shall remit to Covered Entity’s 340B administrator the amount of the applicable Reference Price, less the applicable Dispensing Fee, which amount shall be set forth in an invoice provided to Pharmacy by Covered Entity and/or its 340B administrator. For the avoidance of the doubt, the NPI of the dispensing Pharmacy will determine which Dispensing Fee applies.

Winners Only Model. The parties agree that any claim that creates negative revenue for either the Covered Entity or Pharmacy will be excluded from the program and not considered for 340B eligibility.

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ATTACHMENT D**OPERATIONAL PROCEDURES**

Item	Decision Point	Defined
Replenishment Frequency	On the mutually agreed upon schedule, and if applicable contingent upon Covered Entity payment confirmation, 340B administrator shall order, for delivery to Pharmacy, all 340B Drugs which have been determined to be eligible and have reached a full package size but have not yet been delivered to Pharmacy.	1x per week
Wholesaler	Which wholesaler for 340B, Pharmacy or Covered Entity's wholesaler? ***Cardinal is the ONLY wholesaler to be used for HDP replenishment*****	Cardinal (or as agreed)
Model	What type of 340B program model is this: 'all claims', 'brand only', 'winners only'? A winners only model means that any claim that creates negative revenue for either the Covered Entity or Pharmacy will be excluded from the program and not considered for 340B eligibility.	Winners Only
Specialty Central Fill Replenishment Model	A central fill replenishment model funnels all replenishment to a certain location. How accumulators are handled will vary by TPA. Please contact your TPA for direction on wholesaler account set up variations. The Specialty pharmacies Optum Pharmacy 801, Inc. (DEA# FA7972765) in Phoenix, AZ and Optum Pharmacy 702, LLC in Jeffersonville, IN will be the replenishment sites for all Specialty replenishments.	Optum Pharmacy 801, Inc. in Phoenix, AZ
HDP Central Fill Replenishment Model	A central fill replenishment model funnels all replenishment to a single location. How accumulators are handled will vary by TPA. Please contact your TPA for direction on wholesaler account set up variations. The HDP pharmacy in Overland Park, KS will be the single replenishment site for all HDP replenishments.	N/A
Infusion Central Fill Replenishment Model	A central fill replenishment model funnels all replenishment to a single location. How accumulators are handled will vary by TPA. Please contact your TPA for direction on wholesaler account set up variations. The Infusion pharmacy in Lenexa, KS will be the single replenishment site for all Infusion replenishments.	N/A
Invoicing on Replenishment	Invoicing Model: Allow Pharmacy to reimburse Covered Entity for claims that have been replenished. Once replenishment is sent to the Pharmacy, the 340B administrator will allocate the replenishment to a claim and include that claim on the following Pharmacy invoice.	ON
Reprocessing Window	If new or additional information causes the 340B administrator to re-designate a claim as 340B eligible that was originally deemed ineligible, any reprocessing of such claims must be completed within the number of calendar days specified. If additional eligibility information has become available to make a previous ineligible claim now 340B eligible, 340B administrator will add the additional 340B eligible claims to the Batch Claims Response File communicated to the 340B administrator.	365 Days
Invoicing on Replenishment Pharmacy Fee	Invoice full Pharmacy fee for each claim or invoice percent of Pharmacy fee based on percent of claim invoiced.	FULL
Reverse Uninvoiced Claims After X days	Any drug that has been dispensed and not replenished within 180 calendar days will be reconciled on the following invoice. Full claims will be reversed, for partial claim dispensations, a partial claim inventory adjustment will be made for the quantity of the drug that was not replenished. If a 340B Discount Cash Claim, Covered Entity will remit payment to the Pharmacy for the amounts of the drugs in question at the Wholesale Acquisition Price (WAC) for the NDC for that particular drug, prorated according to the amount of the drug that cannot be replenished.	180 DAYS
340B Discount Cash Plan	A 340B discount cash plan selected from the 340B administrator cash plans options, intended for the purpose of passing through the 340B discount to the patient.	By request

CIIIs---Vs	Include or exclude these drugs	Included
CIIIs	In retail contract pharmacy- CIIIs require the use of 222 forms; In-house pharmacy order as usual	Excluded
Invoicing	Frequency with which Pharmacy is invoiced on behalf of the Covered Entity.	1 st and the 15th day of the month
Payment Terms	Within _ number of days from Invoice date, Pharmacy shall remit payment thereof by electronic funds transfer to Covered Entity and/or its 340B administrator.	30 Days



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

February 17, 2021

Subject: Proposed Amendment No. 3 to Agreement with Sepideh Babaei, M.D., for professional medical services in the Department of Radiology

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical is requesting your Board approve the proposed Amendment No. 3 to the Agreement with Sepideh Babaei, M.D., a contract employee, for professional medical services in the Department of Radiology. Dr. Babaei has provided radiology services at Kern Medical since July 2018 as a contract employee.

Dr. Babaei's annual salary is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey for specialty and represents reasonable fair market value compensation for the services provided by Dr. Babaei.

Amendment No. 2 to the Agreement allowed for additional compensation to be earned for shifts worked beyond a minimum number of shifts each month. Although a provision was made to allow for additional compensation, Amendment No. 2 did not contemplate the additional compensation in the maximum payable. Since that time, due to changes in availability of contracted providers and other turnover within the department, Dr. Babaei has worked in excess of the minimum number of shifts per month, earning additional compensation which is now being incorporated into the maximum payable.

Therefore, it is recommended that your Board approve Amendment No. 3 to the Agreement with Sepideh Babaei, M.D. for professional medical services in the Department of Radiology, for the period July, 7 2018 through July 6, 2021, increasing the maximum payable by \$255,000, from \$1,495,000 to \$1,750,000, to cover the term.

**AMENDMENT NO. 3
TO
AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Sepideh Babaei, M.D.)**

This Amendment No. 3 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2021, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Sepideh Babaei, M.D. (“Physician”).

RECITALS

(a) Authority and Physician have heretofore entered into an Agreement for Professional Services (Agt. #20518), Amendment No. 1 (Agt. #21918), and Amendment No. 2 (Agt. #36719) (the “Agreement”), for the period July 7, 2018 through July 6, 2021, for professional medical services in the Department of Radiology at KMC; and

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

(c) The Agreement is amended effective February 17, 2021;

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 5, Compensation Package, paragraph 5.4, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“5.4 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$1,750,000 over the three-year Initial Term of this Agreement.”

2. Section 5, Compensation Package, paragraph 5.5, Additional Shifts, shall be deleted in its entirety and replaced with the following:

“5.5 Additional Shifts. Authority shall pay Physician for additional shifts (excludes nonproductive time¹; diagnostic imaging only) as follows: (i) Physician shall be paid a fixed fee in the amount of \$1,700 for every weekday shift (Monday-Friday) that exceeds 20 eight-hour shifts per month or 16 10-hour shifts per month; and (ii) Physician shall be paid a fixed fee in the amount of \$1,900 for every weekend shift (Saturday and Sunday) that exceeds 20 eight-hour shifts per month or 16 10-hour shifts per month. All payments made by Authority to Physician for additional shifts shall be subject to all applicable federal and state taxes and withholding requirements.”

¹ Nonproductive time is defined to include, without limitation, holidays, education leave, vacation, and sick leave.

3. All capitalized terms used in this Amendment and not otherwise defined, shall have the meaning ascribed thereto in the Agreement.
4. This Amendment shall be governed by and construed in accordance with the laws of the state of California.
5. 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.
6. Except as provided herein, all other terms, conditions, and covenants of the Agreement and any and all Amendments thereto shall remain in full force and effect.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 3 as of the day and year first written above.

PHYSICIAN

By _____
Sepideh Babaei, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Amend3.Babaei.020221



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

February 17, 2021

Subject: Request to Employ Retired Kern County Hospital Authority Employees during the COVID-19 pandemic in compliance with Executive Order N-25-20 issued by Governor Gavin Newsome on March 4, 2020

Recommended Action: Approve

Summary:

The Public Employee Pension Reform Act (PEPRA) sets forth post-retirement service and employment requirements for all KCERA retirees returning to work for a KCERA employer. The Authority is a designated KCERA employer. Under PEPRA service requirements, a retiree may be reemployed up to a maximum of 960 hours per fiscal year, subject to approval by your Board.

In addition to the service requirements, rehired retirees are also subject to the employment requirements under PEPRA, which provide that a retired public employee is not eligible for post-retirement employment for a period of 180 days following the date of retirement unless the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by your Board. The appointment may not be placed on the consent agenda.

On March 4, 2020, Governor Gavin Newsom issued Executive Order N-25-20 to mitigate the effects of the COVID-19 pandemic. The Executive Order, among other things, suspended certain restrictions applicable to hiring retired annuitants. Per the Executive Order, hours worked by a retired annuitant during the declared state of emergency will not count toward the 960-hour per fiscal year limit. Further, the Executive Order temporarily suspended the 180-day waiting period between retirement and returning to post-retirement public employment. Most other retired annuitant restrictions, including the limitations on permissible compensation and the prohibition of any benefits in addition to the hourly rate, remain in effect.

These suspended restrictions provide the Authority with the opportunity to employ retirees, including licensed nurses, immediately without strict compliance with the relevant statutes and regulations that would otherwise prevent, hinder, or delay the hiring of critically needed staff to fill voids in staffing. As your Board is aware, due to the resurgence of COVID-19 in Kern County, Kern Medical has experienced serious staffing shortages due to high patient census. Our retired employees represent an additional experienced workforce pool from which we can draw.

Therefore, it is recommended that your Board approve the rehiring of retired Kern Medical employees for the duration of the state's declaration of emergency in compliance with Executive Order N-25-20.



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

February 17, 2021

Subject: Kern County Hospital Authority Financial Report – December- 2020

Recommended Action: Receive and File

Summary:

COVID-19 Impact on Kern Medical Operations:

The COVID-19 pandemic has impacted Kern Medical's key performance indicators as follows:

- Average Daily Census of 149 for December is 11 more than the December budget of 138 and 12 more than the 137 average over the last three months
- Admissions of 764 for December are 92 less than the December budget of 856 and 45 less than the 809 average over the last three months
- Total Surgeries of 470 for December are 14 less than the December budget of 484 and 25 less than the 495 average over the last three months
- Clinic Visits of 13,085 for December are 752 less than the December budget of 13,837 and 655 less than the 13,740 average over the last three months

Kern Medical has maintained the staffing levels necessary to adequately provide coverage for a surge in pandemic activity if necessary. In addition, Kern Medical is participating in all emergency funding programs available at the county, state, and federal levels to offset lost revenue and increased expenses that may be realized due to the COVID-19 issue.

The following items have budget variances for the month of December 2020:

Patient Revenue:

Gross patient revenue has a favorable budget variance for December, and on a year-to-date basis, mainly because of strong average daily census levels. In addition, there has been an overall increase in revenue cycle efficiency. Gross patient revenue has increased 10% year-to-date compared to prior year.

Indigent Funding Revenue:

Indigent funding revenue has a favorable month-to-date and year-to-date budget variance because of the receipt and recognition of \$3.570 million from the Low Income Health Plan (LIHP). Settlements were reached for prior years' LIHP activity that were not previously accrued for on Kern Medical's balance sheet.

Other Operating Revenue:

Other operating revenue has a favorable budget variance for December due to contributions received from the Kern Medical Foundation to support the Valley Fever Institute.

Other Non-Operating Revenue:

COVID-19 related funding is budgeted evenly throughout FY 2021 as other non-operating revenue; however, COVID-19 funding is not received consistently on a monthly basis. Therefore, the actual dollar amount recorded for this line item may fluctuate vs. budget on a monthly basis but should align with budget on a year-to-date basis by year-end.

Salaries Expense:

Salaries expenses are over budget for the month in part because of crisis pay that is now offered to nurses to encourage working extra hours as needed to serve increases in patient volume. In addition, there were calendar year-end EIB, PTO, and bonus payouts. On a year-to-date basis, salaries are over budget due to higher than average expenses for registered nurses (RNs) and physicians. The increase in RNs and physicians expenses correlates with the increase in total surgeries which are 2% above budget and 6% above prior year. It also corresponds with an increase in FTE hours in the operating room and the trauma unit. There has also been an increase in FTEs in the Behavioral Health unit for additional sitters needed for an increase in behavioral health patients.

Medical Fees:

Medical fees were in line with the budget plan for the month. On a year-to-date basis, medical fees are over budget due to true-up entries to account for under accruals for this expense in prior months.

Other Professional Fees:

Kern Medical operated slightly under the budgeted dollar amount for other professional fees in December due to lower than average consulting fees. Consultants, such as Toyon Consultants, Inc., invoice Kern Medical based on billable hours worked each month. Therefore, the expense fluctuates monthly depending on the status of consulting engagements. On a year-to-date basis, there is a favorable budget variance because of the reversal of an expense accrual for Allscripts services. The Information Systems department determined that the expense was over accrued in prior months. In addition, Kern Medical received credits from Change Healthcare for overpayments made to the vendor in prior months.

Supplies Expense:

Supplies expenses are slightly over budget for the month due to higher than average medical supplies to support high patient volumes. On a year-to-date basis, supplies expenses are under budget primarily because of lower than expected pharmaceutical expenses.

Purchased Services:

Purchased services expenses are slightly under budget for December due to less than average expenses for out-of-network contracted patient care services provided by other healthcare facilities. Purchased services are at the budgeted dollar amount on a year-to-date basis.

Other Expenses:

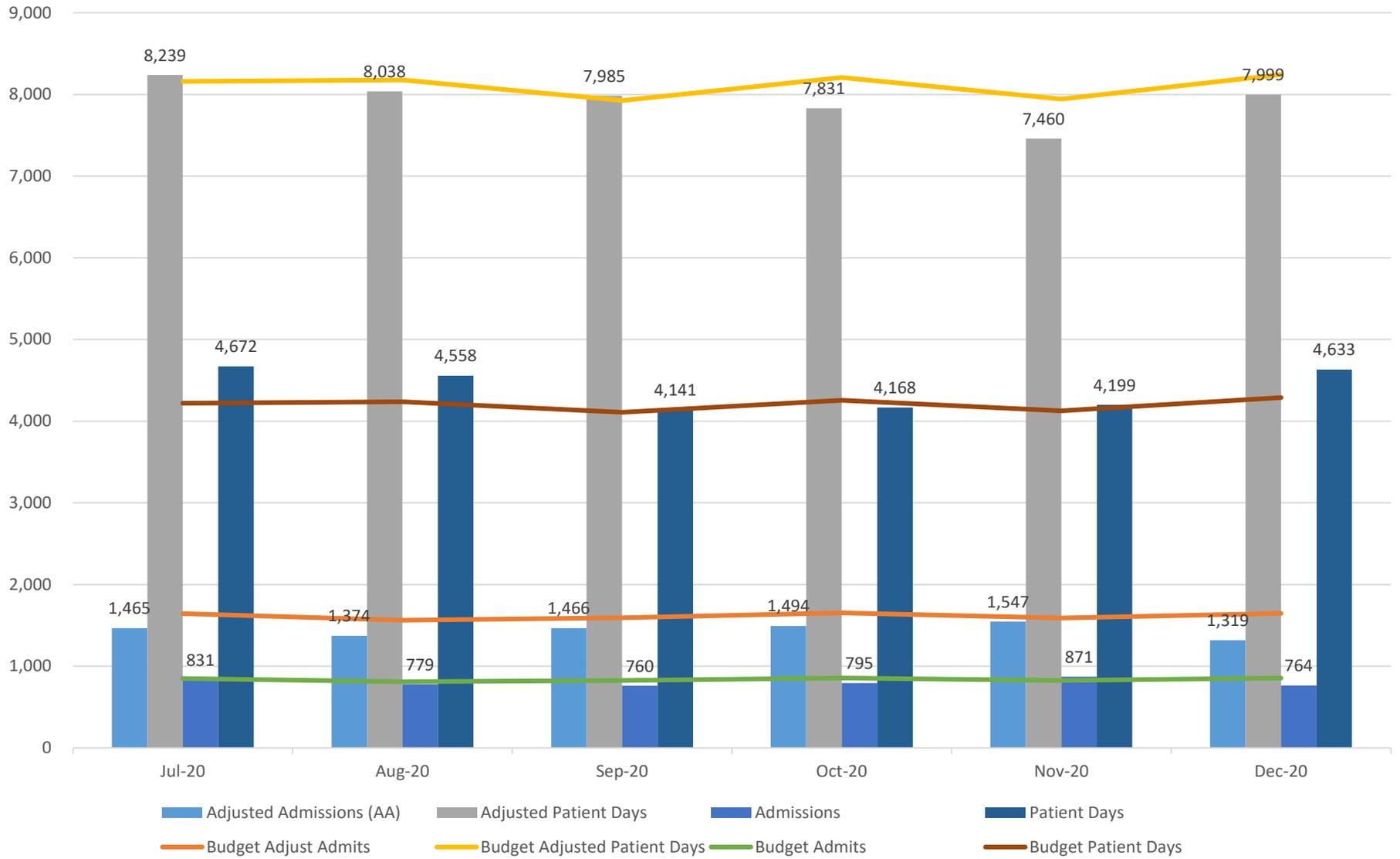
Other expenses are under budget for the month because of lower than average utilities expenses. Higher than average repairs and maintenance expenses and high utility expenses in prior months of the year are the reasons for the unfavorable year-to-date budget variance for this line item.



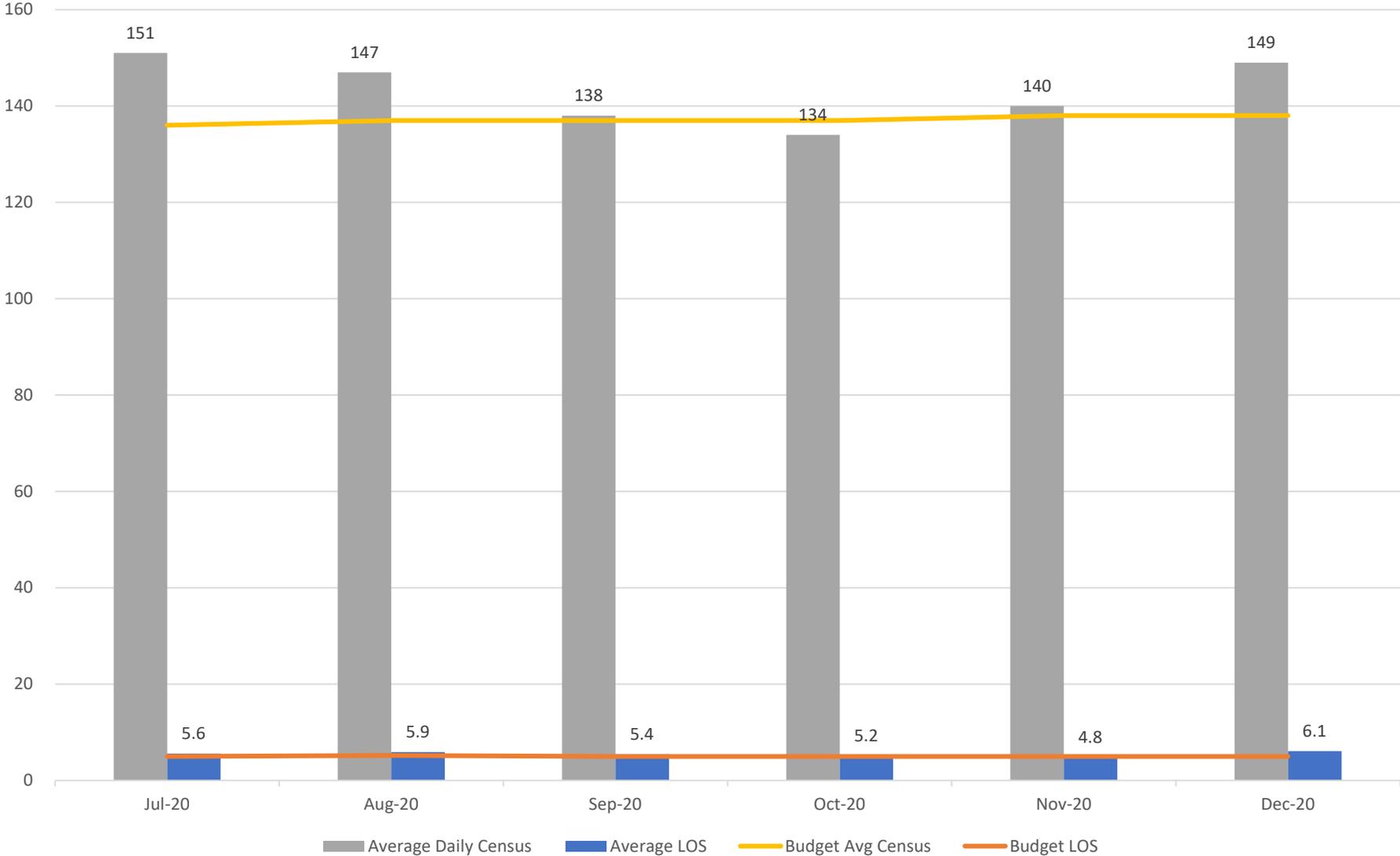
**BOARD OF GOVERNORS' REPORT
KERN MEDICAL – DECEMBER 2020**

February 2021

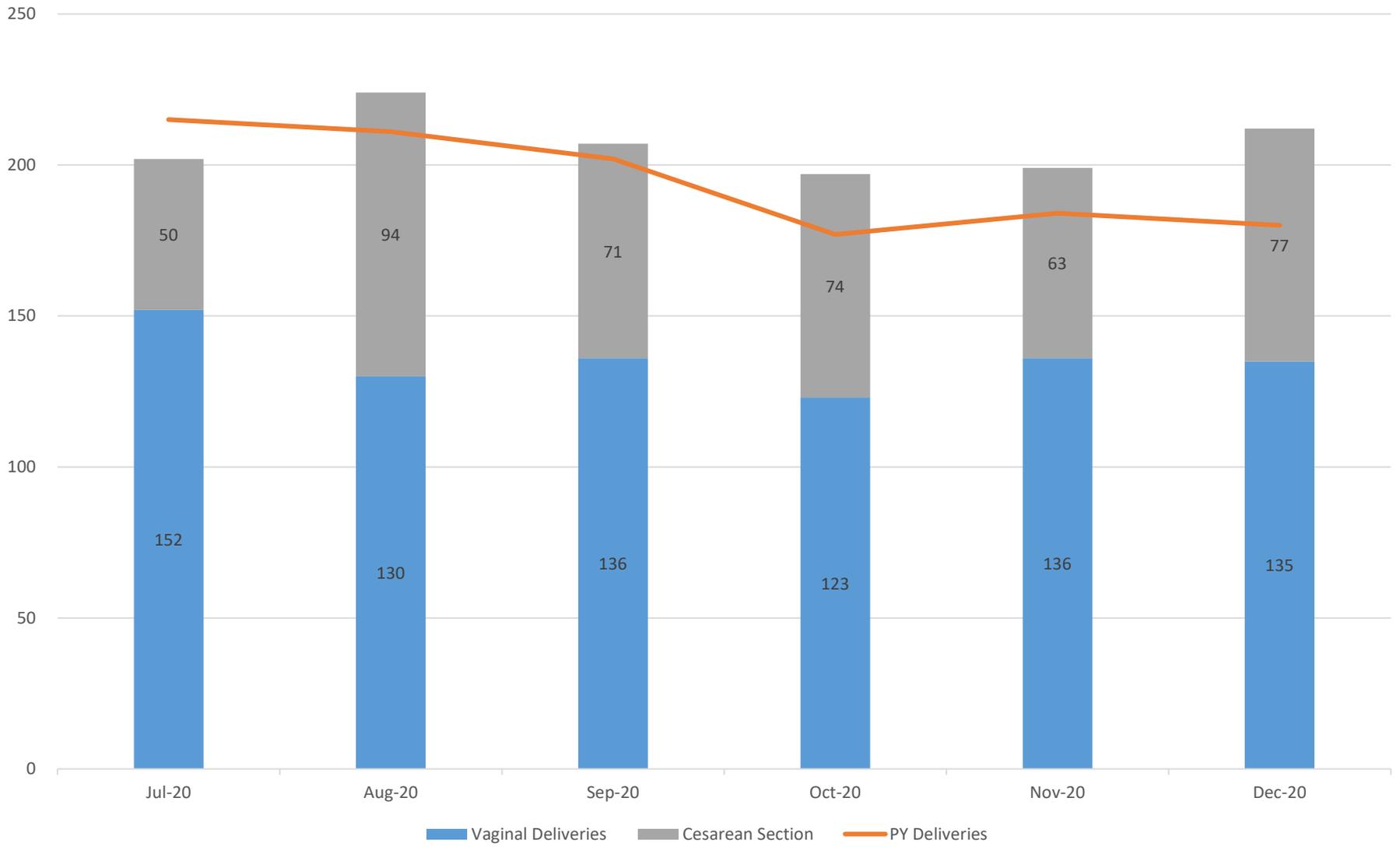
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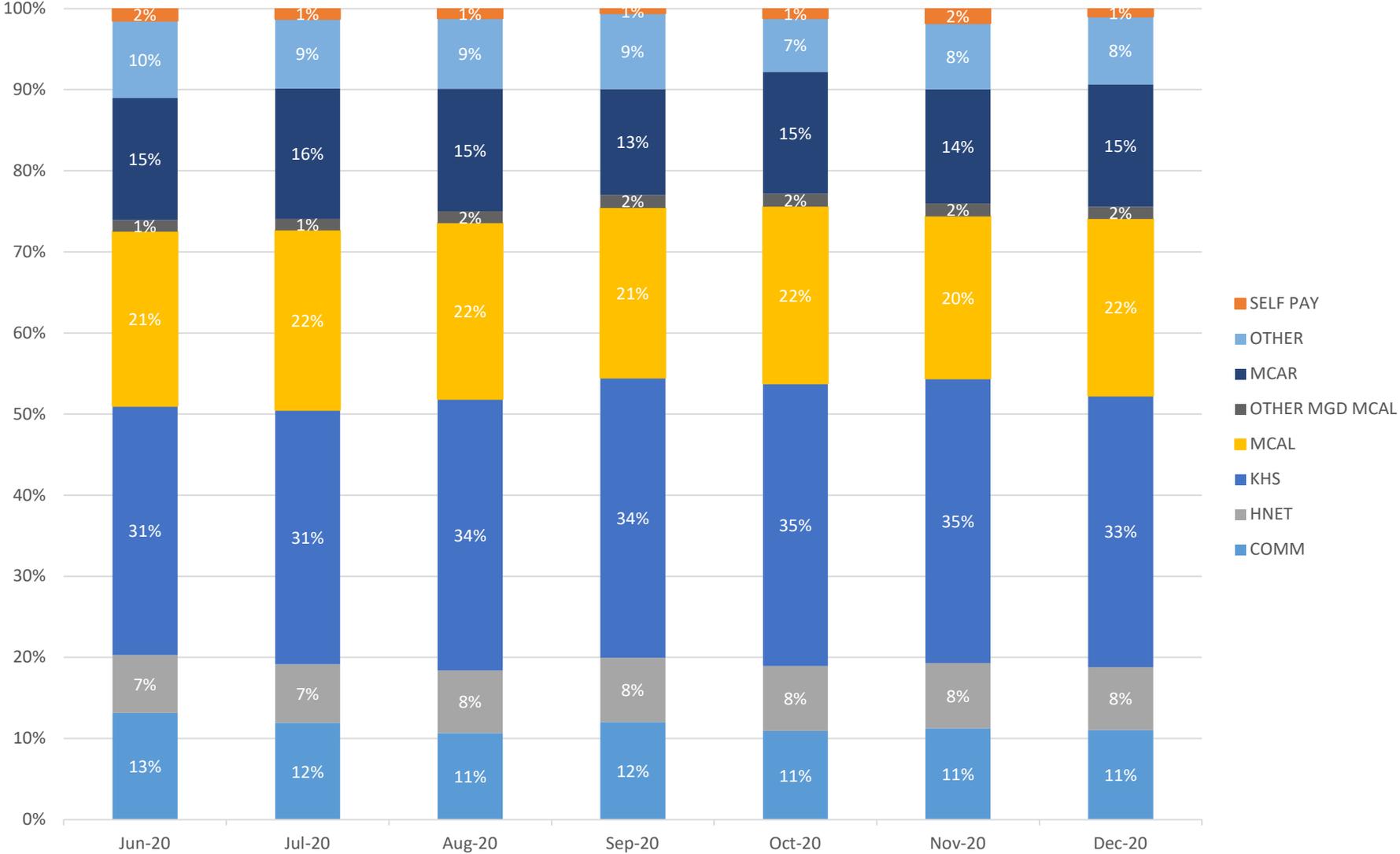
Census & ALOS



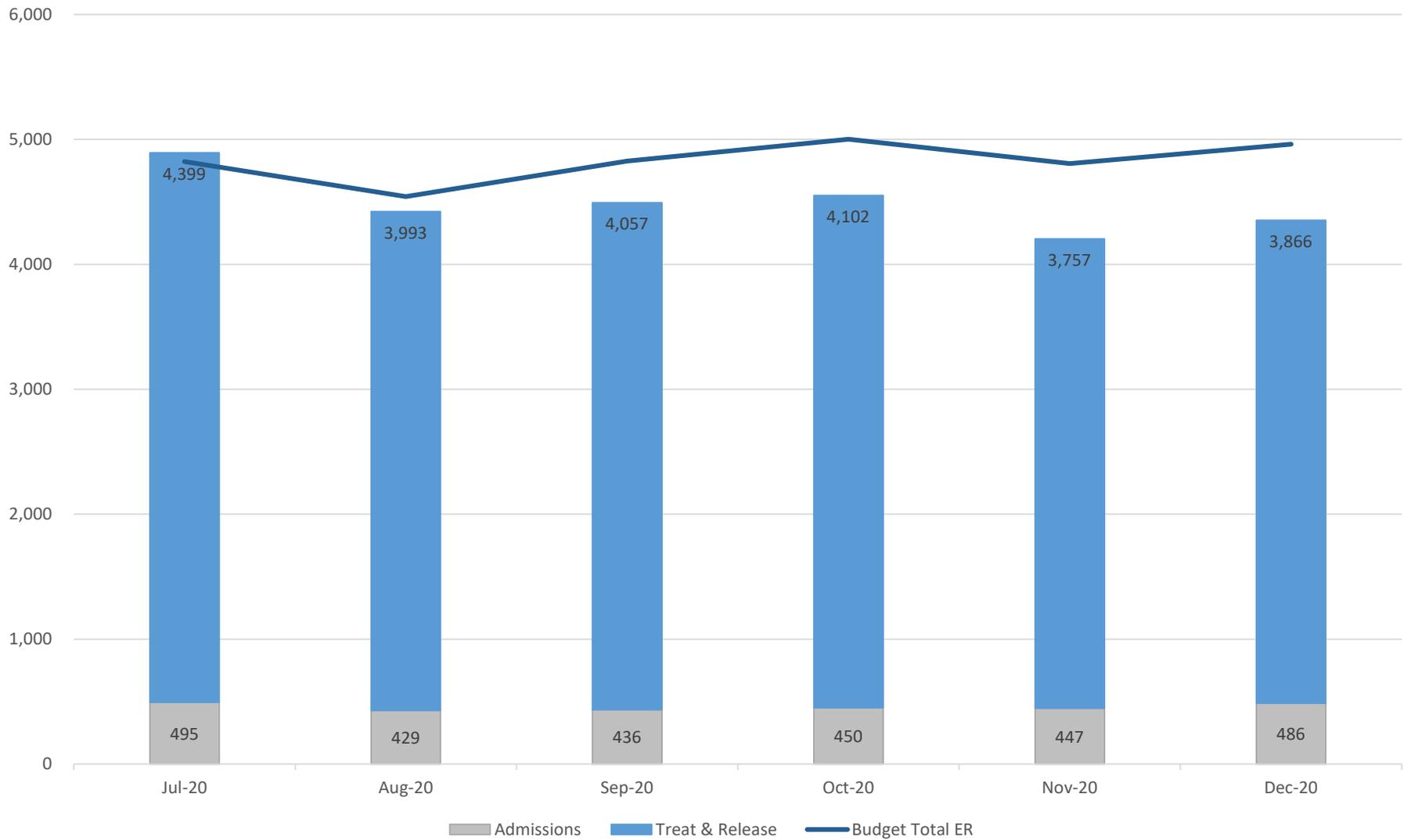
Deliveries



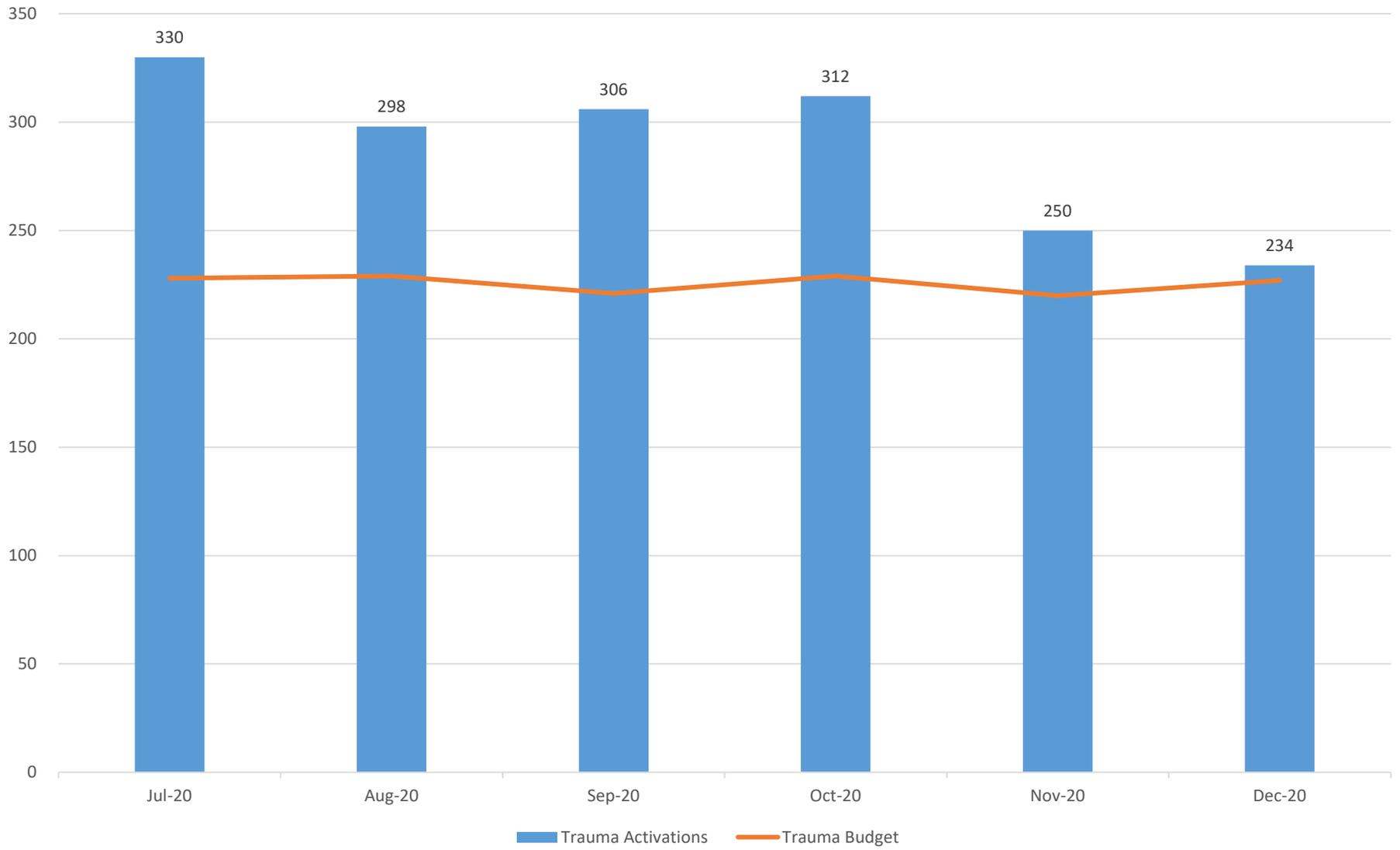
PAYER MIX



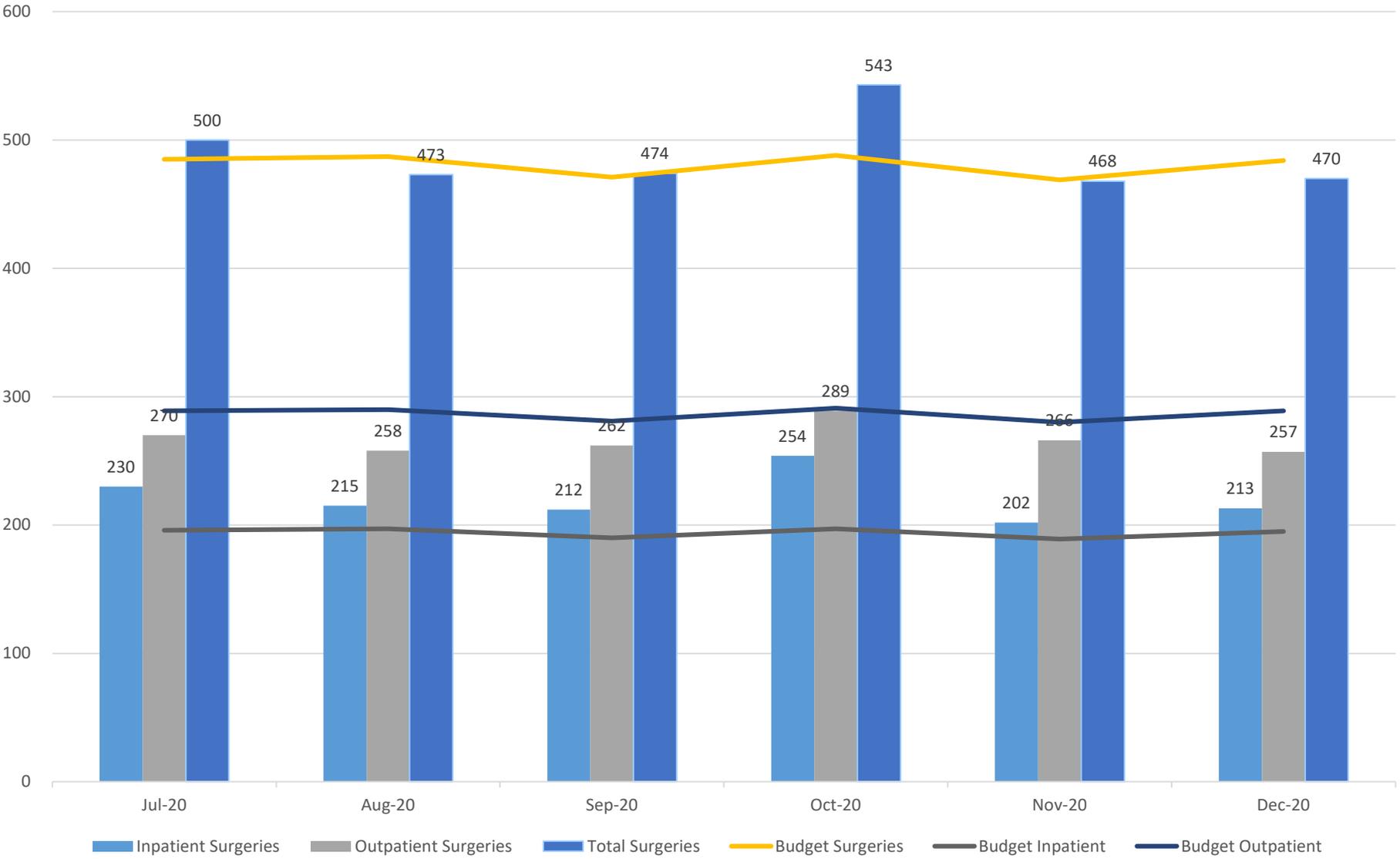
Emergency Room Volume



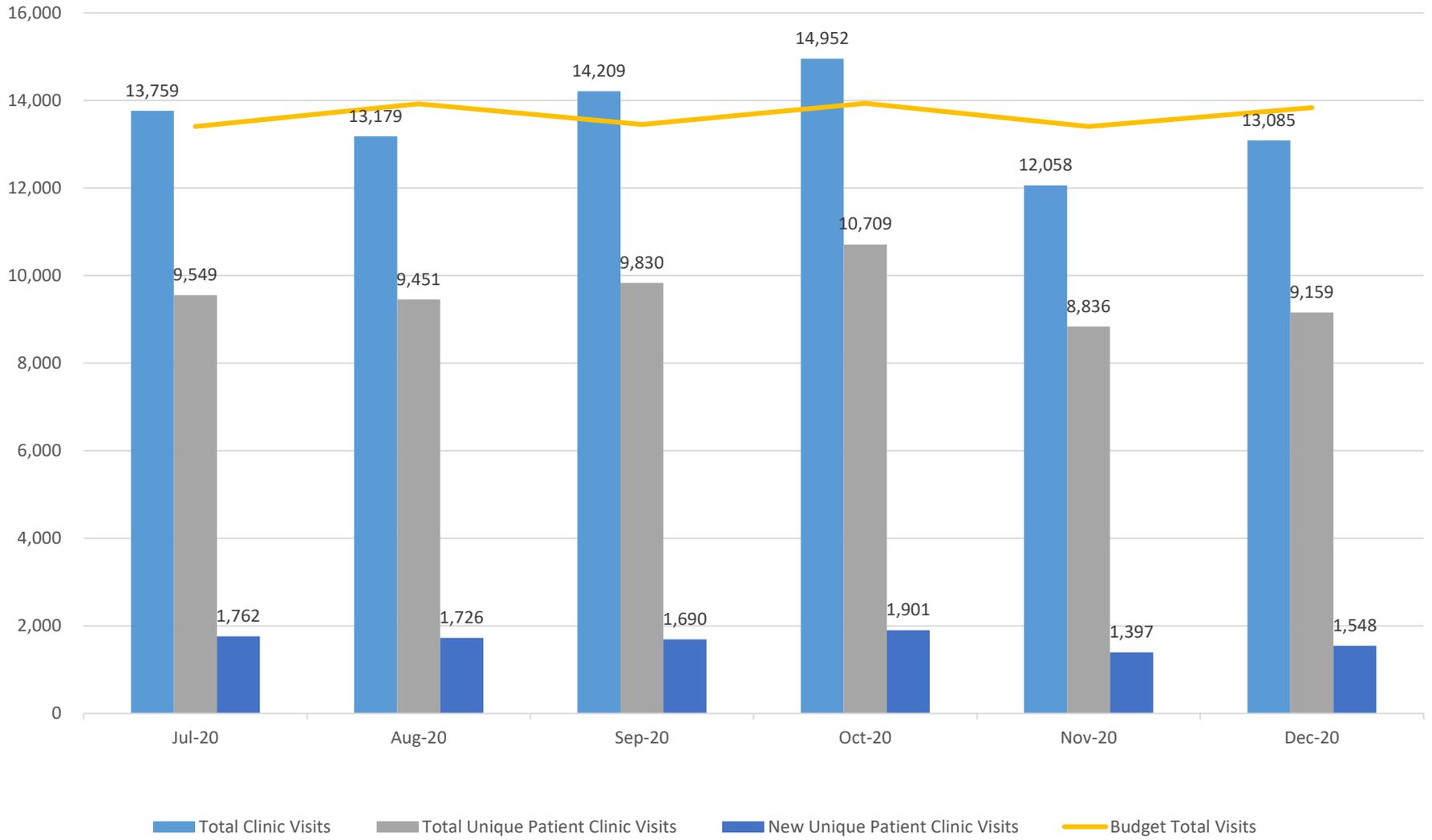
Trauma Activations



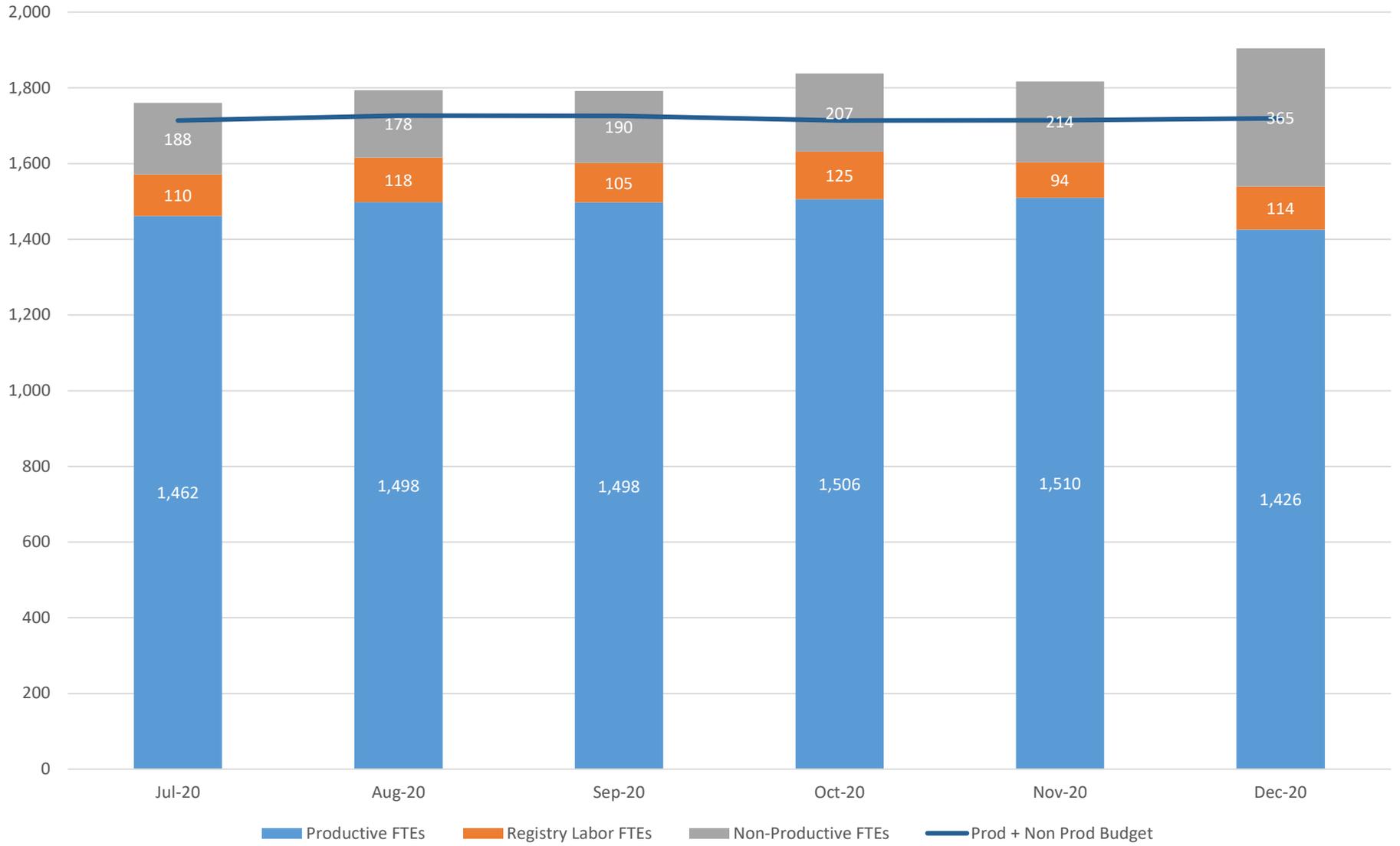
Surgical Volume



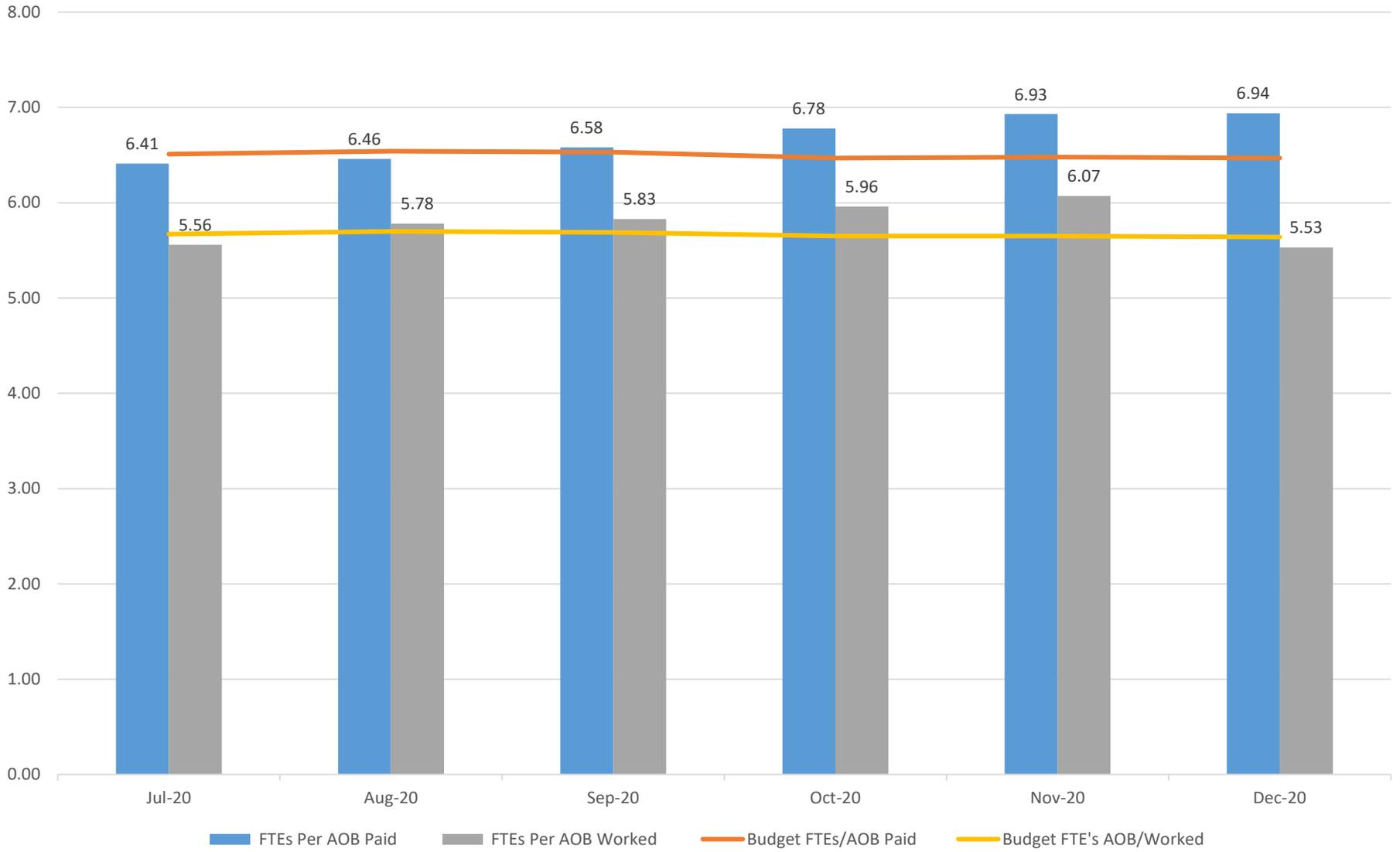
Clinic Visits



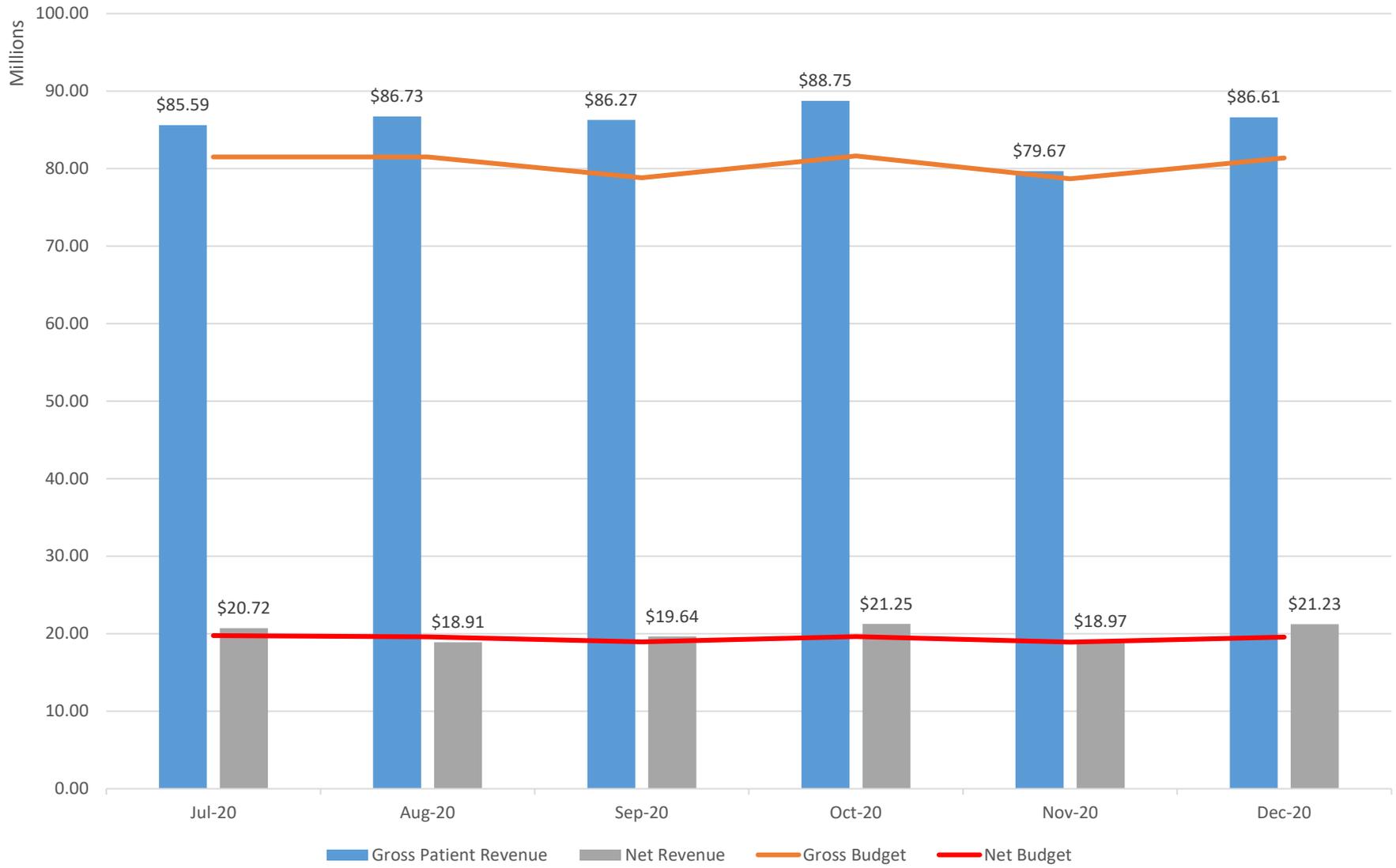
Productivity



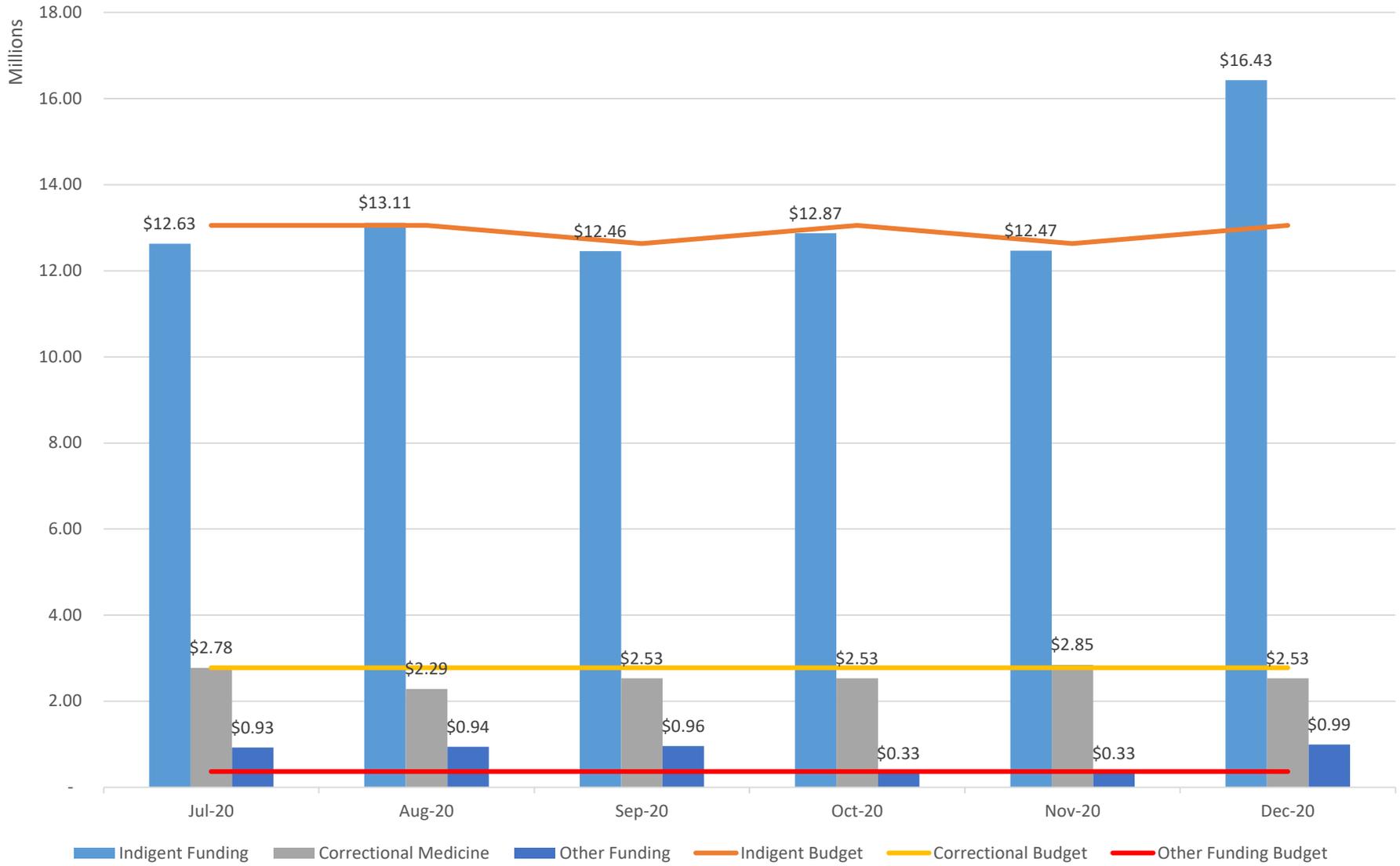
Labor Metrics



Patient Revenue



Indigent & Correctional Revenue



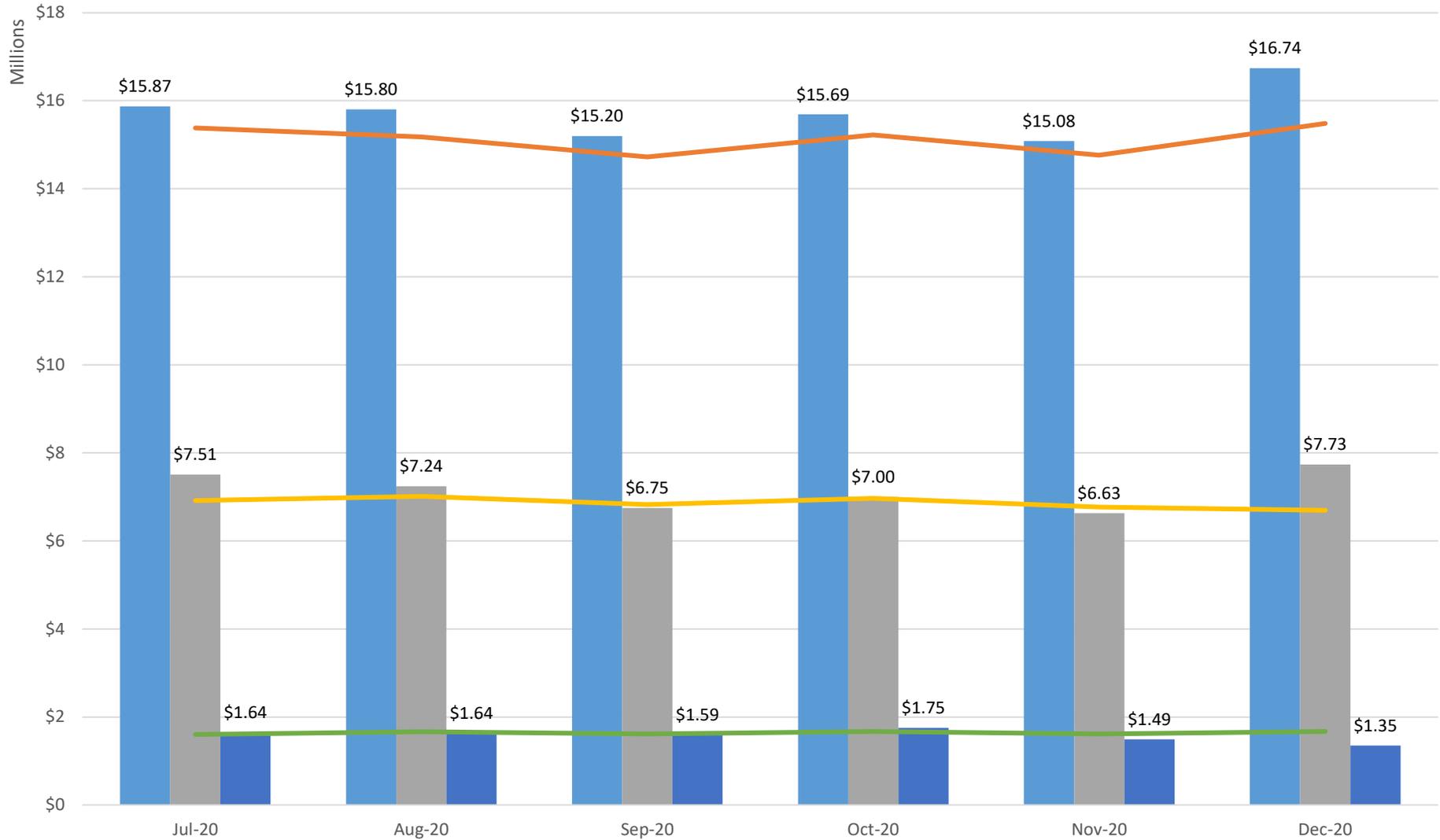
Total Revenue



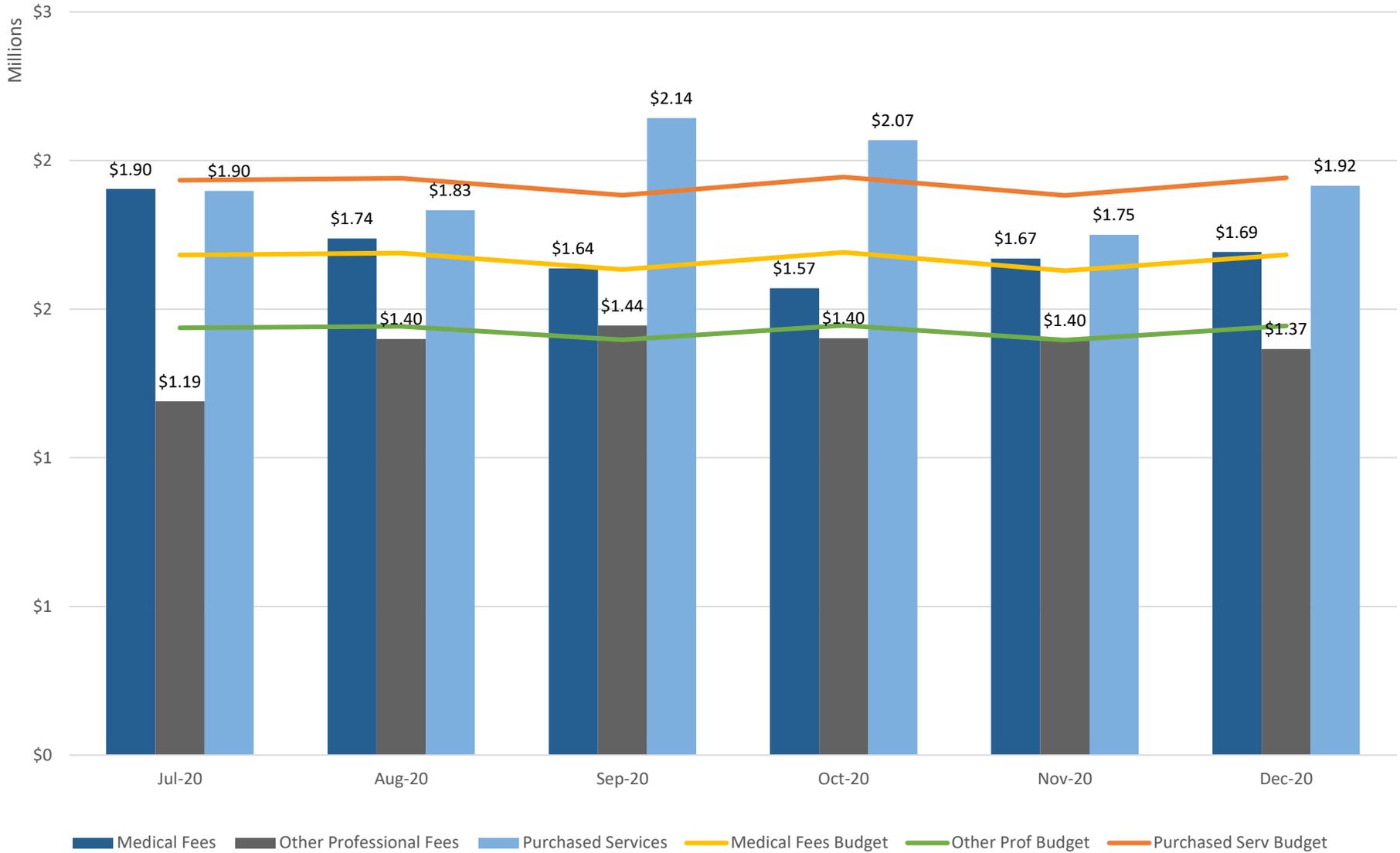
Expenses



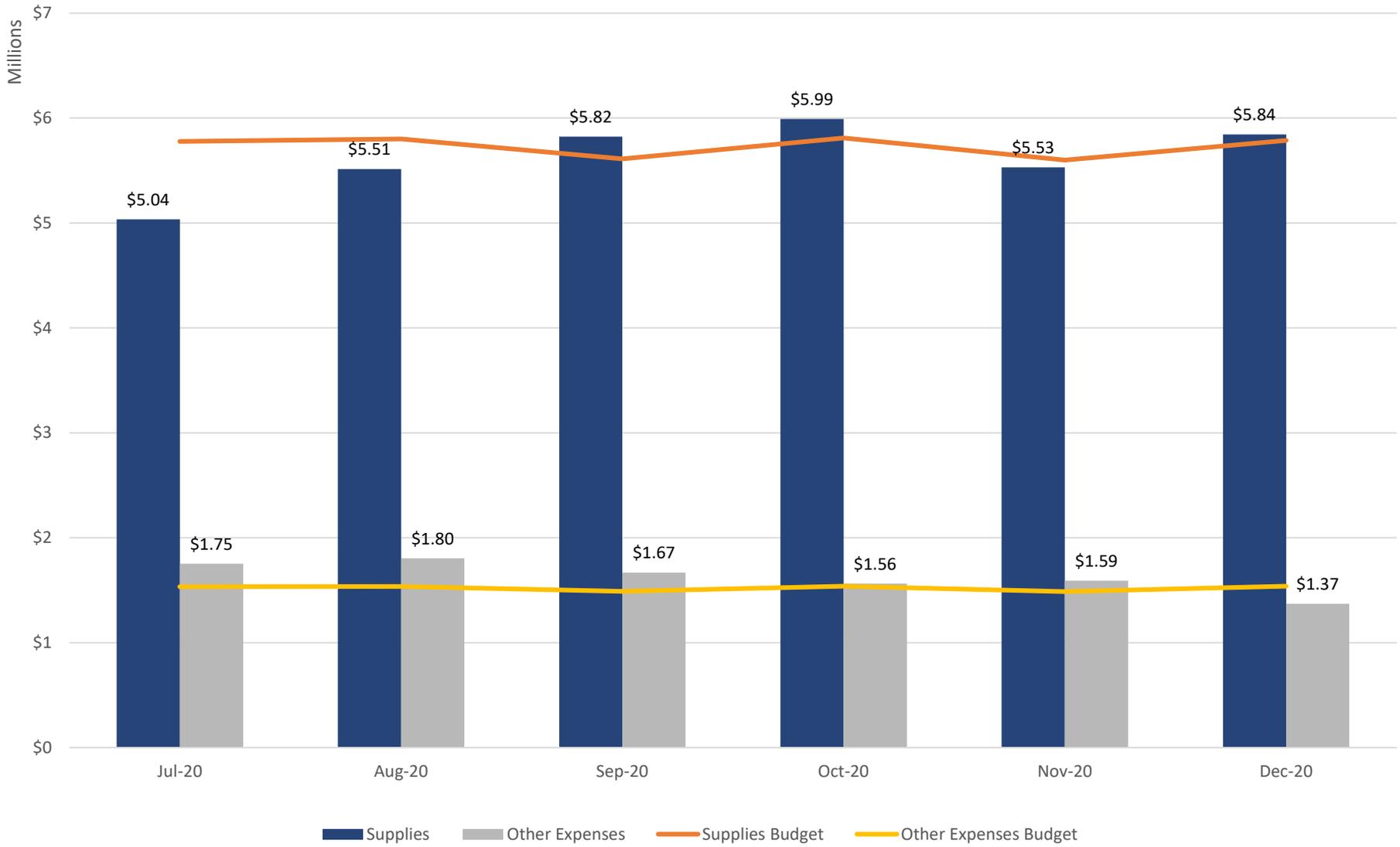
Salaries & Benefits



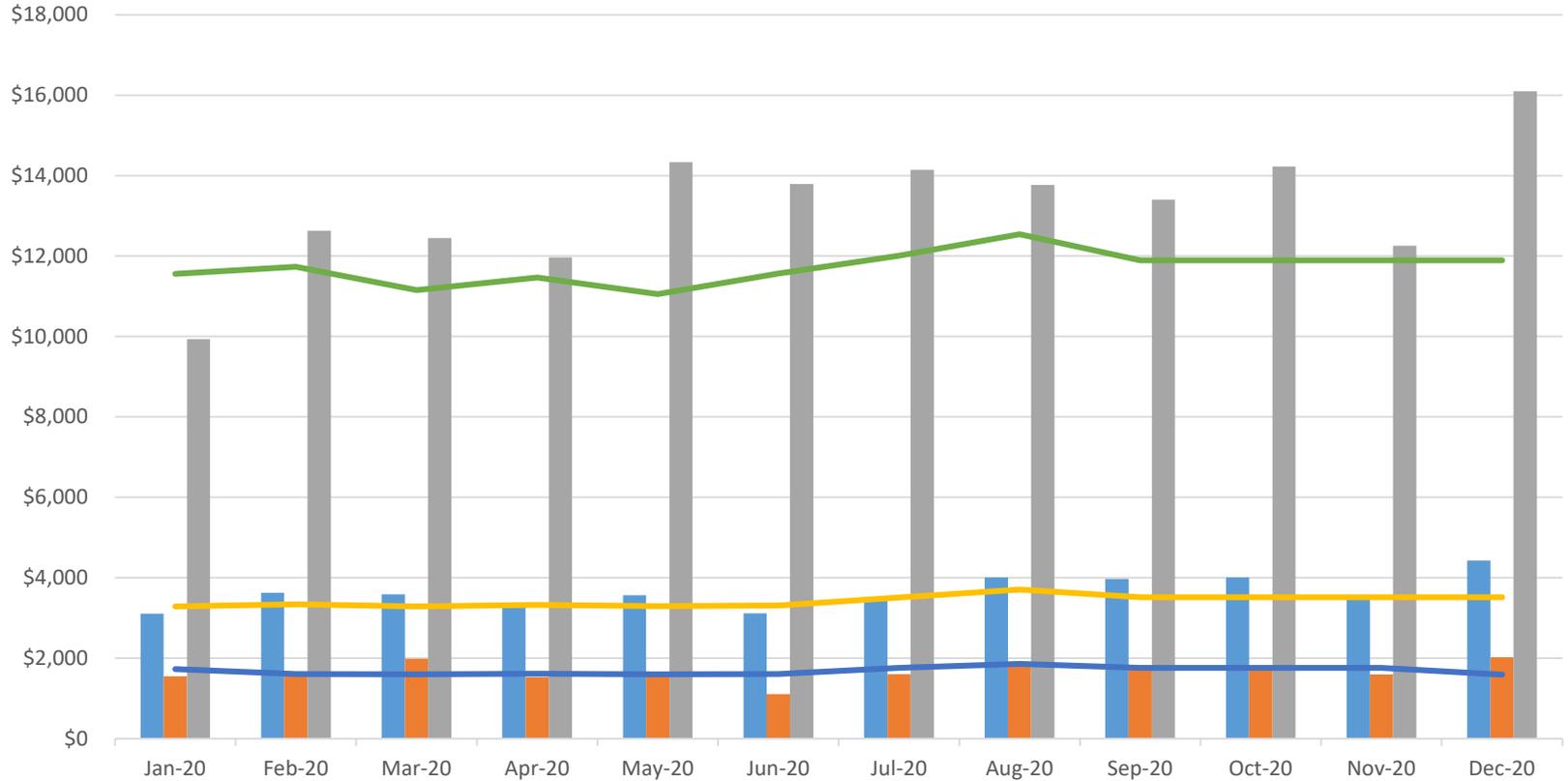
Purchased Services, Medical, & Other Prof Fees



Other Expenses & Supplies

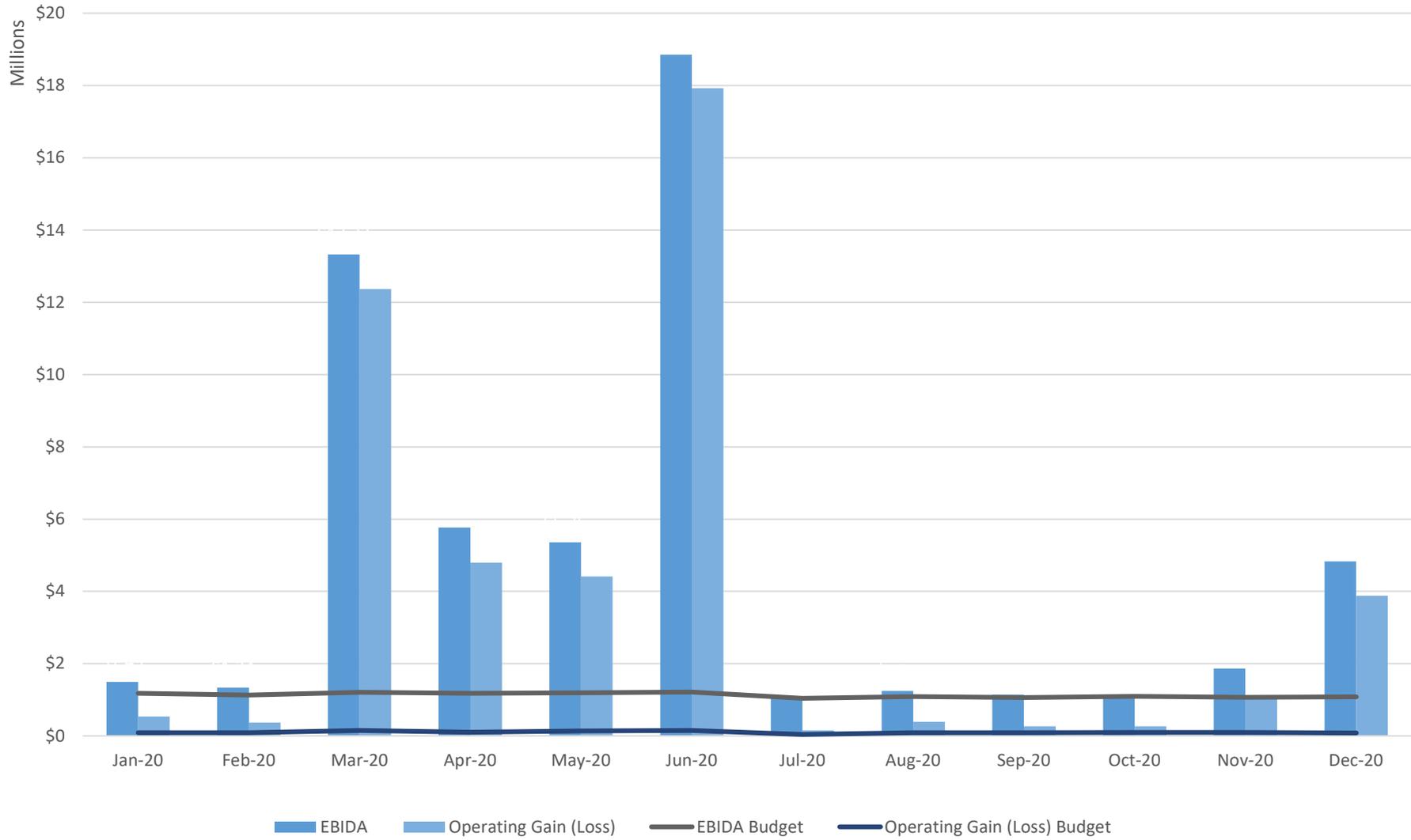


Operating Metrics

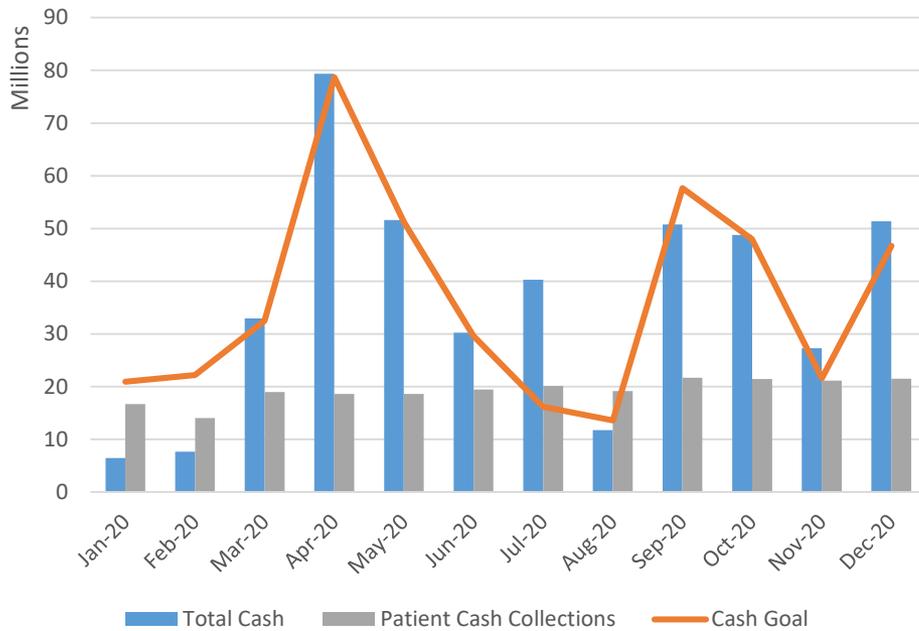


	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20
Supply Expense per AA	\$3,110	\$3,627	\$3,592	\$3,365	\$3,568	\$3,114	\$3,436	\$4,014	\$3,973	\$4,011	\$3,574	\$4,431
Pharm Cost per AA	\$1,549	\$1,569	\$1,989	\$1,530	\$1,658	\$1,110	\$1,604	\$1,787	\$1,823	\$1,735	\$1,597	\$2,028
Net Revenue Per AA	\$9,934	\$12,632	\$12,444	\$11,963	\$14,333	\$13,794	\$14,139	\$13,765	\$13,403	\$14,225	\$12,256	\$16,093
Budget Supp/AA	\$3,291	\$3,343	\$3,293	\$3,330	\$3,298	\$3,314	\$3,513	\$3,711	\$3,520	\$3,517	\$3,519	\$3,516
Budget Pharm/AA	\$1,736	\$1,614	\$1,603	\$1,615	\$1,605	\$1,612	\$1,760	\$1,859	\$1,763	\$1,762	\$1,762	\$1,596
Budget Net Rev/AA	\$11,556	\$11,730	\$11,153	\$11,464	\$11,052	\$11,568	\$12,011	\$12,543	\$11,892	\$11,891	\$11,893	\$11,893

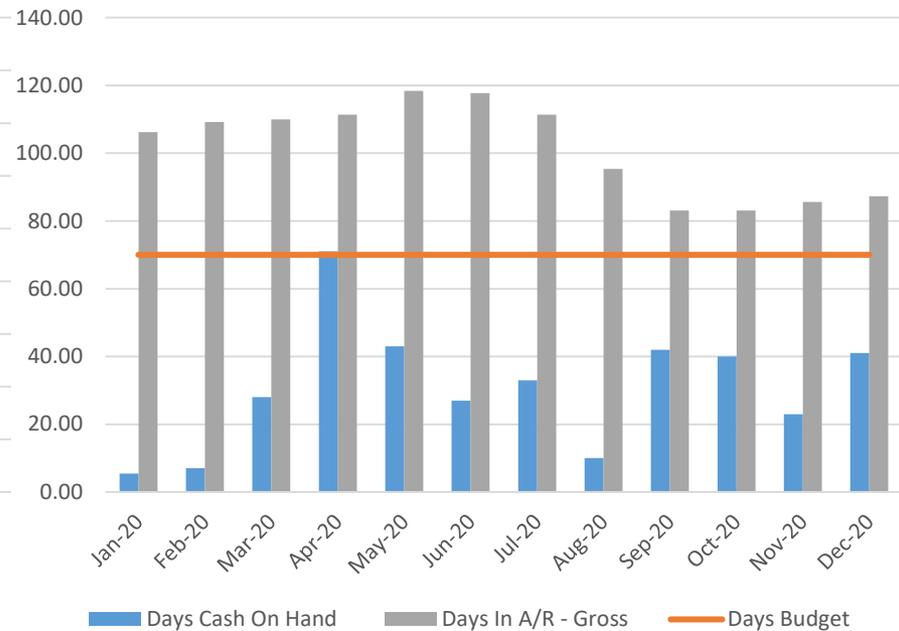
EBIDA 2020 YTD



Cash 2020 YTD



AR Days 2020 YTD



KERN MEDICAL
3-Month Trend Analysis: Revenue & Expense
December 31, 2020

	OCTOBER	NOVEMBER	DECEMBER	BUDGET DECEMBER	VARIANCE POS (NEG)	PY DECEMBER
Gross Patient Revenue	\$ 88,747,831	\$ 79,669,458	\$ 86,608,737	\$ 81,377,345	6%	\$ 76,811,620
Contractual Deductions	(67,501,382)	(60,703,161)	(65,381,838)	(61,800,030)	6%	(56,851,762)
Net Revenue	21,246,449	18,966,297	21,226,899	19,577,314	8.4%	19,959,859
Indigent Funding	12,871,456	12,470,051	16,428,115	13,055,802	26%	12,090,749
Correctional Medicine	2,531,665	2,846,885	2,531,665	2,777,068	(9%)	2,443,735
County Contribution	285,211	285,211	285,211	285,211	0%	285,446
Incentive Funding	41,667	41,667	707,727	83,333	749%	212,040
Net Patient Revenue	36,976,448	34,610,111	41,179,616	35,778,729	15.1%	34,991,828
Gain/(Loss) on Health-Related Entity	0	0	0	0	0%	(136,548)
Other Operating Revenue	1,180,599	2,211,409	1,646,558	1,268,658	30%	1,194,078
Other Non-Operating Revenue	14,769	181,145	16,001	279,021	(94%)	36,748
Total Revenue	38,171,816	37,002,666	42,842,176	37,326,407	15%	36,086,107
Expenses						
Salaries	15,688,011	15,083,407	16,736,777	15,485,272	8%	14,886,695
Employee Benefits	6,999,601	6,629,351	7,734,603	6,695,780	16%	6,676,375
Registry	1,753,571	1,490,362	1,352,040	1,671,417	(19%)	1,575,265
Medical Fees	1,570,254	1,670,322	1,691,974	1,682,620	1%	1,778,328
Other Professional Fees	1,402,090	1,396,417	1,365,864	1,443,619	(5.4%)	1,460,377
Supplies	5,991,603	5,530,293	5,844,300	5,787,762	1%	4,855,484
Purchased Services	2,068,039	1,750,279	1,915,140	1,941,922	(1%)	2,083,492
Other Expenses	1,563,902	1,592,254	1,371,316	1,537,919	(11%)	1,487,391
Operating Expenses	37,037,071	35,142,685	38,012,013	36,246,312	5%	34,803,407
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 1,134,745	\$ 1,859,981	\$ 4,830,163	\$ 1,080,096	347%	\$ 1,282,700
EBIDA Margin	3%	5%	11%	3%	290%	4%
Interest	137,992	35,643	224,105	233,654	(4%)	224,997
Depreciation	474,267	455,582	471,695	506,231	(7%)	486,792
Amortization	256,257	256,257	256,257	260,521	(2%)	256,825
Total Expenses	37,905,587	35,890,168	38,964,071	37,246,718	5%	35,772,021
Operating Gain (Loss)	\$ 266,229	\$ 1,112,498	\$ 3,878,104	\$ 79,690	4,767%	\$ 314,086
Operating Margin	0.7%	3.0%	9.1%	0.21%	4,140%	0.87%

KERN MEDICAL
Year-to-Date: Revenue & Expense
December 31, 2020

	ACTUAL FYTD	BUDGET FYTD	VARIANCE POS (NEG)	PY FYTD	PY VARIANCE POS (NEG)
Gross Patient Revenue	\$ 513,627,871	\$ 483,240,076	6%	\$ 466,318,821	10%
Contractual Deductions	(392,914,323)	(366,994,082)	7%	(346,341,372)	13%
Net Revenue	120,713,548	116,245,994	4%	119,977,449	
Indigent Funding	79,968,782	77,492,503	3%	73,258,372	9%
Correctional Medicine	15,505,171	16,662,408	(7%)	15,162,408	2.3%
County Contribution	1,711,305	1,711,266	0%	1,711,266	0.0%
Incentive Funding	2,763,580	500,000	453%	1,272,240	117%
Net Patient Revenue	220,662,386	212,612,170	4%	211,381,735	4%
Other Operating Revenue	8,539,428	7,530,201	13%	6,983,642	22%
Other Non-Operating Revenue	2,273,988	1,669,389	36%	58,876	3,762%
Total Revenue	231,475,802	221,811,760	4%	217,889,735	6%
Expenses					
Salaries	94,378,892	90,682,068	4%	87,505,253	8%
Employee Benefits	42,864,206	41,072,051	4%	39,689,421	8%
Registry	9,464,021	9,901,618	(4%)	10,278,713	(7.9%)
Medical Fees	10,211,418	10,006,600	2%	10,211,452	(0%)
Other Professional Fees	8,198,820	8,560,779	(4%)	9,010,489	(9%)
Supplies	33,738,209	34,389,585	(2%)	32,863,344	2.7%
Purchased Services	11,605,758	11,525,317	1%	12,049,222	(4%)
Other Expenses	9,754,383	9,126,098	7%	9,275,773	5%
Operating Expenses	220,215,707	215,264,115	2%	210,883,668	4%
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 11,260,095	\$ 6,547,645	72%	\$ 7,006,067	61%
EBIDA Margin	5%	3%	65%	3%	51%
Interest	828,476	1,386,847	(40%)	1,398,356	(41%)
Depreciation	2,824,610	3,021,296	(7%)	2,992,456	(6%)
Amortization	1,537,545	1,542,725	(0.3%)	824,890	86%
Total Expenses	225,406,338	221,214,984	2%	216,099,370	4%
Operating Gain (Loss)	\$ 6,069,463	\$ 596,776	917%	\$ 1,790,365	239%
Operating Margin	3%	0.3%	875%	1%	219%

**KERN MEDICAL
BALANCE SHEET**

	DECEMBER 2020	DECEMBER 2019
ASSETS:		
<i>Total Cash</i>	51,377,258	13,715,496
Patient Receivables Subtotal	242,105,078	266,034,338
Contractual Subtotal	(195,595,530)	(203,969,518)
<i>Net Patient Receivable</i>	46,509,548	62,064,820
Total Indigent Receivable	126,418,946	107,858,862
Total Other Receivable	4,634,040	11,001,051
Total Prepaid Expenses	3,578,871	4,086,183
Total Inventory	5,976,114	5,558,180
<i>Total Current Assets</i>	238,494,777	204,284,592
Deferred Outflows of Resources	87,863,462	85,039,154
Investments Deposited with Trustee	0	931,830
Total Land, Equipment, Buildings and Intangib	194,708,284	193,972,515
Total Construction in Progress	22,066,126	9,669,128
<i>Total Property, Plant & Equipment</i>	216,774,410	203,641,642
Total Accumulated Depr & Amortization	(120,043,589)	(111,232,545)
<i>Net Property, Plant, and Equipment</i>	96,730,822	92,409,098
<i>Total Long Term Assets</i>	87,863,462	85,970,983
<i>Total Assets</i>	423,089,060	382,664,673

**KERN MEDICAL
BALANCE SHEET**

	DECEMBER 2020	DECEMBER 2019
LIABILITIES & EQUITY:		
Total Accounts Payable	11,710,547	21,894,278
Total Accrued Compensation	33,493,689	27,259,191
Total Due Government Agencies	37,635,965	39,555,725
Total Other Accrued Liabilities	43,180,672	55,690,780
<i>Total Current Liabilities</i>	126,020,874	144,399,974
Unfunded Pension Liability	322,103,797	307,234,709
Other Long-Term Liabilities	96,456,658	113,006,704
<i>Total Long-Term Liabilities</i>	418,560,455	420,241,413
<i>Total Liabilities</i>	544,581,329	564,641,387
<hr/>		
Fund Balance	36,714,022	36,714,021
Retained Earnings	(158,206,290)	(218,690,736)
<i>Total Fund Balance</i>	(121,492,269)	(181,976,714)
<hr/>		
<i>Total Liabilities and Fund Balance</i>	423,089,060	382,664,673



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

February 17, 2021

Subject: Kern County Hospital Authority Chief Executive Officer Report

Recommended Action: Receive and File

Summary:

The Chief Executive Officer of the Kern County Hospital Authority will provide your Board with a hospital-wide update.

**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 February 17, 2021, 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**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on February 17, 2021, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

 X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Shine Villanueva, an individual v. Kern County Hospital Authority, et al., Kern County Superior Court Case No. BCV-19-101706 TSC –

**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 February 17, 2021, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

- X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Kern County Hospital Authority, a Governmental entity v. California Department of Corrections and Rehabilitation, et al., Kern County Superior Court Case No. BCV-20-102979 DRL
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**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 February 17, 2021, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

 X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: In the Matter of the Accusation Against County of Kern, California, DBA Kern Medical Center Campus Pharmacy, et al., Respondents, Case No. 7026 –

**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 February 17, 2021, 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)) –