



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, September 21, 2022

11:30 A.M.

BOARD TO RECONVENE

Board Members: Alsop, Berjis, Bigler, Brar, Kitchen, 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)) –

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing Kern Medical Center nurses Cathy Badgley, Brock Beeney, Jemma Clouden, Laura Cunanan, Eva Flanigan, Dawn C. LeRoy and Shalom Sakowski for their hard work and dedication –
MAKE PRESENTATION

ITEMS FOR CONSIDERATION

- CA
- 4) Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings –
APPROVE; ADOPT RESOLUTION

- CA
- 5) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on August 17, 2022 and Board of Governors special meeting on August 31, 2022 –
APPROVE

- CA
- 6) Proposed updated Conflict of Interest Policy and Conflict of Interest Code for the Kern County Hospital Authority –
APPROVE; REFER TO KERN COUNTY BOARD OF SUPERVISORS FOR APPROVAL

- CA
- 7) Letter from Moss Adams LLP, an independent contractor, regarding the Kern Medical Center financial statement audit for the fiscal year ended June 30, 2022 –
RECEIVE AND FILE

CA

- 8) Proposed retroactive Agreement with Trans-West Security Services, Inc., an independent contractor, for security services from July 1, 2022 through June 30, 2025, in an amount not to exceed \$9,818,826 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed Amendment No. 4 to Agreement 06816 with Health Advocates, LLC, an independent contractor, for accounts receivable and financial services for the period July 1, 2016 through September 30, 2022, extending the term for three years from October 1, 2022 through September 30, 2025, increasing the maximum payable by \$10,800,000, from \$15,850,000 to \$26,650,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed Amendment No. 10 to Agreement 947-2008 with Toyon Associates, Inc., an independent contractor, for third-party reimbursement services, for the period October 14, 2008 through October 13, 2022, extending the term for two years from October 14, 2022 through October 13, 2024, updating the service pricing, and increasing the maximum payable by \$950,000, from \$4,290,000 to \$5,240,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 11) Proposed Agreement with Jack C. Hou, M.D., a contract employee, for professional medical services in the Department of Surgery from September 22, 2022 through September 21, 2023, in an amount not to exceed \$890,000, plus applicable benefits –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Proposed Amendment No. 4 to Agreement 20119 with Juan M. Lopez, M.D., a contract employee, for professional medical and administrative services in the Department of Obstetrics and Gynecology, for the period July 1, 2019 through September 30, 2022, extending the term for 90 days from October 1, 2022 through December 31, 2022, and increasing the maximum payable by \$115,000, from \$1,465,000 to \$1,580,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 13) Proposed Amendment No. 2 to Agreement 055-2019 with United Neuroscience, Inc., an independent contractor, for professional medical services in the Department of Medicine, for the period October 1, 2019 through September 30, 2022, extending the term for two years from October 1, 2022 through September 30, 2024, and increasing the maximum payable by \$2,250,000, from \$3,040,000 to \$5,290,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 14) Proposed Lease Schedule with Presidio Technology Capital, LLC, an independent contractor, containing nonstandard terms and conditions, for the lease of equipment, software and services for radiological information technology infrastructure for a term of 36 months, in an amount not to exceed \$289,894, plus applicable taxes –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN RECEIPT FOR EQUIPMENT UPON DELIVERY

CA

- 15) Proposed Agreement with McMurtrey Lince, Inc., an independent contractor, for construction services for construction of a new isolation and anteroom in the Emergency Department, effective September 21, 2022, in an amount not to exceed \$498,500 –
MAKE A 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 CHIEF EXECUTIVE OFFICER TO APPROVE FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 10% OF \$498,500

CA

- 16) Proposed Amendment No. 4 to Agreement 27716 with Hill-Rom Company, Inc., an independent contractor, for software upgrades and additional materials related to the 2nd Floor and 4th Floor C wing nurse call system project, for the period November 17, 2016 until project completion, with total project costs not to \$420,078, effective September 21, 2022 –
MAKE A 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; APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 17) Proposed Agreement with Rajinder P. Singh, M.D., an independent contractor, for professional medical services in the Department of Radiology from October 7, 2022 through October 6, 2023, in an amount not to exceed \$500,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 18) Proposed Agreement with Naheedy and Zarandy Medical Group, Inc., an independent contractor, for professional medical services in the Department of Radiology from November 1, 2022 through October 31, 2024, in an amount not to exceed \$800,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 19) Proposed Amendment No. 1 to Agreement 073-2019 with Arman G. Froush, D.O., a contract employee, for professional medical services in the Department of Radiology, for the period December 11, 2019 through December 10, 2022, increasing the maximum payable by \$300,000, from \$2,850,000 to \$3,150,000, to cover the term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 20) Proposed Amendment No. 2 to Agreement 23316 with The Board of Trustees of the Leland Stanford Junior University, on behalf of California Maternal Quality Care Collaborative, for participation in the Maternal Data Center, for the period October 1, 2016 through September 30, 2022, extending the term for three years from October 1, 2022 through September 30, 2025, and increasing the maximum payable by \$35,000, from \$70,000 to \$105,000, to cover the extended term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 21) Proposed acceptance of donation of travel and related expenses from Cerner Corporation for up to seven Kern Medical Center employees to attend the "Oracle Cerner Annual Health Conference" in Kansas City, Missouri, from October 17-19, 2022 –
APPROVE; ADOPT RESOLUTION

CA

- 22) Proposed First Amendment to Agreement 074-2021 with Adventist Health Physicians Network, an independent contractor, for professional medical services of Kern Medical Center physicians, for the period January 1, 2022 through December 31, 2031, adding the specialties of urology and plastic surgery and compensation for the professional services provided by Kern Medical physicians effective September 21, 2022 –
APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

CA

- 23) Proposed Resolution in the matter of revising the extension of excess medical professional liability coverage for Kern Medical Center employed and independent contractor physicians, effective September 21, 2022 –
APPROVE; ADOPT RESOLUTION

CA

- 24) Proposed retroactive Master Service Agreement with Signature Performance, Inc., doing business as Signature Performance Healthcare LLC, an independent contractor, for medical records coding services from September 1, 2022 through August 31, 2023, in an amount not to exceed \$5,490,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

- 25) Response to Board referral for a trending analysis report of Kern Medical Center births (from August 17, 2022) –
RECEIVE AND FILE

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

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

CA

- 28) Monthly report on What's Happening at Kern Medical Center –
RECEIVE AND FILE

CA

- 29) Proposed correction to minutes for Kern County Hospital Authority Board of Governors regular meeting on July 20, 2022 –
APPROVE

CA

- 30) Claims and Lawsuits Filed as of August 31, 2022 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 31) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 32) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –
- 33) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Patricia Smith v. Kern Medical Center, and DOES 1 through 10, Kern County Superior Court Case No. BCV-18-101315 –
- 34) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) –
- 35) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Unrepresented Employee: Chief Financial Officer (Government Code Section 54957.6) –
- 36) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) –

RECONVENE FROM CLOSED SESSION

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

ADJOURN TO WEDNESDAY, OCTOBER 19, 2022 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.

30) CLAIMS AND LAWSUITS FILED AS OF AUGUST 31, 2021 –
RECEIVE AND FILE

- A) Claim in the matter Olen Dean McDowell
- B) Claim in the matter of Jax Anderson
- C) Third Amended Complaint for Damages in the matter of Rosa Elia Rodriguez, Santiago Rodriguez, and the Estate of Joes Luis Rodriguez, Plaintiffs, v. County of Kern, Sheriff Donny Youngblood, Commander Mark Warren, Bill Walker, Tina Maria Gonzales L.V.N., Deputy Laura Escobar (#203169), Kern County Hospital Authority and DOES 1-10, Inclusive, Defendants, United States District Court, Eastern District of California Case No. 1:21-cv-01405-DAD-BAM
- D) Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1599-M



BOARD OF GOVERNORS KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING

September 21, 2022

Subject: Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings

Recommended Action: Approve; Adopt Resolution

Summary:

On March 17, 2020 Governor Newsom issued Executive Order N-29-20 due to the COVID-19 pandemic. These orders specified relaxed provisions of meetings under the Ralph M. Brown Act (California's open meeting law; "Brown Act") allowing meetings to be conducted through teleconferencing. Executive Order N-29-20 expired on September 30, 2021. In response, on September 16, 2021, Governor Newsom signed Assembly Bill (AB) 361, which amends Government Code Section 54953 clarifying the Brown Act regulations and restrictions relating to the use of teleconferencing to conduct public meetings.

Discussion:

Currently the Brown Act states that should a legislative body elect to use teleconferencing it must identify each teleconferencing location in the public notice and agenda. The agenda is required to be posted at all teleconferencing locations and all locations must be publicly accessible. Additionally, a quorum of the members of the legislative body must participate from a teleconferencing location that is physically within the jurisdictional boundaries of the public agency.

Governor Newsom issued Executive Order N-29-20 suspending the Brown Act requirements due to the COVID-19 pandemic with the intention of facilitating social distancing and the mitigation of COVID-19. The Executive Order expired on September 30, 2021. In response on September 16, 2021 Governor Newsom signed AB 361 to replace the expired Executive Order.

Similar to Executive Order N-29-20, AB 361 applies during a State of Emergency proclaimed by the Governor. In addition to the State of Emergency, one of the following conditions must apply:

- State or local officials have impose or recommended measures to promote social distancing,
- The legislative body is meeting to determine whether, because of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- The legislative body has determined that, because of the emergency, meeting in person presents imminent risks to the health or safety of attendees.

If the prerequisites mentioned above are met AB 361 provides an exemption to the regular Brown Act teleconferencing requirements and an alternate set of requirements will apply. Those requirements include:

- Adequate notice of the meeting and posting an agenda as required by the Brown Act;
- The agenda is not required to list each teleconference location or be physically posted at each teleconference location;
- If there is a disruption in the public broadcast or the call-in or internet-based meeting service, the legislative body must cease and take no further action on agenda items until public access is restored; and
- Local agencies cannot require that public comment be submitted prior to the meeting, and must allow for live public comment during the specified public comment period of the meeting.

AB 361 sunsets on January 1, 2024. If your Board determines that it is in the best interest of public health and safety to continue to hold virtual public meetings, continued reliance will require your Board to reevaluate and adopt a new resolution every 30 days.

Therefore, it is recommended that your Board adopt the attached Resolution.

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

In the matter of:

Resolution No. 2022-____

**MAKING FINDINGS PURSUANT TO
GOVERNMENT CODE SECTION 54953, AS
AMENDED BY ASSEMBLY BILL 361, AND
AUTHORIZING THE CONTINUED USE OF
VIRTUAL MEETINGS**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 21st day of September, 2022, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) As a result of the COVID-19 pandemic, Governor Newsom issued Executive Order Nos. N-08-21, N-25-20 and N-29-20, which suspended certain provisions of the Ralph M. Brown Act to allow legislative bodies to conduct public meetings without strict compliance with the teleconferencing provisions of the Brown Act; and

(b) Assembly Bill 361, signed into law on September 16, 2021, amended Government Code section 54953, effective October 1, 2021, to provide relief from the teleconferencing provisions of the Brown Act under certain circumstances provided the legislative body makes certain findings; and

(c) As a result of the COVID-19 pandemic, the Governor proclaimed a state of emergency on March 4, 2020, in accordance with section 8625 of the California Emergency Services Act, and the state of emergency remains in effect; and

(d) As a result of the COVID-19 pandemic, the California Department of Public Health and County of Kern Public Health Services continue to recommend measures to promote social distancing.

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

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

2. This Board hereby finds that the state of emergency continues to directly impact the ability of the members of the Board of Governors to meet safely in person, and further that state and local officials continue to impose or recommend measures to promote social distancing.

3. This Board hereby authorizes the Board of Governors to continue to conduct public meetings in accordance with Government Code section 54953, as amended by Assembly Bill 361.

4. This Resolution will be in effect during the period in which state or local public officials impose or recommend measures to promote social distancing.

5. This Resolution shall take effect immediately upon its adoption and remain in effect until October 19, 2022.

6. This Board shall reevaluate the above findings on October 19, 2022, and every 30 days thereafter.

7. Resolution No. 2022-013, adopted by the Board of Governors on August 17, 2022, is hereby repealed and superseded by this Resolution.

8. This Board hereby directs staff to take all actions necessary to carry out the intent and purpose of this Resolution.

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

Members, Board of Governors
Chief Executive Officer
Legal Services Department



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

**Regular Meeting
Wednesday, August 17, 2022**

11:30 A.M.

BOARD RECONVENED

Board Members: Alsop, Berjis, Bigler, Brar, Kitchen, McLaughlin, Pelz
Roll Call: 5 Present: 2 Absent - Alsop, Kitchen

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!**

**CORRESPONDENCE DATED AUGUST 16, 2022, RECEIVED FROM SYDNEE GALUSHA, SEIU LOCAL 521, STRATEGIC RESEARCH, CONCERNING PUBLIC COMMENT FOR THE AUGUST 17, 2022 BOARD MEETING, A COPY OF WHICH MAY BE OBTAINED UPON REQUEST BY CONTACTING THE AUTHORITY BOARD COODINATOR AT (661) 326-2000; DIRECTOR BERJIS MADE A REFERRAL TO STAFF RESPOND
Berjis-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen**

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)) –

DIRECTOR BERJIS REPORTED ON THE UPCOMING ANNUAL GRADUATE MEDICAL EDUCATION SUMMIT SCHEDULED FOR SEPTEMBER; DRS. HA AND SOOHOO FROM UCLA WILL BE ATTENDING AS GUESTS OF KERN MEDICAL CENTER

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing the Kern Medical Center Medical Education Department for their hard work and dedication –
CHIEF EXECUTIVE OFFICER SCOTT THYGERSON MADE PRESENTATION; DIRECTOR BERJIS EXPRESSED HIS APPRECIATION TO STAFF IN THE MEDICAL EDUCATION DEPARTMENT FOR THEIR HARD WORK
- 4) Presentation by the Chief Executive Officer recognizing the Kern Medical Center Simulation Center on its second anniversary –
CHIEF EXECUTIVE OFFICER SCOTT THYGERSON MADE PRESENTATION; DIRECTOR BERJIS ACKNOWLEDGED THE BENEFITS OF THE SIMULATION CENTER FOR MEDICAL STUDENTS; CHAIRMAN BIGLER COMMENTED ON THE STATE-OF-THE-ART FEATURES OF THE SIMULATION CENTER

ITEMS FOR CONSIDERATION

- CA
5) Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings –
APPROVED; ADOPTED RESOLUTION 2022-013
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen
- CA
6) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on July 20, 2022 and Board of Governors special meeting on August 1, 2022 –
APPROVED
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen
- CA
7) Response to Board referral from July 20, 2022, regarding public comment received concerning Amendment No. 1 to Agreement with Cantu Management Group, Inc. –
RECEIVED AND FILED
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen
- CA
8) Proposed Resolution in the matter of institutional support and commitment to the Kern Medical Center trauma program –
APPROVED; ADOPTED RESOLUTION 2022-014
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 9) Proposed Standard Multi-Tenant Office Lease Agreement with Bruce W. Lynn and Melanie Lynn, husband and wife, David Lynn, a single man, and Connor Lynn, a single woman, containing nonstandard terms and conditions, for lease of approximately 4,167 square feet of office space located at 2222 19th Street, Bakersfield, California 93301 for a five-year term from August 17, 2022 through August 16, 2027, in an amount not to exceed \$467,212 –
MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 090-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 10) Proposed Change Order No. 3 to Agreement 026-2022 with James E. Thompson, Inc., doing business as JTS Construction, an independent contractor, for construction management services related to the Q Street imaging project, adding additional services to address city requirements for public access at 3551 Q Street, and increasing the maximum payable by \$36,416, from \$601,096.85 to \$637,513, to cover the cost of additional services –
MADE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301, 15302 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 091-2022; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 10% OF \$637,513
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 11) Proposed Amendment No. 4 to Agreement 078-2018 with Ray A Morgan Company, an independent contractor, containing nonstandard terms and conditions, for lease and maintenance of printers and copy machines, for the period November 14, 2018 through April 1, 2024, for leasing of additional printers and copy machines, and increasing the maximum payable by \$78,869, from \$2,270,004 to \$2,348,87, to cover the term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 092-2022; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN RECEIPT FOR EQUIPMENT UPON DELIVERY
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 12) Proposed retroactive Agreement for Professional Services with the County of Kern, as represented by Kern County Public Health Services Department, for multiple specialized services from July 1, 2022 through June 30, 2025, in an amount not to exceed \$1,400,000 –
APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 093-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 13) Proposed Agreement with Mikhail Bekarev, M.D., a contract employee, for professional medical services in the Department of Surgery from August 17, 2022 through August 16, 2025, in an amount not to exceed \$4,800,000, plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 094-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 14) Proposed Agreement with Jack C. Hou, M.D., a contract employee, for professional medical services in the Department of Surgery from September 1, 2022 through August 31, 2023, in an amount not to exceed \$890,000, plus applicable benefits –
WITHDRAWN

CA

- 15) Proposed retroactive Agreement with Sarah G. Gonzalez, M.D., a contract employee, for professional medical services in the Department of Medicine from August 1, 2022 through July 31, 2028, in an amount not to exceed \$1,970,000, plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 096-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 16) Proposed Agreement with Amin Ahmed Ramzan, M.D., a contract employee, for professional medical services in the Department of Obstetrics and Gynecology from August 17, 2022 through August 16, 2027, in amount not to exceed \$3,090,000, plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 097-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 17) Proposed retroactive Adoption Agreement with Voya Retirement Insurance and Annuity Company, an independent contractor, for amendment and restatement of the Kern County Hospital Authority Defined Contribution Plan for Management, Mid-Management, and Confidential Employees, effective January 1, 2022 –
APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 098-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 18) Proposed retroactive Amendment No. 1 to Memorandum of Understanding 042-2021 with Committee of Interns and Residents/Service Employees International Union, Local 1957 for wages, hours and other terms and conditions of employment of resident physicians, for the period July 1, 2021 through June 30, 2024, adding language inadvertently omitted from the final draft of the MOU, effective July 1, 2021 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 099-2022
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 19) Proposed acceptance of donation of travel and related expenses from Public Risk Innovation, Solution, and Management (PRISM) for up to three Kern Medical Center employees to attend the “2022 PRISM Cyber Symposium” in Sacramento, California, on September 20, 2022 –
APPROVED; ADOPTED RESOLUTION 2022-015
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

CA

- 20) Proposed acceptance of donation of travel and related expenses from Safety National and MedPro for one Kern Medical Center employee to attend “The Workers’ Compensation & Risk Conference” in Dana Point, California from September 6-9, 2022 –
APPROVED; ADOPTED RESOLUTION 2022-016
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

NOTE: DIRECTOR KITCHEN JOINED THE MEETING PRIOR TO THE VOTE ON ITEM 21

- 21) Report on the status of Cerner Electronic Health Record implementation –
RECEIVED AND FILED
Pelz-McLaughlin: 6 Ayes; 1 Absent - Alsop
- 22) Kern County Hospital Authority Chief Financial Officer report –
DIRECTOR MCLAUGHLIN COMMENDED STAFF FOR THEIR CONTINUED WORK TO
REDUCE THE NUMBER OF DAYS IN ACCOUNTS RECEIVABLE; DIRECTOR
MCLAUGHLIN REQUESTED STAFF INCLUDE A SEPARATE REPORT ON REGISTRY
STAFF VOLUME AND COST IN THE MONTHLY CHIEF FINANCIAL OFFICER REPORT AND
MADE A REFERRAL TO STAFF TO BRING BACK A TRENDING ANALYSIS REPORT OF
KERN MEDICAL CENTER BIRTHS IN SEPTEMBER; RECEIVED AND FILED
Pelz-McLaughlin: 6 Ayes; 1 Absent - Alsop
- 23) Kern County Hospital Authority Chief Executive Officer report –
RECEIVED AND FILED
McLaughlin-Pelz: 6 Ayes; 1 Absent - Alsop
- CA
24) Claims and Lawsuits Filed as of June 30, 2022 –
RECEIVED AND FILED
McLaughlin-Pelz: 5 Ayes; 2 Absent - Alsop, Kitchen

ADJOURNED TO CLOSED SESSION
McLaughlin-Pelz

CLOSED SESSION

- 25) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 26) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 27) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) – SEE RESULTS BELOW
- 28) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Unrepresented Employee: Chief Financial Officer (Government Code Section 54957.6) – SEE RESULTS BELOW
- 29) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION
Kitchen-Berjjs

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 25 concerning Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD; BY A UNANIMOUS VOTE OF THOSE DIRECTORS PRESENT (MOTION BY DIRECTOR PELZ, SECOND BY DIRECTOR MCLAUGHLIN; 1 ABSENT - ALSOP), THE BOARD APPROVED ALL PRACTITIONERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, RELEASE OF PROCTORING; AND REQUEST FOR ADDITIONAL PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 26 concerning Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 27 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 28 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Unrepresented Employee: Chief Financial Officer (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 29 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, SEPTEMBER 21, 2022 AT 11:30 A.M.
Brar

/s/ Mona A. Allen
 Authority Board Coordinator

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



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Special Meeting
Wednesday, August 31, 2022

2:00 P.M.

BOARD RECONVENED

Board Members: Alsop, Berjis, Bigler, Brar, Kitchen, McLaughlin, Pelz
Roll Call: 6 Present; 1 Absent - Kitchen

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))
NO ONE HEARD

ADJOURN TO CLOSED SESSION
Berjis-McLaughlin

CLOSED SESSION

- 3) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/Respondents, Kern County Superior Court Case No. BCV-22-101782 JEB – SEE RESULTS BELOW
- 4) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern Medical Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1451-M – SEE RESULTS BELOW
- 5) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern Medical Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1553-M – SEE RESULTS BELOW
- 6) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern Medical Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1569-M – SEE RESULTS BELOW
- 7) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1573-M – SEE RESULTS BELOW
- 8) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1580-M – SEE RESULTS BELOW
- 9) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1589-M – SEE RESULTS BELOW

- 10) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1599-M – SEE RESULTS BELOW
- 11) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Financial Officer (Government Code Section 54957.6) – SEE RESULTS BELOW
- 12) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) – SEE RESULTS BELOW

RECONVENE FROM CLOSED SESSION

Alsop-Pelz

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 3 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/Respondents, Kern County Superior Court Case No. BCV-22-101782 JEB – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 4 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern Medical Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1451-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 5 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern Medical Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1553-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 6 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern Medical Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1569-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 7 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1573-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 8 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1580-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 9 CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1589-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 10 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Unfair Practice Charge No. LA-CE-1599-M – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 11 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Financial Officer (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 12 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, SEPTEMBER 21, 2022, 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**

September 21, 2022

SUBJECT: Proposed Conflict of Interest Policy for Kern County Hospital Authority

Recommended Action: Approve; Refer to Kern County Board of Supervisors for Approval

Summary:

The enabling county ordinance at section 2.170.102 requires the Hospital Authority and its officers and directors to conduct activities in a manner this is in conformity with the laws of the state of California as they pertain to conflicts of interest, including, but not limited to the Political Reform Act (Gov. Code, § 81000 et seq.), financial interests involving contracts (Gov. Code, § 1090), common law conflicts of interest,¹ and incompatible activities.²

The purposes of this policy are: (1) to preserve the integrity of the decision-making process of the Hospital Authority, (2) to prevent intentional or inadvertent participation in the decision-making process by persons having an actual or apparent conflict of interest, (3) to promote compliance with the process by which conflicts of interest are disclosed and managed in accordance with state laws, and (4) to prevent violations of state conflict of interest laws.

The attached reflects our recommended changes to the policy and conflict of interest code. The policy was updated to conform to the California Fair Political Practices Commission gift limits in effect from January 1, 2021 – December 31, 2022. The conflict of interest code was revised to reflect the current list of designated covered individuals by title or classification. The proposed changes have been reviewed and approved as to legal form by Counsel.

Therefore, it is recommended that your Board approve the conflict of interest policy for the Kern County Hospital Authority and refer to the Kern County Board of Supervisors for approval.

¹ Each member of the Hospital Authority Board of Governors and officers shall discharge his or her duties with integrity and fidelity and may not let private interests influence public decisions.

² In accordance with Section 101855(o) of the Health and Safety Code, a member of the Hospital Authority's administrative staff shall not be considered to hold an incompatible office or to be engaged in activities inconsistent and incompatible with his or her duties as a result of his or her employment or affiliation with the County of Kern or an agency of the County.

ADMINISTRATIVE POLICY
KERN COUNTY HOSPITAL AUTHORITY

SUBJECT: Conflict of Interest

POLICY STATEMENT:

It is the policy of the Kern County Hospital Authority (“Hospital Authority”) to provide for a process for the disclosure and management of conflicts of interest which may exist for persons with positions of trust and responsibility in the governance and management of the Hospital Authority, and to assure that state law provisions¹ relating to such conflicts are followed. In order to safeguard independent judgment and action in business decisions, each person entrusted with a key position of responsibility in the Hospital Authority has a duty to disclose actual or potential conflicts of interest, to avoid acting out of any actual or apparent conflict of interest which may arise from personal financial interests in entities which may conflict with the Hospital Authority’s best interests. The purposes of this policy are: (i) to preserve the integrity of the decision-making process of the Hospital Authority, (ii) to prevent intentional or inadvertent participation in the decision-making process by persons having an actual or apparent conflict of interest, (iii) to promote compliance with the process by which conflicts of interest are disclosed and managed in accordance with state laws, and (iv) to prevent violations of state conflict of interest laws.

DEFINITIONS:

- A. “Covered Individual” means those individuals identified in the attached Appendix A.
- B. “Financial interest” means for purposes of this policy a Covered Individual has a “financial interest” in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the employee or an immediate family member or on:
 - (1) any business entity in which the Covered Individual has a direct or indirect investment worth \$2,000 or more;
 - (2) any real property in which the Covered Individual has a direct or indirect interest worth \$2,000 or more;
 - (3) any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating ~~\$500~~\$520² or more in value provided to, received by or promised to the Covered Individual within 12 months prior to the time when the decision is made;
 - (4) any business or entity in which the Covered Individual is a director, officer, partner, trustee, employee, or holds any position of management; and
 - (5) any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating ~~\$500~~\$520 or more in value provided to, received by or promised to the Covered Individual within 12 months prior to the time when the decision is made.

¹ Government Code section 1090; Government Code section 81000 et seq.

² California Fair Political Practices Commission gift limit effective **January 1, 2019-2021** - December 31, ~~2020~~2022.

- C. "Immediate family member" means the Covered Individual's spouse; natural or adoptive parent, child or sibling; stepparent, stepchild, stepbrother or stepsister; father-in-law, mother-in-law, brother-in-law or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild.
- D. "Indirect investment or interest" means any investment or interest owned by the spouse or dependent child of the Covered Individual, by an agent on behalf of the Covered Individual, or by a business entity or trust in which the Covered Individual, or Covered Individual's agent, spouse, and dependent children own directly, indirectly, or beneficially a 10% interest or greater.

1.0 ACTS CONSTITUTING CONFLICT OF INTEREST

- A. No Covered Individual shall engage in any employment, activity or enterprise that results in any of the following:
 - 1. Using the prestige or influence of a Hospital Authority office or employment for private gain or advantage, or the private gain or advantage of another;
 - 2. Using Hospital Authority time, facilities, equipment or supplies for the Covered Individual's private gain or advantage, or the private gain or advantage of another;
 - 3. Using confidential information acquired by virtue of Hospital Authority office or employment for the Covered Individual's private gain or advantage, or the private gain or advantage of another;
 - 4. Receiving or accepting money or any other consideration from anyone other than the Hospital Authority for the performance of an act which the Covered Individual would be required or expected to render in the regular course or hours of office or employment or as part of duties as a Covered Individual;
 - 5. Performance of an act in other than the Covered Individual's capacity knowing that such act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the Covered Individual or by the Hospital Authority;
 - 6. Make, participate in making or in any way attempt to use the Covered Individual's position to influence a governmental decision (other than a decision affecting an employee's wages, hours, or working conditions) in which the Covered Individual knows or has reason to know that the Covered Individual has a financial interest; or
 - 7. Non-Hospital Authority employment or self-employment outside of regular working hours which involves such time demands or services of such a character as to impair effectiveness of Hospital Authority employment.
- B. Any violation of the provisions contained in the aforementioned section shall constitute sufficient grounds for disciplinary action up to and including termination of employment.

2.0 EXEMPTION FOR CERTAIN PHYSICIAN SERVICES

Those physicians rendering professional services to Kern Medical Center or other Hospital Authority businesses under contract authorizing billing for services to non-indigent patients shall not be deemed to be in violation of the provisions of Section 1.0 of this policy in billing for such services so rendered.

3.0 POST-EMPLOYMENT RETRICTIONS REGARDING REPRESENTATION, APPEARANCE OR COMMUNICATION

- A. Employees classified as management, mid-management or confidential, shall not, for a period of one year after leaving employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to the Hospital Authority or a present member of the Board of Governors or any officer or employee of the Hospital Authority if the appearance or communication is made for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.
- B. Subsection A shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of a local government agency or an employee or representative of any other public agency and is appearing or communicating on behalf of that agency.
- C. The following definitions shall apply for purposes of Sections 3.0 and 4.0 only:
 - 1. “Administrative action” means the proposal, drafting, development, consideration, amendment, enactment, or defeat by the Hospital Authority of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.
 - 2. “Legislative action” means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the Board of Governors or by any committee or subcommittee thereof, or by a member of the Board of Governors acting in his or her official capacity.
 - 3. “Person” shall mean an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.
- D. This Section and Section 4.0 are adopted in accordance with Government Code section 87406.3(c).

4.0 POST-EMPLOYMENT RESTRICTIONS REGARDING AID, ADVICE OR COUNSEL

Employees classified as management, mid-management or confidential, shall not, for a period of one year after leaving that office or employment, for compensation, aid, advise, counsel, consult or assist any other person regarding an appearance or communication which the official or employee would be prohibited from making under Section 3.0.

5.0 CONFLICT OF INTEREST CODE

- A. The Political Reform Act requires state and local government agencies, which includes the Hospital Authority to adopt and promulgate conflict of interest codes. (Gov. Code, § 81000 et seq.) The Fair Political Practices Commission has adopted a regulation, which contains the terms of a standard conflict of interest code. (Cal. Code Regs., tit. 2, § 18730.) Incorporation by reference of the terms of the regulation along with the designation of employees and the formulation of disclosure categories set forth in the attached Appendix A constitute the adoption and promulgation of the conflict of interest code of the Hospital Authority. The requirements of this conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.
- B. Designated Covered Individuals identified in the attached Appendix A shall file statements of economic interests with the Hospital Authority, who will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Upon receipt of the statements of the Chairman and Members of the Board of Governors of the Hospital Authority, the Hospital Authority shall make and retain a copy and forward the original of these statements to the Board of Supervisors of the County of Kern. Statements for all other designated Covered Individuals shall be retained by the Hospital Authority.
- C. Government Code Section 87306.5 requires local agencies, which includes the Hospital Authority to submit to their code reviewing body, which, in the case of the Hospital Authority is the Kern County Board of Supervisors, a biennial report identifying changes in its conflict of interest code, or a statement that their code is not in need of amendment. An amendment is required to: (1) include new positions (including consultants) that must be designated; (2) revise the titles of existing positions; (3) deleted titles of positions that have been abolished; (4) deleted positions that manage public investments from the list of designated positions; (5) revise disclosure categories; and (6) other. No amendment is required if the Hospital Authority's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property and sources of income that may foreseeably be affected materially by the decisions made by those designated positions; and the code includes all other provisions required by Government Code Section 87302. Such report shall be submitted no later than October 1 of each even-numbered year. (Gov. Code, § 87306.5(a).) When completed, the report must be mailed to the Clerk of the Board of Supervisors.

APPENDIX A

CONFLICT OF INTEREST CODE KERN COUNTY HOSPITAL AUTHORITY DESIGNATED COVERED INDIVIDUALS

Accountant (all)

~~Assistant Pharmacy Director~~ (new title: Director, Pharmacy Programs and Education)

Associate Director of Medical Education

Authority Board Coordinator (contract service)

Chairman and Members of the Board of Governors (appointed by Board of Supervisors)

~~Chief Ambulatory and Outreach Officer~~ (contract service) (new position)

Chief Executive Officer (contract service)

Chief Financial Officer (contract service)

Chief Information Officer

Chief Medical Officer (contract service)

Chief Nursing Officer

Chief Operating Officer (contract service)

~~Chief Strategy Officer~~ (contract service) (position deleted)

Clinical Directors (all)

Consultants *

Contracts Compliance Specialist

Credit Card Holders (all)

Decision Support Consultant (contract service)

Director, Care Coordination (contract service)

~~Director, Change Management~~ (contract service) (position deleted)

Director, Communications (contract service)

Director, Employee and Labor Relations

Director, Finance (contract service)

Director, Outpatient Integration (contract service)

Director, Patient Access (contract service)

Director, Patient Accounting (contract service)

Director, Performance Improvement (contract service)

~~Director, Pharmacy Programs and Education~~ (formerly Assistant Pharmacy Director)

Director, Pharmacy Services

Director, Physician Recruitment (contract service)

Director, Population Health (contract service)

~~Director, Security and Emergency Management~~ (formerly Hospital Security Director)

Director, Whole Person Care (contract service)

EVS Director (contract service)

Fiscal Support Supervisor (assigned to General Accounting or Accounts Payable)

Fiscal Support Technician (assigned to Materials Management)

Front End Revenue Cycle Manager – EMR (contract service)

Front End Revenue Cycle Manager – Inpatient and Emergency Department (contract service)

Front End Revenue Cycle Manager – Patient Financial Counseling and Outpatient Clinics (contract service)

Front End Revenue Cycle Manager – Pre-registration and Authorization (contract service)

Health Information Services Director

Hospital Counsel

~~Health Facilities Director (new title: Senior Director, Facilities)~~

Hospital Materials Director

Hospital Materials Manager

Hospital Payroll Manager (contract service)

~~Hospital Security Director (contract service)~~

Managed Care Consultant (contract service)

Manager of Reimbursement (contract service)

Manager, Radiology

Materials Management Operations Manager

Medical Staff Department Chairs (all)

Medical Staff Division Chiefs (all)

Medical Staff Officers (elected officers only)

Patient Access Services Supervisor

Physician Enterprise Manager

Physician Enterprise Consultant (contract service)

~~President of Hospital and Clinic Operations (contract service) (position deleted)~~

Revenue Cycle AR Administration Manager (contract service)

Revenue Cycle AR Inventory Manager (contract service)

Revenue Cycle Systems Support Manager (contract service)

Revenue Integrity Manager (contract service)

Senior Paralegal

~~Senior Director, Facilities (formerly Health Facilities Director)~~

Special Projects Manager (contract service)

Therapy Services Manager

Vice President & General Counsel

~~Vice President, Administrative Services (contract service) (position deleted)~~

~~Vice President, Ambulatory Services (contract service) (position deleted)~~

Vice President, Human Resources (contract service)

~~Vice President, Strategic Development (contract service) (new position)~~

Workers' Compensation and Liability Manager

*Consultants shall be included in the list of designated Covered Individuals and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in the Kern County Hospital Authority Conflict of Interest Code. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as the Conflict of Interest Code.

DISCLOSURE CATEGORY

Designated Covered Individuals shall report all sources of income, interests in real property, and investments and business positions in business entities.

ADMINISTRATIVE POLICY
KERN COUNTY HOSPITAL AUTHORITY

SUBJECT: Conflict of Interest

POLICY STATEMENT:

It is the policy of the Kern County Hospital Authority (“Hospital Authority”) to provide for a process for the disclosure and management of conflicts of interest which may exist for persons with positions of trust and responsibility in the governance and management of the Hospital Authority, and to assure that state law provisions¹ relating to such conflicts are followed. In order to safeguard independent judgment and action in business decisions, each person entrusted with a key position of responsibility in the Hospital Authority has a duty to disclose actual or potential conflicts of interest, to avoid acting out of any actual or apparent conflict of interest which may arise from personal financial interests in entities which may conflict with the Hospital Authority’s best interests. The purposes of this policy are: (i) to preserve the integrity of the decision-making process of the Hospital Authority, (ii) to prevent intentional or inadvertent participation in the decision-making process by persons having an actual or apparent conflict of interest, (iii) to promote compliance with the process by which conflicts of interest are disclosed and managed in accordance with state laws, and (iv) to prevent violations of state conflict of interest laws.

DEFINITIONS:

- A. “Covered Individual” means those individuals identified in the attached Appendix A.
- B. “Financial interest” means for purposes of this policy a Covered Individual has a “financial interest” in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the employee or an immediate family member or on:
 - (1) any business entity in which the Covered Individual has a direct or indirect investment worth \$2,000 or more;
 - (2) any real property in which the Covered Individual has a direct or indirect interest worth \$2,000 or more;
 - (3) any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$520² or more in value provided to, received by or promised to the Covered Individual within 12 months prior to the time when the decision is made;
 - (4) any business or entity in which the Covered Individual is a director, officer, partner, trustee, employee, or holds any position of management; and
 - (5) any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$520 or more in value provided to, received by or promised to the Covered Individual within 12 months prior to the time when the decision is made.

¹ Government Code section 1090; Government Code section 81000 et seq.

² California Fair Political Practices Commission gift limit effective **January 1, 2021 - December 31, 2022.**

- C. "Immediate family member" means the Covered Individual's spouse; natural or adoptive parent, child or sibling; stepparent, stepchild, stepbrother or stepsister; father-in-law, mother-in-law, brother-in-law or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild.
- D. "Indirect investment or interest" means any investment or interest owned by the spouse or dependent child of the Covered Individual, by an agent on behalf of the Covered Individual, or by a business entity or trust in which the Covered Individual, or Covered Individual's agent, spouse, and dependent children own directly, indirectly, or beneficially a 10% interest or greater.

1.0 ACTS CONSTITUTING CONFLICT OF INTEREST

- A. No Covered Individual shall engage in any employment, activity or enterprise that results in any of the following:
 - 1. Using the prestige or influence of a Hospital Authority office or employment for private gain or advantage, or the private gain or advantage of another;
 - 2. Using Hospital Authority time, facilities, equipment or supplies for the Covered Individual's private gain or advantage, or the private gain or advantage of another;
 - 3. Using confidential information acquired by virtue of Hospital Authority office or employment for the Covered Individual's private gain or advantage, or the private gain or advantage of another;
 - 4. Receiving or accepting money or any other consideration from anyone other than the Hospital Authority for the performance of an act which the Covered Individual would be required or expected to render in the regular course or hours of office or employment or as part of duties as a Covered Individual;
 - 5. Performance of an act in other than the Covered Individual's capacity knowing that such act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the Covered Individual or by the Hospital Authority;
 - 6. Make, participate in making or in any way attempt to use the Covered Individual's position to influence a governmental decision (other than a decision affecting an employee's wages, hours, or working conditions) in which the Covered Individual knows or has reason to know that the Covered Individual has a financial interest; or
 - 7. Non-Hospital Authority employment or self-employment outside of regular working hours which involves such time demands or services of such a character as to impair effectiveness of Hospital Authority employment.
- B. Any violation of the provisions contained in the aforementioned section shall constitute sufficient grounds for disciplinary action up to and including termination of employment.

2.0 EXEMPTION FOR CERTAIN PHYSICIAN SERVICES

Those physicians rendering professional services to Kern Medical Center or other Hospital Authority businesses under contract authorizing billing for services to non-indigent patients shall not be deemed to be in violation of the provisions of Section 1.0 of this policy in billing for such services so rendered.

3.0 POST-EMPLOYMENT RETRICTIONS REGARDING REPRESENTATION, APPEARANCE OR COMMUNICATION

- A. Employees classified as management, mid-management or confidential, shall not, for a period of one year after leaving employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to the Hospital Authority or a present member of the Board of Governors or any officer or employee of the Hospital Authority if the appearance or communication is made for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.
- B. Subsection A shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of a local government agency or an employee or representative of any other public agency and is appearing or communicating on behalf of that agency.
- C. The following definitions shall apply for purposes of Sections 3.0 and 4.0 only:
 - 1. “Administrative action” means the proposal, drafting, development, consideration, amendment, enactment, or defeat by the Hospital Authority of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.
 - 2. “Legislative action” means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the Board of Governors or by any committee or subcommittee thereof, or by a member of the Board of Governors acting in his or her official capacity.
 - 3. “Person” shall mean an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.
- D. This Section and Section 4.0 are adopted in accordance with Government Code section 87406.3(c).

4.0 POST-EMPLOYMENT RESTRICTIONS REGARDING AID, ADVICE OR COUNSEL

Employees classified as management, mid-management or confidential, shall not, for a period of one year after leaving that office or employment, for compensation, aid, advise, counsel, consult or assist any other person regarding an appearance or communication which the official or employee would be prohibited from making under Section 3.0.

5.0 CONFLICT OF INTEREST CODE

- A. The Political Reform Act requires state and local government agencies, which includes the Hospital Authority to adopt and promulgate conflict of interest codes. (Gov. Code, § 81000 et seq.) The Fair Political Practices Commission has adopted a regulation, which contains the terms of a standard conflict of interest code. (Cal. Code Regs., tit. 2, § 18730.) Incorporation by reference of the terms of the regulation along with the designation of employees and the formulation of disclosure categories set forth in the attached Appendix A constitute the adoption and promulgation of the conflict of interest code of the Hospital Authority. The requirements of this conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.
- B. Designated Covered Individuals identified in the attached Appendix A shall file statements of economic interests with the Hospital Authority, who will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Upon receipt of the statements of the Chairman and Members of the Board of Governors of the Hospital Authority, the Hospital Authority shall make and retain a copy and forward the original of these statements to the Board of Supervisors of the County of Kern. Statements for all other designated Covered Individuals shall be retained by the Hospital Authority.
- C. Government Code Section 87306.5 requires local agencies, which includes the Hospital Authority to submit to their code reviewing body, which, in the case of the Hospital Authority is the Kern County Board of Supervisors, a biennial report identifying changes in its conflict of interest code, or a statement that their code is not in need of amendment. An amendment is required to: (1) include new positions (including consultants) that must be designated; (2) revise the titles of existing positions; (3) deleted titles of positions that have been abolished; (4) deleted positions that manage public investments from the list of designated positions; (5) revise disclosure categories; and (6) other. No amendment is required if the Hospital Authority's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property and sources of income that may foreseeably be affected materially by the decisions made by those designated positions; and the code includes all other provisions required by Government Code Section 87302. Such report shall be submitted no later than October 1 of each even-numbered year. (Gov. Code, § 87306.5(a).) When completed, the report must be mailed to the Clerk of the Board of Supervisors.

APPENDIX A

CONFLICT OF INTEREST CODE KERN COUNTY HOSPITAL AUTHORITY DESIGNATED COVERED INDIVIDUALS

Accountant (all)
Associate Director of Medical Education
Authority Board Coordinator (contract service)
Chairman and Members of the Board of Governors (appointed by Board of Supervisors)
Chief Ambulatory and Outreach Officer (contract service) (new position)
Chief Executive Officer (contract service)
Chief Financial Officer (contract service)
Chief Information Officer
Chief Medical Officer (contract service)
Chief Nursing Officer
Chief Operating Officer (contract service)
Clinical Directors (all)
Consultants *
Contracts Compliance Specialist
Credit Card Holders (all)
Decision Support Consultant (contract service)
Director, Care Coordination (contract service)
Director, Communications (contract service)
Director, Employee and Labor Relations
Director, Finance (contract service)
Director, Outpatient Integration (contract service)
Director, Patient Access (contract service)
Director, Patient Accounting (contract service)
Director, Performance Improvement (contract service)
Director, Pharmacy Programs and Education (formerly Assistant Pharmacy Director)
Director, Pharmacy Services
Director, Physician Recruitment (contract service)
Director, Population Health (contract service)
Director, Security and Emergency Management (formerly Hospital Security Director)
Director, Whole Person Care (contract service)
EVS Director (contract service)
Fiscal Support Supervisor (assigned to General Accounting or Accounts Payable)
Fiscal Support Technician (assigned to Materials Management)
Front End Revenue Cycle Manager – EMR (contract service)
Front End Revenue Cycle Manager – Inpatient and Emergency Department (contract service)
Front End Revenue Cycle Manager – Patient Financial Counseling and Outpatient Clinics (contract service)
Front End Revenue Cycle Manager – Pre-registration and Authorization (contract service)
Health Information Services Director
Hospital Counsel
Hospital Materials Director
Hospital Materials Manager
Hospital Payroll Manager (contract service)

Managed Care Consultant (contract service)
Manager of Reimbursement (contract service)
Manager, Radiology
Materials Management Operations Manager
Medical Staff Department Chairs (all)
Medical Staff Division Chiefs (all)
Medical Staff Officers (elected officers only)
Patient Access Services Supervisor
Physician Enterprise Manager
Physician Enterprise Consultant (contract service)
Revenue Cycle AR Administration Manager (contract service)
Revenue Cycle AR Inventory Manager (contract service)
Revenue Cycle Systems Support Manager (contract service)
Revenue Integrity Manager (contract service)
Senior Paralegal
Senior Director, Facilities (formerly Health Facilities Director)
Special Projects Manager (contract service)
Therapy Services Manager
Vice President & General Counsel
Vice President, Human Resources (contract service)
Vice President, Strategic Development (contract service) (new position)
Workers' Compensation and Liability Manager

*Consultants shall be included in the list of designated Covered Individuals and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in the Kern County Hospital Authority Conflict of Interest Code. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as the Conflict of Interest Code.

DISCLOSURE CATEGORY

Designated Covered Individuals shall report all sources of income, interests in real property, and investments and business positions in business entities.



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

September 21, 2022

Subject: Letter from Moss Adams LLP regarding the Financial Statement Audit

Recommended Action: Receive and File

Summary:

In connection with the annual audit of Kern Medical's financials, professional standards require Moss Adams to communicate to the Board of Governors certain items including their responsibilities with regard to the financial statement audit and the planned scope and timing of our audit.

Therefore, it is recommended that your Board receive and file the attached letter from Moss Adams.

Communications with the Board of Governors During Planning in Accordance with AU-C 260 (AU 380)

To the Board of Governors
Kern County Hospital Authority

In connection with our engagement to audit the financial statements of Kern County Hospital Authority (the "Company") as of and for the year ended June 30, 2022, professional standards require that we communicate with you certain items including our responsibilities with regard to the financial statement audit and the planned scope and timing of our audit. We would also appreciate the opportunity to meet with you to discuss this information further since two-way communication can provide valuable information in the audit process. It is our understanding that Andrew Cantu, Chief Financial Officer, is the appropriate persons within the Company's governance structure with whom to communicate.

As stated in our engagement letter dated January 7, 2022, we are responsible for conducting our audit in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and the California Code of Regulations, Title 2, Section 1131.2, State Controller's Minimum Audit Requirements for California Special Districts for the purpose of forming and expressing an opinion about whether the financial statements that have been prepared by management, with your oversight, are presented, in all material respects, in conformity with principles generally accepted in the United States of America. Our audit of the financial statements does not relieve you or management of your respective responsibilities.

Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis, to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Company's RSI in accordance with auditing standards generally accepted in the United States of America. We will not express an opinion or provide assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide assurance.

We will also provide the Company with the following non-attest services:

1. Assist you in drafting the financial statements and related footnotes as of and for the year ended June 30, 2022.
2. Assist you in drafting the auditee section of the Data Collection Form for the year ended June 30, 2022.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested.

Our audit will include obtaining an understanding of the entity and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Material misstatements may result from errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or regulations that are attributable to the Company or to acts by management or employees acting on behalf of the Company. We will communicate to you at the conclusion of our audit, significant matters that we believe are relevant to your responsibilities in overseeing the financial reporting process, including any internal control related matters that are required to be communicated under professional standards.

We began our audit on approximately August 22, 2022, and expect to issue our report on approximately December 15, 2022.

During the planning of the audit, the following are the significant audit risks:

- Management override of controls (presumptive audit risk with all organizations)
- Revenue recognition
- Valuation of patient accounts receivable
- Valuation of third-party settlements

Your client service team includes: Kimberly Sokoloff, Engagement Reviewer; Stacy Stelzriede, Concurring Review Partner; Stelian Damu, Client Service Partner; and Kristen Olko, Engagement Senior Manager.

This information is intended solely for the information and use of the Board of Governors and management of Kern County Hospital Authority and is not intended to be, and should not be, used by anyone other than these specified parties.

Respectfully,

Moss Adams LLP

San Francisco, California
September 16, 2022



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

September 21, 2022

Subject: Proposed retroactive Agreement for Professional Services with Trans-West Security, Inc.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board retroactively approve the Agreement for Professional Services with Trans-West Security, Inc., which provides security services to Kern Medical and the outpatient clinics.

The term of the Agreement is three years, effective July 1, 2022, with a total maximum payable not to exceed \$9,818,826. This Agreement was inadvertently bypassed for renewal upon expiration on June 30, 2022, necessitating this request for retroactive approval.

Therefore, it is recommended that your Board retroactively approve the Agreement for Professional Service with Trans-West Security, Inc., effective July 1, 2022, for a term of three years, from July 1, 2022 through June 30, 2025, in an amount not to exceed \$9,818,826, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Trans-West
Security Services, Inc.)**

This Agreement is made and entered into this 21st day of September 2022, between the Kern County Hospital Authority, a local unit of government (“KCHA”), which owns and operates Kern Medical Center (“KMC”), and Contractor (“Contractor”), with its principal place of business located at 8503 Crippen Street, Bakersfield, California 93311.

**I.
RECITALS**

(a) KCHA 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) KCHA requires the assistance of Contractor to provide security services, as such services are unavailable from KCHA resources; and

(d) Contractor, by reason of its qualifications and experience for doing the type of work herein contemplated, agrees to provide such services on the terms and conditions set forth in this Agreement;

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

**II.
TERMS AND CONDITIONS**

1. **Term.** The term of this Agreement shall commence July 1, 2022 (the “Effective Date”), and shall end June 30, 2025, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.

2. **Obligations of Contractor.**

2.1 **Specified Services.** Contractor shall perform the services set forth in Exhibit “A,” attached hereto and incorporated herein by this reference. Such services may be changed from time to time by agreement of the parties in accordance with the provisions of this Agreement.

2.2 **Representations.** Contractor makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement: (i) Contractor has the expertise and support staff necessary to provide the services described in this Agreement; and (ii) Contractor does not have any actual or potential interests adverse to KCHA nor does Contractor represent a person or firm with an interest adverse to KCHA with reference to the subject of this Agreement; and (iii) Contractor shall diligently provide all required services in a timely and professional manner in accordance with the

terms and conditions set forth in this Agreement.

2.3 Standard of Care. KCHA has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees that all of its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by KCHA shall not operate as a waiver or release.

2.4 Performance Standard. Contractor shall perform all services hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. If KCHA determines that any of Contractor's work is not in accordance with such level of competency and standard of care, KCHA, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with KCHA to review the quality of the work and resolve matters of concern; (b) require Contractor to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of section 35; or (d) pursue any and all other remedies at law or in equity.

2.5 Assigned Personnel. Contractor shall assign only competent personnel to perform the Services hereunder. In the event that at any time KCHA, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform the Services hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from KCHA.

2.6 Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold KCHA harmless from any liability which it may incur to the United States or to the state of California as a consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case KCHA is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish KCHA with proof of payment of taxes on these earnings.

2.7 Nonexclusive Services. Contractor understands and agrees that KCHA will utilize the services of Contractor pursuant to the terms of this Agreement on a non-exclusive basis. Contractor further agrees that KCHA shall retain the option to enter into agreements with other organizations for purposes of securing the services, in its sole discretion.

3. **Obligations of KCHA.**

3.1 KCHA Designee. KCHA will designate a primary contact, who will arrange for KMC staff assistance as may be required.

3.2 Control Retained in KMC. In compliance with title 22, California Code of Regulations, section 70713 KMC will retain professional and administrative responsibility for services rendered under this Agreement. Contractor shall apprise KMC of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall be retained by KMC for follow-up action and evaluation of performance.

4. **Payment for Services.**

4.1 **Fees and Charges.** As consideration for the services provided by Contractor hereunder, KCHA will pay Contractor in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated herein by this reference. All services are payable in arrears.

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

4.3 **Maximum Payable.** The maximum payable under this Agreement will not exceed \$9,818,826 over the three (3) year term of this Agreement.

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

5. **Access to Books and Records.** Until the expiration of four (4) years after the expiration or termination of this Agreement, KMC and Contractor shall make available, upon written request of the Secretary of the United States Secretary of Health and Human Services ("Secretary") or the Comptroller General of the United States General Accounting Office ("Comptroller General"), or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records of either party as are necessary to certify the nature and extent of costs of the services Contractor provided under this Agreement. Contractor further agrees that if it carries out any of its duties under this Agreement through a subcontract with a value or cost of \$10,000 or more over a 12-month period with a related organization, that such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary or the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

6. **Assignment.** Contractor shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement. Contractor shall not assign any money due or which becomes due to Contractor under this Agreement without the prior written approval of KCHA.

7. **Audits, Inspection and Retention of Records.** Contractor agrees to maintain and make available to KCHA accurate books and records relative to all its activities under this Agreement. Contractor shall permit KCHA to audit, examine and make excerpts and transcripts from such records, and to conduct audits or reviews of all invoices, materials, records or personnel or other data related to all other matters covered by this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than four (4) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The state of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon KCHA herein.

8. **Authority to Bind KCHA.** It is understood that Contractor, in its performance of any and all duties under this Agreement, has no authority to bind KCHA to any agreements or undertakings.
9. **Captions.** The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
10. **Change in Law.** In the event that a change in state or federal law or regulatory requirement (or the application thereof), any of which renders this Agreement illegal, impossible to perform, or commercially impracticable, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendments(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within 30 days of such negotiation period, this Agreement shall automatically terminate at the end of such 30-day period.
11. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the state of California. It is expressly acknowledged that this Agreement has been entered into and will be performed within the County of Kern. Should any suit or action be commenced to enforce or interpret the terms of this Agreement or any claim arising under it, it is expressly agreed that proper venue shall be in County of Kern, state of California.
12. **Compliance with Law.** Contractor shall observe and comply with all applicable county, 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.**
- 13.1 **Use and Disclosure Restrictions.** Neither party shall, without the written consent of the other, communicate confidential information of the other, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that the receiving party would protect its own confidential information. The foregoing obligations will not restrict either party from disclosing confidential information of the other party: (i) pursuant to applicable law; (ii) pursuant to the order or requirement of a court, administrative agency, or other governmental body, on condition that the party required to make such a disclosure gives reasonable written notice to the other party to contest such order or requirement; and (iii) on a confidential basis to its legal or financial advisors.
- 13.2 **Trade Secrets.** The parties acknowledges that each party, in connection with its business, has developed certain operating manuals, symbols, trademarks, trade names, service marks, designs,

patient lists, procedures, processes, and other copyrighted, patented, trademarked, or legally protectable information which is confidential and proprietary to the party that constitute its trade secrets. The parties shall not use any name, symbol, mark, or other proprietary information of the other party except as expressly permitted.

13.3 Medical Records. If applicable, the parties agree to maintain the confidentiality of all medical records pertaining to the provision of services under this Agreement in accordance with applicable federal and state laws and regulations including, but not limited to, the California Confidentiality of Medical Records Information Act, codified at section 56.1 of the California Civil Code, California Evidence Code sections 1156 and 1157, and the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations.

13.4 Protected Health Information. Contractor and KCHA recognize that in performing services, Contractor may receive, create or otherwise have access to protected health information (“PHI”) and thereby become a business associate of KCHA or KMC (as defined by the privacy, security, breach notification, and enforcement rules at 45 C.F.R. Part 160 and Part 164). Accordingly, the parties shall protect PHI in accordance with the HIPAA Business Associate Addendum, attached as Exhibit “D” and incorporated herein by this reference. In the event of a conflict between Exhibit “D” and any other confidentiality provision of this Agreement, Exhibit “D” shall control.

13.5 Ownership of Records. All documents, papers, notes, memoranda, computer files and other written or electronic records of any kind (“Documents”), in whatever form or format, assembled, prepared or utilized by Contractor or Contractor’s assigned personnel during and in connection with this Agreement shall remain the property of KCHA at all times. Upon the expiration or termination of this Agreement, Contractor shall promptly deliver to KCHA all such Documents, which have not already been provided to KCHA in such form or format as KCHA deems appropriate. Such Documents shall be and will remain the property of KCHA without restriction or limitation. Contractor may retain copies of the above described Documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of KCHA. KCHA further recognizes and agrees that in delivering the Documents under this Agreement, the Contractor may create new proprietary tools and analytics and that any such new proprietary tools and analytics are not included in the ownership of the Documents that belong to KCHA.

14. Conflict of Interest. Contractor covenants that it has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, KCHA may immediately terminate this Agreement by giving written notice thereof.

15. Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

16. Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

Contractor and KCHA acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and KCHA acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

17. **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.

18. **Disqualified Persons.** The parties mutually represent and warrant to one another that they and their respective representatives are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 U.S.C. section 1320a-7b-(f) (the “Federal health care programs”) and/or present on the exclusion database of the Office of the Inspector General (“OIG”) or the Government Services Administration (“GSA”); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits. This shall be an ongoing representation and warranty during the term of this Agreement and a party shall immediately notify the other party of any change in the status of any of the representations and/or warranties set forth in this section. Any breach of this section shall give the non-breaching party the right to terminate this Agreement immediately.

19. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to KCHA 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.

20. **Immigration Compliance.** Contractor shall comply with all provisions of immigration law with respect to hiring, recruiting or referring for employment persons whose authorization for employment in the United States has been verified, and shall provide KMC with a copy of such verification required in 8 USCA section 1324a, if requested by KCHA. Without limiting the generality of the indemnification in section 21, Contractor agrees to indemnify, defend, and hold harmless KCHA, its agents, officers, and employees, from any liability, damages, or causes of action arising out of Contractor’s failure to comply with this section.

21. **Indemnification and Hold Harmless.** Contractor agrees to indemnify, defend and hold harmless KCHA and KCHA’s agents, board members, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, reasonable attorneys’ fees of KCHA Counsel and counsel retained by KCHA, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any negligent act or omission of Contractor or Contractor’s officers, agents, employees, independent contractors, subcontractors of any tier, or authorized representatives. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of KCHA; and any workers’ compensation claim or suit arising from or connected with any services

performed pursuant to this Agreement on behalf of Contractor by any person or entity.

22. **Independent Contractor.** In the performance of the services under this Agreement, Contractor shall be, and acknowledges that Contractor is in fact and law, an independent contractor and not an agent or employee of KCHA. Contractor has and retains the right to exercise full supervision and control over the manner and methods of providing services to KCHA under this Agreement. Contractor retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Contractor in the provision of services under this Agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employment taxes whether federal, state or local, and compliance with any and all other laws regulating employment.

23. **Insurance.** With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit "E," attached hereto and incorporated herein by this reference.

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

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

26. **No Third Party Beneficiaries.** It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to KCHA and Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of KCHA and Contractor that any such person or entity, other than KCHA or Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

27. **Non-Appropriation.** KCHA 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, KCHA will be released from any further financial obligation to Contractor, 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. Contractor will be given 30 days' prior written notice in the event that KCHA requires such an action.

28. **Non-collusion Covenant.** Contractor represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with KCHA. Contractor has received from KCHA no incentive or special payments, nor considerations, not related to the provision of services under this Agreement.

29. **Nondiscrimination.** Neither Contractor, nor any officer, agent, employee, servant or subcontractor of Contractor shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, ancestry, national origin, religion, sex, actual or

perceived sexual orientation, marital status, age, pregnancy, medical condition, handicap or other prohibited basis, either directly, indirectly or through contractual or other arrangements.

30. **Non-solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, neither party nor any of their affiliates shall, without the prior written approval of the other (i) employ, retain, offer employment to or offer retention of any person who is or was employed by or under contract with the non-soliciting party during the term of this Agreement, or (ii) solicit, advise or otherwise do, or attempt to do, business with any employee or independent contractor of the non-soliciting party who is or was employed by or under contract with the non-soliciting party during the term of this Agreement.

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

32. **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 Contractor:	Trans West Security, Inc. 8403 Crippen Street Bakersfield, CA 93311 Attn: Brooke Antonioni President, Chief Executive Officer
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Notice to KCHA:	Kern Medical Center 1700 Mount Vernon Avenue Bakersfield, California 93306 Attn.: Chief Executive Officer
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33. **Signature Authority.** Each party represents that they have full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

34. **Sole Agreement.** This Agreement, including all attachments hereto, 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.

35. **Termination.**

35.1 **Termination with Cause.** Either party may terminate this Agreement in the event of a material breach by the other; provided, however, the termination for the breach of this Agreement will not become effective unless and until the party not in default, has given the other party written notice of breach, which notice shall state the general nature of the breach, and the party allegedly in default will thereafter have a period of 30 days following the giving of said notice in which to remedy the default to the reasonable satisfaction of the other party. If the alleged default is of the kind that cannot be cured within 30 days, then the party allegedly in default will have an additional 30 days in which to remedy the breach as long as such party is acting in good faith and using diligent efforts to remedy such breach throughout the cure period.

35.2 **Termination without Cause.** Either party may terminate this Agreement, without cause, upon 30 days' prior written notice to the other party.

35.3 **Immediate Termination.** Notwithstanding the foregoing, KCHA shall have the right to terminate this Agreement effective immediately after giving written notice to Contractor, for any of the following reasons: (i) KCHA determines that Contractor does not have the proper credentials, experience or skill to perform the required services under this Agreement; (ii) continuation by Contractor in the providing of services may result in civil, criminal, or monetary penalties against KCHA or KMC; (iii) the violation of any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which KCHA or KMC is subject; (iv) an unauthorized use or disclosure of confidential or proprietary information by Contractor which causes material harm to KCHA or KMC; (v) commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty by Contractor against KCHA or KMC; (vi) the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal, due to the actions of Contractor; or (vii) the failure of Contractor to cure a default within the time allowed in section 35.1.

36. **Effect of Termination.**

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

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

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

37. **Time of Essence.** Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

38. **Cooperation with Authority Compliance Obligations.** Contractor shall cooperate with the compliance program maintained by Authority and KMC (the “**Compliance Program**”) to the extent that such requirements are (i) applicable to the operation of Authority or KMC and Contractor’s provision of services under this Agreement, (ii) consistent with applicable industry standards and laws, and (ii) communicated to Contractor, so that Authority may meet all requirements imposed by laws and any governing or advisory body having authority to set standards governing the operation of Authority and KMC.

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

KERN COUNTY HOSPITAL AUTHORITY

TRANS-WEST SECURITY
SERVICES, INC.

By _____
Russell Bigler
Chairman, Board of Governors

By 
Name: **BROOKE ANTONIONI**
Title: **PRESIDENT/CEO**

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
Legal Services Department

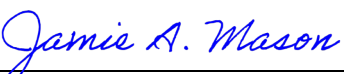
By 
Jamie A. Mason
Hospital Counsel

Exhibit A

Scope of Work

**EXHIBIT “B”
FEE SCHEDULE**

EXHIBIT “C”

IRS FORM W-9

EXHIBIT “D” BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“**BAA**”) is entered into by and between the Kern County Hospital Authority on behalf of Kern Medical Center (“**Covered Entity**”) and Contractor (“**Business Associate**”) (each a “**Party**” and collectively the “**Parties**”), effective as of the effective date of the Underlying Agreement (the “**Effective Date**”).

RECITALS

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

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

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

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

AGREEMENT

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

ARTICLE I DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II OBLIGATIONS OF BUSINESS ASSOCIATE

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

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

2.3 Reporting Non-Permitted Use or Disclosure.

2.3.1 Reporting Security Incidents and Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity in writing each Security Incident or Use or Disclosure that is made by Business Associate, members of its Workforce, or SubContractors that is not specifically permitted by this BAA no later than twenty-four (24) hours days after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Notwithstanding the foregoing, Business Associate and Covered Entity acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and Covered Entity acknowledges and agrees that no additional notification to Covered Entity of such ineffective Security Incidents is required, as long as no such incident results in unauthorized access, Use or Disclosure of PHI. Business Associate shall investigate each Security Incident or non-permitted Use or Disclosure of Covered Entity's PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI and shall provide a summary of its investigation and risk assessment to Covered Entity. Business Associate shall document and retain records of its investigation of any suspected Breach, including its reports to Covered Entity under this Section 2.3.1. Business Associate shall take prompt corrective action and any action required by applicable state or federal laws and regulations relating to such Security Incident or non-permitted disclosure. If Business Associate or Covered Entity, in its review of this initial report, determines that such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.3.2 below.

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

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

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

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

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

Associate shall notify Covered Entity within five (5) days of receipt of a request for access to PHI from an Individual.

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

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

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

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

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

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

ARTICLE III

OBLIGATIONS OF COVERED ENTITY

3.1 Covered Entity's Obligations.

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

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

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

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

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

ARTICLE IV TERM AND TERMINATION

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

4.2 Termination of Underlying Agreement.

4.2.1 A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Underlying Agreement and shall provide grounds for immediate termination of the Underlying Agreement, any provision in the Underlying Agreement to the contrary notwithstanding.

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

4.3 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in any Underlying Agreement, upon Covered Entity's knowledge of a material breach or violation of this BAA by Business Associate, Covered Entity shall either:

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

4.3.2 Upon thirty (30) calendar day written notice to Business Associate, immediately terminate this BAA and any Underlying Agreement if Covered Entity determines that such breach cannot be cured.

4.4 Disposition of Protected Health Information Upon Termination or Expiration.

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

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

ARTICLE V MISCELLANEOUS

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

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

5.3 Relationship to Underlying Agreement Provisions. In the event that a provision of this BAA is contrary to a provision of an Underlying Agreement, the provision of this BAA shall control.

Otherwise, this BAA shall be construed under, and in accordance with, the terms of such Underlying Agreement, and shall be considered an amendment of and supplement to such Underlying Agreement.

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

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

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

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

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

5.9 Legal Actions. Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that

may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

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

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

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

Covered Entity's Notice Address:

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

Business Associate's Notice Address:

Contractor
ADDRESS
Attn:

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

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

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

5.16 Governing Law; Applicable Law and Venue. This BAA shall be construed in accordance with the laws of the State of California applicable to agreements made and to be performed in such state. Any dispute between the Parties shall be brought before the Superior Court of Kern County, California, which shall have jurisdiction over all such claims.

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

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

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

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

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

EXHIBIT “E”

Insurance

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by KCHA. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

KCHA reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers’ Compensation and Employers Liability Insurance:

- (a) Required if Contractor has employees. If Contractor currently has no employees, Contractor’s written confirmation of such will be required before execution of this Agreement. If Contractor engages any employees during the term of this Agreement or any extensions thereof, Contractor agrees to obtain the specified Workers’ Compensation and Employers Liability insurance.
- (b) Workers’ Compensation insurance with statutory limits as required by the California Labor Code.
- (c) Employers Liability with limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- (d) Waiver of Subrogation: The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of KCHA for all work performed by Contractor, its employees, agents and subcontractors.
- (e) Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance:

- (a) Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- (b) Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, KCHA requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- (c) If Contractor has no Owned automobiles, the General Liability policy shall include Non-Owned and Hired Automobile Liability in the amount of \$1,000,000 combined single limit per accident.

- (d) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by KCHA. Contractor is responsible for any deductible or self-insured retention and shall fund it upon KCHA's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving KCHA.
- (e) KCHA shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 6 below for full Additional Insured wording.
- (f) The insurance provided to KCHA as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by KCHA.
- (g) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "F" definition of insured contract in ISO form CG 00 01, or equivalent).
- (h) The policy shall cover inter-insured suits between KCHA and Contractor and include a "separation of insureds" or "severability" clause which treats each insured separately.
- (i) Required Evidence of Insurance: (i) Copy of the additional insured endorsement or policy language granting additional insured status; and (ii) Certificate of Insurance.

3. Automobile Liability Insurance:

- (a) Minimum Limits: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (b) Insurance shall apply to all Owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions thereof.
- (c) Insurance shall include coverage for Non-Owned and Hired autos. (See requirements in section 1(c) above if there is no separate Automobile Liability coverage.)
- (d) KCHA shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 6 for full Additional Insured wording.
- (e) Required Evidence of Insurance: Certificate of Insurance.

4. Professional Liability Insurance (Errors and Omissions):

- (a) Professional Liability Insurance (Errors and Omissions) appropriate to Contractor's profession.
- (b) Minimum Limits: \$1,000,000 per Occurrence or Claim; \$3,000,000 Annual Aggregate. If Contractor maintains higher limits than the specified minimum limits, KCHA requires and shall be entitled to coverage for the higher limits maintained by Contractor.

- (c) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by KCHA. Contractor is responsible for any deductible or self-insured retention and shall fund it upon KCHA's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving KCHA.
 - (d) Required Evidence of Coverage: Certificate of Insurance.
- 5. Standards for Insurance Companies: Insurers shall have an A.M. Best's rating of at least A;VII.
- 6. Additional Insured Wording: "**Kern County Hospital Authority, its officers, officials, employees and volunteers**" are to be named as Additional Insureds as per each section where noted above.
- 7. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:
 - (a) The Retroactive Date must be shown and must be before the Effective Date of the Agreement or the beginning of contract work.
 - (b) Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract work*.
 - (c) If coverage is canceled or non-renewed, and *not replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of *five (5) years* after completion of the contract work.
- 8. Documentation:
 - (a) The Certificate of Insurance must include the following reference: "**Agreement for Professional Services – Master Facility Plan.**"
 - (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with KCHA for the entire term of this Agreement and any additional periods if specified in sections 1, 2, 3 or 4 above.
 - (c) The name and address for the Certificates of Insurance and Additional Insured endorsements is: Kern County Hospital Authority, c/o Kern Medical Center, 1700 Mount Vernon Avenue, Bakersfield, California 93306.
 - (d) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least 10 days before expiration or other termination of the existing policy.
 - (e) Contractor shall provide immediate written notice if: (i) any of the required insurance policies is terminated; (ii) the limits of any of the required policies are reduced; or (iii) the deductible or self-insured retention is increased.
 - (f) Upon written request, certified copies of required insurance policies must be provided to KCHA within 30 days.

9. Policy Obligations: Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.
10. Primary Coverage: For any claims related to this Agreement, Contractor's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects KCHA, its officers, directors, officials, employees, and volunteers. Any insurance or self-insurance maintained by KCHA, its officers, directors, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.
11. Material Breach: If Contractor fails to maintain the insurance required by this Agreement, it shall be deemed a material breach of this Agreement. KCHA, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, KCHA may purchase the required insurance, and without further notice to Contractor, KCHA may deduct from sums due to Contractor any premium costs advanced by KCHA for such insurance. These remedies shall be in addition to any other remedies available to KCHA.

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EXHIBIT "A"
Description of Services
Kern County Hospital Authority Security Requirements

Facilities: KMC – Main Campus
 1700 Mt. Vernon Ave.
 Bakersfield, CA 93306

 KMC Outpatient Clinics – Columbus Clinic
 1111 Columbus Street
 Bakersfield, CA 93305

 KMC Outpatient Clinic – Q Street Clinic
 3551 Q Street
 Bakersfield, CA 93306

KMC is a facility that operates 24 hours per day, 7 days per week including all holidays. KMC has approximately 40 security officers on staff scheduled appropriately and in collaboration with KMC's Security Director.

*KMC Outpatient Columbus Clinic officers are assigned two different shifts: 6:00 a.m. to 2:00 p.m. and 2:00 p.m. to 10:00 p.m.

* KMC Outpatient Q Street Clinic officer is assigned 7:00 a.m. – 6:00 p.m. (Monday – Friday)

To meet the requirements of KMC, the Contractor must provide the following:

- Contractor will conduct interviews and chose the appropriate candidate based on interviews
- Officers are to be professionally dressed in uniform and issued equipment glove pouch handcuffs, handcuff holder, radio holder, duty belt, pepper foam, pepper foam holders when applicable and keepers.
 - Special requirements
 - Only long sleeve shirts may be worn while on duty at KMC.
 - Officers shall be required to have a "guard card."
 - Officers shall have no felonies to include theft or drug related convictions of any type.
 - Officers shall have no visible tattoos, facial or faddish piercings.
- Use of an automated Daily Activity Reporting (DAR) System.
 - Provide real-time electronic software reporting system for purposes of documentation, reporting and managing data and statistics.
 - Must provide categorical summary reports.
- Drug and Alcohol Program to include Safety Sensitive Compliance.
 - Include copy of the overall program
 - Employee acknowledgement requirements

- Pre-employment testing
 - Post-accident /incident testing
 - For cause testing
 - Random Testing (to be administered by a 3rd party)
 - KMC non-expanded panel criteria for drug screening shall be used.
- Provide on Site Project Manager/Post Supervisor
 - Must be AVADE Instructor and/or Trained within 7 days of assignment

Security Manager/Post Supervisor Requirements

- Must demonstrate competence in security.
- Must conduct business with high-level of professionalism.
- Must possess excellent public speaking and presentation skills.
- Must be able to track, analyze and report statistical data as needed.
- Must be fluent in MS Office Suite, especially Word, Excel and PowerPoint.
- Must have experience creating Emergency Action Plans.
- Minimum of 5 years of supervisory experience with at least 15 to 20 employees. Or a culmination of experience and education may be substituted in lieu of 5 years Supervisory experience with KMC Security Director approval.
- Security Manager/Post Supervisor Certifications (to be provided by or paid for by vendor and completed within 1 month of hire date)
 - CPR/First Aid Trained
 - Defensive Driver Training (Defensive Driving, Fatigued Driving and Foul Weather Driving)
 - Participate in and support professional development opportunities

Security Manager/Post Supervisor Job Description

- Oversee and direct operations for all security staff.
- Foster a professional, customer service driven culture with all security staff.
- Design, recommend, and draft appropriate safety and security policies and procedures.
- Actively participate on the Safety and Environment of Care (EOC) Committee in the review, development and maintenance of the Security Management Plan and report out monthly, bi monthly and annually to the EOC committee.
- Actively participate on the Emergency Management Committee in the review, development and maintenance of the Emergency Maintenance Operation Plan.
- Actively participate, support and assist with Emergency Management coordination functions.
- Ensure training compliance of security staff on adopted KMC safety and security policies and procedures.
- Assist KMC management staff in the identification and resolution of safety and security issues.
- Assist KMC Security Director and management staff in meeting regulatory requirements for the environment.
- Perform Hazard Surveillance Rounds as required by the KMC Safety Plan.

- Assist in the management and maintenance of the badge and access control system for the hospital.
- Track and monitor activities associated with Key Performance Indicators (KPI's) as outlined in the contract to ensure compliance.
 - Provide Contractor leadership with regular status updates.
 - In the event a KPI is trending towards non-compliance, notify Contractor leadership immediately and establish a mitigation plan to avoid non-compliance.
- Ensure security staff is adhering to a shift change processes.
 - All security personnel shift change at assigned post.
 - Oncoming Security shift leads will conduct a briefing / daily team huddle prior to each shift with KMC staff at assigned post.
- Implement and maintain Communication Plan consisting of:
 - Open channel of communication at all times with KMC Director of Security.
 - Weekly security updates delivered to KMC Director of Security.
 - As agreed upon with Department Leads, attend and participate in Department Meetings.
 - Facilitate Monthly Business Review Meetings with Contractor and KMC Director of Security.
 - Facilitate Quarterly Business Review Meetings with Contractor and KMC Security Director.
 - Create and Maintain Action Item Log for Meetings. Distribute to Contractor and KMC Security Director as needed.
- Attendance at monthly planned meetings.
- Participate in all Hospital audits, evaluations, drills and other requested activities per KMC Leadership.
- Initiate and Facilitate Bi-Annual Security Risk Assessment as required by contract.
 - Coordinate contracted security firm for assessments.
 - Review and present findings accordingly.
 - Assist in developing a prioritized action plan / Recommendations tracking tool for KMC aimed at minimizing the hospital's vulnerabilities.
 - Insure New Crime Cast report / CAP index score bi annually in conjunction with the Bi annual Security Risk Assessment.
- Initiate and Facilitate Bi-Annual Security Action Plan reviews as required by contract.
 - Propose changes to policies and procedures using data analysis.
- Participate in any identification of opportunities and improvements of process and procedures.
- Oversee ongoing training and meeting of security employees.
- Complete daily (prior 24 hours) and weekly (entire week) briefings to KMC Security Director.
- Ensure completion of bi-annual Security Officer Performance Evaluations.
- Ensure officer compliance to all El Sevier E-learning assignments.

Security Officers

KMC /Security Levels – Progression Plan

KMC Level 1	KMC Level 2	KMC Level 3	KMC – Level 4	Requirements
KMC Orientation	KMC Orientation	KMC Orientation	KMC Orientation	Required prior to assignment
Guard Card	Guard Card	Guard Card	Guard Card	Required prior to assignment
Annual TB Testing	Annual TB Testing	Annual TB Testing	Annual TB Testing	Required prior to assignment
AVADE Training	AVADE Training	AVADE Training	AVADE Training	Once achieved, certification must be maintained
Participate in KMC Site training to include: Infant and Child abduction, heliport training, communication and report writing, forensic/safety officer training, emergency/triage training and any and all OJT trainings provided	All KMC Site training completed e.g., Infant and Child abduction, heliport training, communication and report writing, forensic/safety officer training, emergency/triage training and any and all OJT trainings provided	All KMC Site training completed e.g., Infant and Child abduction, heliport training, communication and report writing, forensic/safety officer training, emergency/triage training and any and all OJT trainings provided	All KMC Site training completed e.g., Infant and Child abduction, heliport training, communication and report writing, forensic/safety officer training, emergency/triage training and any and all OJT trainings provided	Once achieved, certification must be maintained
	CPR training completed	CPR training certification maintained	CPR training certification maintained	Once achieved, certification must be maintained
	Officer is a candidate for Level 2 once training activates are completed; and officer has demonstrated competency for working all security posts successfully for a 3- month period	Officer is a candidate for Level 3 if officers selected to or promoted to assistant shift supervisor (Robert) and show competency to lead a shift	Officer may achieve Level 4 if officers selected to or promoted to shift supervisor (Sam) and show competency to lead a shift	Successful employee performance rating must be maintained.

New security officer candidates may be considered for accelerated advancement through the levels of the progression plan immediately dependent upon experience and/or background and at the discretion of KMC Administration.

Cost of the above training shall be incurred by Contractor

Note: ALL of the above training must fall within the Joint Commission Guidelines and all regulatory agencies that govern our health care practices.

Security Officer Duties

- Maintain a professional customer service oriented presence at all times.
- Patrol appropriate premises at directed intervals.
- Patrol of parking areas on a regular basis and as determined by KMC Administration.
- Provide escort services for night shift employees to the parking lot.
- Respond to calls for assistance and administer the appropriate assistance to other related control problems.
- Door checks with the prompt reporting to the KMC Department Manager.
- Ensure best efforts to prevent acts of vandalism, theft, assault, and the access control system.
- Assist in the enforcement of campus parking and smoking policies.
- Apprehension and disposition is properly within jurisdiction and purview of the Security Officer.
- Assist staff on a routine basis, in the completion of specific safety requirements, i.e. fire extinguishers, lights or signage.
- After hours visitor registration and access control.
- Employee badge and access control.
- Cross train to work all posts at KMC and KMC Outpatient Clinics.
- All available officers must respond to "STAT CALLS".
- Conduct morning money runs to appropriate sites.
- Assist with security delivery of patient valuables.

Security Officer Basic Training and Certification

Security Officers are required to have annual TB Test. Security Officers must provide primary source verification (website) of valid guard card to KMC HR prior to first day of assignment at KMC. Additionally, must provide valid primary source verification (proof of guard card maintenance) prior to expiration date. Security Officers shall participate in applicable hospital-wide continuing education.

Contractor will maintain team members that are certified to provide education in the following non-exclusive training system:

- Defensive Driver Training (Defensive Driving, Fatigued Driving and Foul Weather Driving)
- CPR First Aid
- AVADE
- Handcuff Training

Staffing Guarantee:

Contractor agrees to maintain staffing levels at those shown in Exhibit A a minimum of 97% of the time. KMC will not be charged OT rates associated with this requirement.

Key Performance Indicators:

Commitments		Implementation Deadline
Ensure Security Manager / Post Supervisor in Place		July 1, 2022
Bi-Annual Risk Assessment		Bi-Annually
Bi-Annual Security Plan Review		To be conducted by Security Manager/Post Supervisor on years no risk assessment is completed
Compliance with all Training		June 30, 2022
Schedule and Hold Quarterly Business Review with Director of Facilities and Director of Security		To be conducted and agreed to by both parties
Action Item Log		Current/On-Going
Actively Track KPI's		Completed/On-Going
KPI's	Frequency	Occurrence Consequence
KMC Fire Drill	Monthly/Once per shift per quarter	\$25,000
Columbus Clinic Fire Drill	Semi- Annual	\$25,000
Q Street Clinic Fire Drill	Semi- Annual	\$25,000
KMC Fire Extinguisher Check	Monthly	\$1,000
Columbus Clinic Fire Extinguisher Check	Monthly	\$1,000
Q Street Clinic Fire Extinguisher Check	Monthly	\$1,000
All Outpatient / off site Clinic Fire Extinguisher Checks	Monthly	\$1,000
Change all Access Codes	6-Months or at intervals determined by KMC Director of Security or KMC Executive Leadership	\$25,000
Security Risk Assessment	Bi-Annually	\$25,000
Security Assessment Review	Bi-Annually (alternately to Assessment)	\$5,000

KPI Explanation:

Contractor is responsible for the following:

- Fire Drills: Performed according to regulatory requirements
 - KMC: Fire Drills performed quarterly (1 per shift per month), or as required to maintain regulatory compliance
 - Columbus Clinic: Fire Drills performed quarterly (1 per shift per month), or as required to maintain regulatory compliance
 - Q Street Clinic: Fire Drills performed semi-annually (1 per 6 months), or as required to maintain regulatory compliance
- Fire Extinguisher Checks: penalty applies per month out of compliance: Estimated 400+ extinguishers:
 - The list will be mutually agreed upon and update annually or as needed
 - Contractor and KMC will mutually agree upon the process for communication when new assets are added or removed
 - KMC : Fire Extinguisher Checks performed monthly
 - Columbus Clinic: Fire Extinguisher Checks performed monthly
 - Q Street Clinic: Fire Extinguishers Checks performed monthly
 - Oswell computer lab: Fire Extinguishers Checks performed monthly
 - 19th street clinics: Fire Extinguishers Checks performed monthly
 - Refine clinic: Fire Extinguishers Checks performed monthly
 - Stockdale clinics: Fire Extinguishers Checks performed monthly
 - Oversee annual fire extinguisher
- Panic Button Function Tests:
 - KMC: Panic Buttons tested monthly
 - Columbus Clinic: Panic Buttons tested monthly
 - Q Street Clinic: Panic Button tested monthly
- Access Code Changes:
 - The list will be mutually agreed upon and uploaded annually or as needed
 - Contractor and KMC will mutually agree upon the process for communication when new doors are to be added or removed
 - Codes will be changed every six (6) months or at intervals determined by KMC Director of Security or KMC Executive Leadership to maintain door security
 - Contractor Security Manager/Post Supervisor is responsible for distributing the code to the appropriate parties
 -
- Security Risk Assessment:
 - To be conducted every other year (bi-annually); First assessment to be completed by December 15, 2022. Every other year thereafter by June 30.
 - Scope of assessment to be determined and agreed upon between KMC Leadership and Contractor prior to assessment.
 - Security Plan to be updated concurrently with any accepted corrective actions
 - Contractor will assist in developing a prioritized action plan / Recommendations tracking tool with KMC aimed at minimizing the hospital's vulnerabilities.

- New Crime Cast report / CAP index score.
- Security Assessment Review
 - To be conducted by Site Security Manager/Post Supervisor every other year, alternatively to Security Risk Assessment (on off years of the assessment)
 - Purpose of plan review is to:
 - Assess ongoing/new/unique hospital security risks
 - Maintain compliance with ever-changing regulatory landscape
 - Update assessment in accordance with any facility changes
 - Track progress of prioritized action plan / Recommendations tracking tool

Trans West Security Week Hours for Officers and Posts

[illegible]

Kern Medical Estimated Budget

July 2022 through June 2025

Estimated 2022 budget - Jul- Dec

	Pay Rate	Bill Rate	Hours	Weekly	Monthly	6 Months
Level 1	\$ 16.00	\$ 25.92	1042.5	\$ 27,021.60	\$ 117,093.60	\$ 702,561.60
Level 2	\$ 16.25	\$ 26.33	320	\$ 8,424.00	\$ 36,504.00	\$ 219,024.00
Level 3	\$ 16.50	\$ 26.73	120	\$ 3,207.60	\$ 13,899.60	\$ 83,397.60
Level 4	\$ 16.75	\$ 27.14	168	\$ 4,558.68	\$ 19,754.28	\$ 118,525.68
Post Supervisor	\$ 18.00	\$ 30.88	60	\$ 1,852.80	\$ 8,028.80	\$ 48,172.80
Director						
			1710.5	\$ 45,064.68	\$ 195,280.28	\$ 1,171,681.68

Estimated Grand Totals From July 2022 through Dec 2022

\$ 1,171,681.68

Estimated budget - 2023

	Pay Rate	Bill Rate	Hours	Weekly	Monthly	Annual Budget
Level 1 - Security Officer	\$ 18.50	\$ 31.94	1482.5	\$ 47,351.05	\$ 205,187.88	\$ 2,462,254.60
Level 1 - Lead Officers	\$ 19.50	\$ 34.37	168	\$ 5,774.16	\$ 25,021.36	\$ 300,256.32
Post Supervisor	\$ 21.50	\$ 38.42	60	\$ 2,305.20	\$ 9,989.20	\$ 119,870.40
			1710.5	\$ 55,430.41	\$ 240,198.44	\$ 2,882,381.32

Estimated Grand Totals

\$ 2,882,381.32

Estimated budget - 2024

	Pay Rate	Bill Rate	Hours	Weekly	Monthly	Annual Budget
Level 1 - Security Officer	\$ 18.50	\$ 31.94	1482.5	\$ 47,351.05	\$ 205,187.88	\$ 2,462,254.60
Level 1 - Lead Officers	\$ 19.50	\$ 34.37	168	\$ 5,774.16	\$ 25,021.36	\$ 300,256.32

Post Supervisor	\$ 21.50	\$ 38.42	60	\$ 2,305.20	\$ 9,989.20	\$ 119,870.40
			1710.5	\$ 55,430.41	\$ 240,198.44	\$ 2,882,381.32

Estimated Grand Totals

\$ 2,882,381.32

Estimated budget - Jan through June 2025

	Pay Rate	Bill Rate	Hours	Weekly	Monthly	Annual Budget
Level 1 - Security Officer	\$ 18.50	\$ 31.94	1482.5	\$ 47,351.05	\$ 205,187.88	\$ 1,231,127.30
Level 1 - Lead Officers	\$ 19.50	\$ 34.37	168	\$ 5,774.16	\$ 25,021.36	\$ 150,128.16
Post Supervisor	\$ 21.50	\$ 38.42	60	\$ 2,305.20	\$ 9,989.20	\$ 59,935.20
			1710.5	\$ 55,430.41	\$ 240,198.44	\$ 1,441,190.66

Estimated Grand Totals

\$ 2,882,381.32

Grand Estimated Budget for July 2022 - June 2025

\$ 9,818,825.64



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

September 21, 2022

Subject: Proposed Amendment No. 4 to the Financial Services Agreement with Health Advocates, LLC

Recommended Action: Approve; Authorize Chairman to sign

Summary: Kern Medical requests your Board approve an Amendment No. 4 to the Financial Services Agreement (#06816PA) with Health Advocates. The initial term of the agreement was for a two (2) year period, extended for another four (4) years in subsequent amendments. Your Board approved Amendment No. 3 to extend the term for three (3) months to allow Kern Medical to negotiate a contract renewal with the new revenue cycle purchased services management vendor. The proposed Amendment No. 4 will extend the term of the Agreement from October 1, 2022 through September 30, 2025 ("New Term"). Either Party may terminate the Agreement with ninety (90) days written notice prior to the first anniversary of the New Term or anytime, thereafter. The maximum payable for the term extension will not exceed \$10,800,000 which indicates a reduction in Vendor fees due to the use of historical data resulting in an anticipated savings estimated to be \$470,000 in annual savings.

Agreement	Term	Purpose	Cost
Financial Services 06816PA	07/01/2016 - 06/30/2018	Provide Eligibility and Third-Party Recovery Services	\$3,000,000
Amendment No. 1 058-2017	07/01/2018 – 06/30/2019	Extended term and maximum payable	\$1,000,000
Amendment No. 2 042-2019	07/01/2019 – 06/30/2022	Extended term, defined "accounts", and updated the fee schedule and maximum payable	\$10,800,000
Amendment No. 3	07/01/2022 – 09/30/2022	Extends the term and the maximum payable	\$1,050,000
Proposed Amendment No. 4	10/01/2022 – 09/30/2025	Extends the term and the maximum payable	\$10,800,000
Total Cost	07/01/2016 – 09/30/2025		\$26,650,000

Therefore, it is recommended that your Board approve the proposed Amendment No. 4 with Health Advocates, LLC for services in the Departments of Financial Counseling, extending the term by three (3) years, increasing the maximum payable by \$10,800,000 for a total maximum payable of \$26,650,000 for the period of July 1, 2016 to September 30, 2025, and authorize the Chairman to sign.

AMENDMENT NO. 4 TO
FINANCIAL SERVICES AGREEMENT
BETWEEN KERN COUNTY HOSPITAL AUTHORITY AND HEALTH ADVOCATES, LLC

The Financial Services Agreement ("Agreement") effective July 1, 2016, by and between **Kern County Hospital Authority**, a local unit of government, that owns and operates **Kern Medical Center** ("Client") and **Health Advocates, LLC** ("Health Advocates"), to provide Account Receivable/Financial Services is hereby amended as set forth below ("Amendment No. 4").

The purpose of Amendment No. 4 to extend the term of the Agreement, update the Maximum Payable, and to replace the existing **Exhibit A – 2 - Fee Schedule**. This Amendment No. 4 is effective as of October 1, 2022.

1. Section **TERM** in the Agreement will be amended to include the following as stated below and incorporated herein to the Agreement:

“ 3. This Amendment No. 4 will extend the Agreement from October 1, 2022 through September 30, 2025 ("Extended Term") subject to the additional provisions regarding renewals and termination in the Agreement. In addition, either Party may terminate the Agreement with ninety (90) days written notice prior to the first anniversary of the New Term or anytime, thereafter. For purposes of clarification, this means the Agreement may be terminated on October 1, 2023 or anytime thereafter.”

2. Section **PAYMENT OF FEES AND EXPENSES** subsection 1 of the Agreement will be deleted in its entirety and replaced with the following:

“1. Maximum Payable. The maximum payable under the Agreement will not exceed \$15,850,000 dollars for the period of July 1, 2016 to September 30, 2022 and will not exceed \$10,800,000 dollars for the extended term of October 1, 2022 through September 30, 2025 for a total maximum payable of \$26,650,000 dollars. Costs that will exceed the maximum payable for this time period must will be approved in writing by both parties.”

3. **Exhibit A-3, FEE SCHEDULE**, to Amendment No. 4 is added to the Agreement and incorporated herein by this reference.
4. 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; provided, however in the event of any conflict between the terms of the Agreement and this Amendment No. 4, the terms of this Amendment No. 4 shall control.
5. The Agreement, as amended by Amendment No. 4 constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior oral and written agreements, representations and understandings between the parties concerning such subject matter.

Kern County Hospital Authority
1700 Mount Vernon Avenue
Bakersfield, CA 93306

Health Advocates, LLC
21540 Plummer Street, Suite B
Chatsworth, CA 91311

By: _____

Name: Russell Bigler

Title: Chairman, Board of Governors

Date: _____

Phone #: _____

Fax #: _____

Email: _____

By: 

Name: Steve Levine

Title: CEO

Date: 8/26/22

Phone #: (818) 995-9500

Fax #: (818) 995-9599

Email: SteveL@HealthAdvocates.com

APPROVED AS TO FORM
Legal Services Department

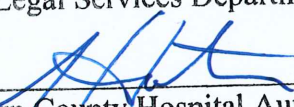
By: 
Kern County Hospital Authority

EXHIBIT A – 3 FEE SCHEDULE

Replace only the following captioned categories in **Exhibit A – Fee Schedule; Section A – Eligibility and Enrollment Services**. These changes to the fee categories below are made to facilitate the Client's claiming of Health Advocate qualifying fees for reimbursement under the Medi-Cal Administrative Activities Program.

Add the general provision as follows:

Client acknowledges that Health Advocates reviews and rescreens every referral for all potential sources of third-party coverage and recovery in an attempt to maximize benefits for the patient and to maximize compensation for Client. Should Health Advocates receive a referral intended for one service (e.g. to pursue Medi-Cal) but discover an opportunity to pursue another third-party source (e.g. to reinstate Commercial coverage via COBRA or to invoice a Workers' Compensation carrier), Health Advocates will be permitted to retain the account for processing and earn the related fee in this Exhibit. Should Health Advocates identify third-party sources solely using the Client's provided demographics as described in Section D below or from a review of notes by Client's staff on existing coverage not acted upon, these accounts with existing coverage will be returned to the Client with no fee assessed.

Delete and replace the following categories:

- Inpatient – (Pre-Legal)
- Outpatient and ER Treat and Release – (Pre-Legal)
- Support/Secondary Fee Structure (Pre-Legal)
- Eligibility Services (Legal)

Replace with the following Per Approval Fees:

	A1 Inpatient Acute Screening & Applications	A2 Inpatient and Outpatient Acute Fair Hearing & Appeals	B1 Inpatient Mental Health Screening & Applications	B2 Inpatient and Outpatient Mental Health Fair Hearing & Appeals	C1 Outpatient Acute and Mental Health Screenings and Applications
POE on or After 10/1/22	\$ 2,500	\$ 2,800	\$ 2,500	\$ 2,800	\$ 1,575
POE on or After 10/1/23	\$ 2,550	\$ 2,856	\$ 2,550	\$ 2,856	\$ 1,607
POE on or After 10/1/24	\$ 2,601	\$ 2,913	\$ 2,601	\$ 2,913	\$ 1,639

Annual 2% price increase for each of the flat fees A1/B1, A2/B2, C1 at each contract anniversary.

Definitions:

A1 – Acute Medi-Cal (Inpatient) – Screen patients, Medi-Cal application filed, all processing support, and approval.

A2 – Acute Fair Hearing/Appeals (Inpatient and Outpatient) – Screen patients, Medi-Cal applications filed, all processing support, and approved through Fair Hearing/Appeals.

B1 – Mental Health (Inpatient) – Screen patients, Medi-Cal applications filed, all processing support, and approval.

B2 – Mental Health Fair Hearing/Appeals (Inpatient and Outpatient) - Screen patients, Medi-Cal applications filed, all processing support, and approved through Fair Hearing/Appeals.

C1 – Acute and Mental Health (Outpatient) - Screen patients, Medi-Cal application filed, all processing support, and approval.

- These rates are based upon Proof of Eligibility (POE) Approvals (not Referrals or Payments) and apply to each discharge. This is a comprehensive fee invoiced upon Approval and includes all screening, applications, processing, and follow-up resulting in Medi-Cal Approval.
- These fees apply to Inpatient and Outpatient Eligibility Services referrals as indicated. They also apply to Medi-Cal coverage obtained as Primary or Secondary coverage with the exception of LTC applications and PRUCOL (via routine processing) noted below.
- A single fee per individual patient will be assessed even if there are multiple referred accounts for the patient that are encompassed by the retro Approval with the exception for Approvals obtained via a Fair Hearing/Appeals process. When a Fair Hearing/Appeals process is required to obtain coverage for an individual, all referred accounts encompassed by the retro Fair Hearing/Appeals process will receive separate payment according to fee A2 or B2 in the above table. Should an individual patient have both Inpatient and Outpatient referral(s) encompassed by the retro Approval (not obtained by a Fair Hearing/Appeals process), the Inpatient fee in A1 or B1 will apply rather than the Outpatient fee in C1.
- The fees will be adjusted and effective for Approvals on or after the date indicated in the table above.

Update the remaining fees for all other services as follows:

SECTION A - Eligibility and Enrollment Services	
<p><u>Baby Medi-Cal Applications (coverage extensions)</u> – Upon request, this fee specifically applies to referrals of a baby for the sole purpose of obtaining ongoing Medi-Cal benefits for the baby. It applies when the mother has existing Medi-Cal coverage (full or restricted), and the baby’s file is referred to assist in adding the baby to the Medi-Cal case.</p> <p>It does not apply when obtaining coverage for the baby results in invoicing for additional reimbursement for the baby (e.g. baby’s length of stay exceeds the mother’s). Any activities performed to establish eligibility/coverage for the mother, including PRUCOL or establishing eligibility via a new application are covered under other applicable fee sections.</p>	<ul style="list-style-type: none"> • Pre-Discharge Referrals - \$125 • Post-Discharge Referrals - \$125
<p><u>Long Term Care (SNF/LTC), PRUCOL, and Medi-Cal Safety-Net Coverage</u> – These referrals are made to facilitate patient’s discharge to SNF/LTC (i.e. Medi-Cal as Secondary coverage), to improve/continue coverage for anticipated future visits (updated Aid Codes), or to provide back-up coverage should Primary coverage be questionable or exhaust.</p>	<ul style="list-style-type: none"> • If a referral results in a payment on the account, the applicable fee in the Per Approval Table above applies. • If a referral does not result in a payment on the account a Flat Fee of \$500 will apply for routine processing and Fair Hearing fee in the Per Approval Table above when applicable.
<p><u>Out-of-State Medicaid Applications</u> – Upon request and with Client information support, Health Advocates will provide eligibility application/agreement processing (if a prerequisite to payment), treatment authorization, billing and follow-up for out-of-state accounts. This service is offered for all inpatient accounts and for outpatient accounts with “expected reimbursement” of \$2,000 or greater.</p>	<ul style="list-style-type: none"> • Provider Application - \$1,000, if applicable, <u>plus</u> • 20% x ASR
<p><u>TAR/Billing (without appeals)</u> – Upon request, Health Advocates will provide TAR and/or Billing support on “inpatient” accounts referred with existing Medi-Cal approval:</p> <ol style="list-style-type: none"> Client agrees to timely provide medical records, certifications, and a copy of any TARs processed by Client within five (5) business days of a TAR submission and/or approval by the Medi-Cal Field Office. These fees are subject to Client’s provision of any required clinical/nursing documentation support for InterQual processing as per state guidelines. 	<ul style="list-style-type: none"> • <u>Acute Admissions – TAR & Billing each</u> 1% x ASR • <u>Mental Health Admissions – TAR</u> 3% x ASR and Billing 1% ASR

<p><u>Medicare Eligibility Services</u> – Fee earned during the “Upgrade Coverage Period” defined in (a) and (b) below:</p> <p>a. When “retroactive” Medicare is awarded - begins on the Medicare Effective Date and ends twelve months following the Approval Date</p> <p>b. When “prospective” Medicare is awarded – begins on the Medicare Effective Date and ends twelve months following the Medicare Effective Date</p> <p>For this service, Client will include referrals for all affiliated entities of Client (i.e. clinics, sub-acute, long-term care, etc.) to maximize the identification of qualifying patients.</p>	<p>25% x ASR from Medicare on accounts falling within the Upgrade Coverage Period</p>
<p><u>Medi-Cal Secondary, Safety-Net, and Disproportionate Share Services (DSH)</u> – This service is performed on patients that have existing primary coverage. Various DSH and account specific payments to Client may result from services under this program as described below. Health Advocates is entitled to compensation for each fee that may apply to any specific referral.</p>	
<p>a. <u>Approved DSH “Days” (on non - Medicare Patients)</u> - Health Advocates will be compensated for each day of approved Medi-Cal Title XIX coverage secured.</p>	<p>\$100 per Approved Medi-Cal Day</p>
<p>b. <u>Fee for Primary or Secondary Medi-Cal Payments</u> - Health Advocates will be compensated according to the applicable Eligibility Services fee for any additional payments that Client receives pursuant to billing Medi-Cal as the <u>Secondary</u> payor or <u>Primary</u> payor (should Medi-Cal become primary due to patient’s non-payment of policy premiums, exhaustion of benefits, or termination of coverage).</p>	<p>Applicable per Approval Fee noted in table above (i.e. A1, A2, B1, or B2)</p>
<p><u>SECTION B - Third Party Recovery Services Fees</u></p>	
<p><u>Third Party Liability (TPL), Workers’ Compensation Lien (Pre-Legal and Legal):</u></p> <p>a. Out-of-Pocket costs include lien/action filing fees, court costs, etc. that will be advanced by Health Advocates</p> <p>b. Legal fees apply to dispute resolution (e.g. arbitration, mediation, probate court, and hearing officers) on <u>authorized</u> legal actions</p> <p>c. These fees apply to direct referrals for Third Party Recovery Services or referrals initially made for Eligibility Services but where Third Party Recovery was identified.</p>	<ul style="list-style-type: none"> • <u>Pre-Legal</u> - 18% x ASR, plus, if incurred, Out-of-pocket costs • <u>Legal</u> – 25%, <u>plus</u>, if incurred, Out-of-Pocket costs
<p><u>SECTION C - Insurance Collection Service Fees</u></p>	
<p><u>HMO/PPO, Managed Care Claims Appeals/Denials, Workers’ Compensation (Non-Lien Collections), Veterans, and COBRA (Pre-Legal and Legal):</u></p> <p>a. Out-of-Pocket costs include filing fees, court costs, etc. that will be advanced by Health Advocates.</p> <p>b. Legal fees apply in these circumstances;</p> <ol style="list-style-type: none"> 1. Accounts requiring Legal action or Attorney Intervention for recovery 2. Accounts that are a Zero-Balance (i.e. closed status upon referral date to Health Advocates) 	<ul style="list-style-type: none"> • <u>Pre-Legal</u> - 18% x ASR, plus, if incurred, Out-of-pocket costs • <u>Legal</u> – 25%, <u>plus</u>, if incurred, Out-of-Pocket costs

<p>3. Accounts that are aged 365 days or more from discharge upon referral date to Health Advocates</p> <p>4. Accounts returned after rejection or closure by another vendor</p> <p>c. These fees apply to direct referrals for Insurance Collection Services or referrals initially made for Eligibility Services but where Insurance Collection was identified.</p>	
SECTION D - Electronic Verification and Existing Coverage	
<p>a. <u>Electronic Verification of Coverage</u> - Health Advocates electronically <u>verifies already existing coverage</u> (Medi-Cal, Medicare, or Commercial), without any patient/applicant contact to correct demographics, no coordination of completion or submission of any documents, no use of skip-tracing or field services to locate patient/applicant, etc. - <u>solely using the demographic information provided by the Client</u>.</p> <p>b. <u>Post Account Closure Services</u> – Upon Client authorization, all closed/returned accounts will be routinely scrubbed electronically for active retro-coverage for twelve (12) months from the date closed.</p>	<ul style="list-style-type: none"> • \$0 Per Account - Outpatients • \$0 Per Account - Inpatients



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

September 21, 2022

Subject: Proposed Amendment No. 10 to Agreement #947-2008 with Toyon Associates, Inc.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board to approve the proposed Amendment No. 10 to the Agreement for Professional Services with Toyon Associates, Inc. (Toyon). Toyon is a consulting company that provides government reporting advice and solutions, primarily for the Medicare and Medi-Cal programs, to Kern Medical.

Toyon is the only consulting company with the knowledge needed to properly account for and report on the many Medi-Cal expansion programs that Kern Medical participates in each year. Toyon's advice and expertise allows Kern Medical to maximize the reimbursement available from these programs. Each year Toyon ensures that Kern Medical receives several million more dollars of government reimbursement than may otherwise be realized without their services. In addition, their advice and reporting services ensure that Kern Medical's reporting is consistent and in compliance with all regulatory and compliance requirements.

The proposed Amendment extends the term of the Agreement for an additional two years from October 14, 2022 through October 13, 2024, updating the service pricing for the two-year extension, and increasing the maximum payable by \$950,000, from \$4,290,000 to \$5,240,000, to cover the extended term. The annual cost associated with the Agreement is \$475,000 per year.

Therefore, it is recommended that your Board approve Amendment No. 10 to Agreement #947-2008 with Toyon Associates, Inc., for the period October 14, 2008 through October 13, 2022, extending the term for two years from October 14, 2022 through October 13, 2024, updating the service pricing, increasing the maximum payable by \$950,000, from \$4,290,000 to \$5,240,000, to cover the term, and authorize the Chairman to sign.

**AMENDMENT NO. 10
TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Toyon Associates, Inc.)**

This Amendment No. 10 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2022, by and between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Toyon Associates, Inc., a California corporation (“Contractor”), with its principal place of business located at 1800 Sutter Street, Suite 600, Concord, California 94520.

RECITALS

(a) Authority and Contractor have heretofore entered into an Agreement for Professional Services (Kern County Agt. #947-2008), Amendment No. 1 (Kern County Agt. #789-2010), Amendment No. 2 (Kern County Agt. #159-2013), Amendment No. 3 (Kern County Agt. #748- 2013), Amendment No. 4 (Kern County Agt. #777-2014), Amendment No. 5 (Kern County Agt. #007-2016), Assignment of Agreement (Kern County Agt. #335-2016), Amendment No. 6 (Agt. #2017-034), Amendment No. 7 (Agt. #073-2017), Amendment No. 8 (Agt. #071-2018), and Amendment No. 9 (Agt. #045-2020), for third party reimbursement services to KMC; and

(b) Section 21 of the Agreement provides that it may be amended; and

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

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

(e) The Agreement is amended effective October 14, 2022;

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

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

“1. Term. Performance of Contractor and Authority shall commence October 14, 2008, and shall end October 13, 2024, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.”

2. Section 3, Compensation, paragraph 3.5, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“3.5 Maximum Payable. The maximum payable under this Agreement shall not exceed \$5,240,000 over the term of this Agreement.”

3. Amendment No. 6 to Exhibit “A,” Description of Services, shall be deleted in its entirety and replaced with Amendment No. 7 to Exhibit “A,” Description of Services, attached hereto and incorporated herein by this reference.

4. Exhibit “B-6,” Hourly Rates, October 14, 2020 – October 13, 2022, shall be deleted in its entirety and replaced with Exhibit “B-7,” Hourly Rates, October 14, 2022 – October 13, 2024, attached hereto and incorporated herein by this reference.

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

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

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

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

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 10 as of the day and year first written above.

TOYON ASSOCIATES, INC.

By Ronald G. Knapp
Ronald G. Knapp
Chief Operating Officer

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

**AMENDMENT NO. 7
TO
EXHIBIT "A"
DESCRIPTION OF SERVICES**

1. Routine Services. Contractor shall provide any of the following routine third-party reimbursement services, if requested by KMC and approved in advance by KMC:
 - A) Medicare and Medicaid cost report preparation
 - B) Medicare Schedule 10 preparation and audit support
 - C) Medicare Wage index preparation and audit support
 - D) Medicaid eligible days documentation development for Medicare DSH optimization
 - E) Medicare SSI ratio analysis and realignment filing for Medicare DSH optimization
 - F) Review prior year Medicare and Medicaid cost reports for accuracy
 - G) Medi-Cal redesign cost analysis and interim rate support
 - H) Medicare and Medicaid cost report audit appeals
 - I) Medicare cost report compliance review and policies and procedures development
 - J) Contractual allowance and reserve analysis, including audit review
 - K) Medicare and Medicaid cost report audit assistance
 - L) Annual HCai report assistance
 - M) Medicare and Medicaid reimbursement planning and strategy development
 - N) Medicare bad debt recovery documentation development, analysis and appeals
 - O) Medicare wage index review and reclassification requests
 - P) Medicare GME/IME reimbursement review and payment optimization
 - Q) AB 85 Public Hospital County data submission form preparation or review
 - R) Preparation and review of AB 915 claims
 - S) Preparation and review of Medi-Cal waiver workbooks (aka P-14 workbooks)
 - T) Preparation or review of CAPH and/or DHCS data requests regarding Medi-Cal program funding
 - U) Process Medi-Cal POS for aid code review
 - V) Assist with gathering data for the GPP Program
 - W) Provide assistance in reconciling patient data for EPP and QIP Programs
2. Specialized Services. Contractor shall provide the following specialized services, as requested by KMC:
 - A) Assist with monthly booking of revenue and periodic true-up of revenue based on updated schedules from CAPH, and review actual Medi-Cal outpatient and physician costs (AB 915 and Physician SPA)
 - B) Develop projections for KMC government program net revenue
 - C) Assist with development of template for monthly contractual allowance calculations and provide routine review
 - D) Review booking of Practice Plus revenue and ensure that data are captured in a format necessary for cost reporting and claiming
 - E) Provide ongoing training for designated KMC staff, as necessary, regarding state/federal funding and proper cost report and P14 preparation

- F) Identify data needs and items for review to prepare and/or revise P14 workbook(s) including, without limitation, dual eligible calculations
- G) Oversee and support P14, PPNP (MD SPA), Medi-Cal, GPP and EPP audits
- H) Prepare quarterly cost reports to validate data and identify potential adjustments prior to year-end
- I) Undertake special projects and/or analysis not otherwise covered regarding government funding

[Intentionally left blank]

EXHIBIT “B-7”
HOURLY RATES
October 14, 2022 – October 13, 2024

[See attached]

<p align="center">TOYON ASSOCIATES, INC.</p> <p align="center">Kern Medical Center</p> <p align="center">Eff. October 14, 2022 - Service Pricing</p>			
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Title	10/14/2022	10/14/2023
CEO	595	620
COO	565	585
Vice President	475	495
Senior Director	405	420
Senior Manager	370	385
Director	325	340
Asst. Director	325	340
Manager	310	320
Senior Consultant	300	310
Consultant	265	275
Senior Analyst	235	245
Analyst	180	185
Appeals Coordinator	210	220
Administrative	135	140

Programming Staff

Title	10/14/2022	10/14/2023
Manager Systems Development	355	370
Director of Information Technology	325	340
Systems Programmer	270	280
Systems Administrator	235	245
Web Applications Developer	210	220
Programmer Analyst	210	220

Fixed Fee Service Schedule

DSH POS - CR Prep/Yr	\$	4,500	FY 6/23-6/25
DSH Historical - Prep/Audit - Per Yr	\$	13,000	FY 6/23-6/25
Medicare/Medi-Cal Bad Debt - Prep/Audit - Per Yr	\$	11,000	FY 6/23-6/25
SSI Realignment - Analysis/MAC Request - Per Yr	\$	4,500	Yrs Pursued

DSH OP POS Look-up Service

Fees to process Medi-Cal OP POS are based on the volume of accounts processed. The POS system provides eligibility for the past 12 months. We therefore recommend processing the look-ups on a quarterly basis. Toyon's fee for this service are:

- Initial Set-up Fee/Quarter \$250

Acct Volume	Fee/Lookup
0-100,000	\$.05/acct
100,001 - 500,000	\$.025
500,001 - 1,000,000	\$.02
+1,000,001	\$.015

The volumes described above are based on cumulative claims processed in a fiscal year. Each July 1st, the account volume is reset to zero.



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

September 21, 2022

Subject: Proposed Agreement for Professional Services with Jack C. Hou, M.D.

Recommended Action: Approve; Authorize the Chairman to sign

Summary:

Kern Medical requests your Board approve an Agreement with Jack C. Hou, M.D., for professional medical services in the Department of Surgery, for a term of one year from September 22, 2022 through September 21, 2023, in an amount not to exceed \$890,000. Dr. Hou is a fellowship trained, board certified urologist.

Dr. Hou's annual salary of \$750,000 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. Hou's compensation is comprised of (i) a base salary for teaching and administrative duties; (ii) payment for care of KMC patients; and (iii) weekday and weekend call coverage. In addition to his annual salary, Dr. Hou will receive a starting bonus of \$15,000 and is eligible to receive incentive compensation defined as 25% of the professional fee net collections in excess of \$750,000, less all applicable federal and state taxes and withholdings, per employment year. Dr. Hou will also receive the same complement of benefits offered all employed physicians to include eligibility to participate in the physicians' pension plan, healthcare coverage, vacation and sick leave, education days and CME reimbursement, and the option to elect voluntary benefits at no cost to Kern Medical. The maximum payable under the Agreement will not exceed \$890,000 over the one-year term, excluding the cost of benefits.

The Agreement also contains a provision for Dual Hospital Coverage, including a compensation schedule, in anticipation of the future joint hospital coverage efforts in the Division of Urology with Adventist Health. This schedule outlines the compensation to be paid to Dr. Hou and our other employed urologists and is based on the number of full-time employed physician equivalents in the supergroup. Dual hospital coverage will not be required until there is a minimum of five urologists participating in the collective call pool. The schedule also allows for the urologists to be compensated should they choose to provide dual hospital coverage voluntarily prior to five urologists participating in the call pool.

Therefore, it is recommended that your Board approve the Agreement with Jack C. Hou, M.D., for professional medical services in the Department of Surgery from September 22, 2022 through September 21, 2023, in an amount not to exceed \$890,000, plus applicable benefits, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Jack C. Hou, M.D.)**

This Agreement is made and entered into this ____ day of _____, 2022, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Jack C. Hou, M.D. (“Physician”).

**I.
RECITALS**

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

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

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

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 initial term of this Agreement (“Initial Term”) shall be for a period of one (1) year, commencing as of September 22, 2022 (the “Commencement Date”). At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for two (2) additional terms of two (2) years each (“Renewal Term”), but only upon mutual written agreement of the parties. As used herein, the “Term” of this Agreement shall mean the Initial Term and all Renewal Terms. 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 for the practice of medicine in the care and treatment of patients at KMC, or at such other clinic sites as KMC may designate, including without limitation, hospital and clinic locations owned and operated by Adventist Health (collectively, “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.

4.3.2 **Board Certification.** Physician shall be board certified by the American Board of Urology in urology-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.

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.

4.3.4 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 "C," 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 eighty (80) hours per biweekly pay period, and will be compensated with cash and other value as described below in this paragraph 5.1 ("Annual Salary").

5.1.1 **Annual Salary.** Authority shall pay Physician an Annual Salary comprised of (i) a base salary for teaching and administrative duties and (ii) payment for care of KMC patients in the amount of \$750,000 per year,² to be paid as follows: Physician shall be paid \$28,846.15 biweekly not to exceed \$750,000 annually. Physician understands and agrees that (i) the Annual Salary set forth in this paragraph 5.1 is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey ("MGMA Survey") for specialty and (ii) Physician will maintain a median level (50th percentile) of worked relative value units ("Worked RVU") based on the current MGMA Survey and fulfill all the duties set forth in Exhibit "A" during the Initial Term of this Agreement.

5.1.2 **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.

5.1.3 **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 **Dual Hospital Coverage.** Authority shall pay Physician for dual hospital coverage according to the call ratio and corresponding rates set forth in Exhibit "B," Dual Hospital Coverage Compensation Schedule, attached hereto and incorporated herein by this reference.

5.3 **Incentive Compensation.** Within thirty (30) days following the end of each Employment Year, beginning from the Commencement Date, KMC will calculate the professional fee net collections (defined as actual cash received) for all professional services provided by Physician. Physician shall receive twenty-five percent (25%) of the professional fee net collections in excess of \$750,000, less all applicable federal and state taxes and withholdings, per Employment Year.

² The Annual Salary paid to Physician is comprised of a base salary for teaching and administrative duties in the amount of \$80,000 and payment for care of KMC patients in the amount of \$670,000 (MGMA 50th percentile with Worked RVU threshold of 7,518 = \$480,000; call coverage = \$190,000).

5.4 Starting Bonus.

5.4.1 Bonus. Physician shall receive a starting bonus in the amount of \$15,000, less all applicable federal and state taxes and withholdings, payable within ten (10) business days of the Commencement Date. Physician shall forfeit the starting bonus if he fails to report to work on the Commencement Date.

5.4.2 Repayment. In the event that Physician voluntarily terminates his employment with Authority for any reason whatsoever before the first anniversary of this Agreement, Physician will repay to Authority an amount equal to \$15,000 multiplied by the fraction, the numerator of which is three hundred sixty-five (365) less the number of days during which Physician was employed by Authority, and the denominator of which is three hundred sixty-five (365). Such repayment shall be made by Physician in full within thirty (30) days of the effective date of his termination of employment with Authority.

5.4.3 Offset. Physician hereby authorizes Authority to offset against and reduce any amounts otherwise due to Physician for any amounts in respect of the obligation to repay the starting bonus.

5.5 Professional Fee Billing.

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

5.5.2 Remittance of Professional Fee Charges. Physician shall remit all professional fee charges to KMC within forty-five (45) days of the date direct patient care services are provided by Physician. Any professional fee charges not remitted by Physician to KMC within forty-five (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.

5.6 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$890,000 over the one (1) year Initial Term of this Agreement.

6. Benefits Package.

6.1 Retirement. Physician shall 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 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 is eligible for coverage the first day of the biweekly payroll period coincident with or next following the day he completes one (1) month of continuous service. 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 be credited with vacation leave of 9.23 hours for each pay period of service, for a maximum accrual of two hundred forty (240) hours per Employment Year. Total unused vacation leave accumulated shall not exceed a maximum of three hundred twenty (320) hours. No further vacation leave will accrue as long as Physician has the maximum number of hours credited. The Department Chair must approve all vacation leave in advance. Physician shall be paid for accrued and unused vacation leave, if any, upon termination or expiration of this Agreement calculated at Physician's current hourly rate (i.e., current Annual Salary divided by 2080 hours = hourly rate), less all applicable federal and state taxes and withholding requirements.

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

6.7 CME Expense Reimbursement. Authority shall reimburse Physician for all approved reasonable and necessary expenditures related to continuing medical education in an amount not to exceed \$2,500 per Employment Year, payable in arrears, in accordance with

Authority policy, as amended from time to time. This amount may not be accumulated or accrued and does not continue to the following Employment Year.

6.8 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 Department Chair. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and will not be considered vacation or education leave.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. **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.

17. **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 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.

18. **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.

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

20. **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 thirty (30) days' prior written notice in the event that Authority requires such an action.

21. **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.

22. **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.

23. **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:

Notice to Authority:

Jack C. Hou, M.D.
5201 Gasol Court, Apt. K-202
Bakersfield, California 93313

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

24. **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.

25. **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.

26. **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.

27. **Termination.**

27.1 **Termination without Cause.** Either party shall have the right to terminate this Agreement, without penalty or cause, by giving not less than forty-five (45) days' prior written notice to the other party.

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

or other restriction; (viii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (ix) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (x) Physician fails to make a timely disclosure pursuant to paragraph 4.4; (xi) Physician engages in conduct that, in the sole discretion of Authority, is detrimental to patient care or to the reputation or operations of Authority and/or KMC; (xii) Physician breaches the confidentiality provisions of this Agreement; (xiii) Physician dies; (xiv) Physician fails to follow Authority's policies and procedures and other rules of conduct applicable to all employees of Authority, including without limitation, policies prohibiting sexual harassment; (xv) insubordination, flagrant tardiness, or interpersonal problems in the workplace with colleagues, patients or associates; or (xvi) Physician breaches any covenant set forth in paragraph 4.11.

28. Effect of Termination.

28.1 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.

28.2 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.

28.3 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.


28.4 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.

29. **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  9/20/2022
Jack C. Hou, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Agreement Hou.081122

EXHIBIT “A”
JOB DESCRIPTION
Jack C. Hou, M.D.

Position Description: Reports to Chief, Division of Urology; serves as a full-time faculty member in the Department; provides those services assigned by the Department Chair; provides no fewer than eighty (80) hours of service per pay period.

Essential Functions:

1. Clinical Responsibilities

- Performs urologic procedures
- Provides a minimum of two (2) half-day outpatient clinics per week, and may be assigned additional half-day clinics per week as KMC may designate in its sole discretion, to meet the needs of the urology service
- Provides scheduled clinics at designated Practice Sites, including without limitation, KMC and Adventist Health, or at such other clinic sites as KMC may designate in its sole discretion
- Provides a minimum of 1:5 dual hospital call coverage at KMC and Adventist Health (including affiliated transfer facilities) when there are five (5) or more KMC full-time employed urologists who participate in call coverage
- Provides a minimum of 1:4 hospital call coverage for KMC when there are four (4) KMC full-time employed urologists or fewer who participate in call coverage
- Provides services to all patients regardless of their payer status (e.g., health insurance), physical or mental disability, medical condition, or designated Practice Sites
- Provides services to correctional medicine patients at designated Practice Sites, including without limitation, KMC and Adventist Health, or at such other clinic sites as KMC may designate in its sole discretion

2. Teaching Responsibilities

- Assists in didactic curriculum and teaching conferences, as requested
- Assists in resident research and scholarly activity

3. Administrative Responsibilities

- Assists in clinical and administrative integration efforts across KMC as appropriate for the urology service ensuring proper planning, surgeon recruitment, 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 productivity, increase workflow efficiency, and provide the highest quality of care to KMC patients
- Supports the Department Chair to develop monitoring tools to measure financial, access, quality, and satisfaction outcomes for the urology service
- Attends and actively participates in assigned Medical Staff and hospital committees

Employment Standards:

Completion of an accredited residency program in urology; one (1) year of post-residency experience in urologic surgery desirable

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 Urology in urology-general

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

[Intentionally left blank]

EXHIBIT “B”
DUAL HOSPITAL COVERAGE
COMPENSATION SCHEDULE
Jack C. Hou, M.D.

Physician shall be paid for dual hospital coverage (KMC and Adventist Health) based on a tiered call compensation schedule comprised of full-time employed physician equivalents in a “supergroup” of core physicians with an added differential when there are fewer than six (6) full-time employed physician equivalents. Providers outside the supergroup may participate in call coverage. Dual hospital coverage is expected to commence when there is a minimum of five (5) urologists participating in the collective call pool (not five (5) full-time employed physician equivalents in the supergroup). Physician shall be paid at the 1:5 call ratio if Physician volunteers to provide dual hospital coverage prior to five (5) urologists participating in the collective call pool. The tiered call compensation, based on the number of full-time employed physician equivalents in the supergroup, is set forth below.

Call Ratio	Weekday Rate (Monday-Friday)	Weekend Rate (Saturday/Sunday)	Differential Weekday	Differential Weekend
1:4	Cover KMC Only			
1:5	\$1,000	\$1,200	\$600	\$400
1:6	\$1,000	\$1,200	\$0.00	\$0.00
1:7	\$500	\$600	\$0.00	\$0.00
1:8	\$0.00	\$0.00	\$0.00	\$0.00

[Intentionally left blank]

EXHIBIT “C”

AUTHORIZATION TO RELEASE INFORMATION

[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

9/20/2022
Date



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

September 21, 2022

Subject: Proposed Amendment No. 4 to Agreement 20119 with Juan M. Lopez, M.D., for professional medical and administrative services in the Department of Obstetrics and Gynecology

Recommended Action: Approve; Authorize the Chairman to sign

Summary:

Kern Medical requests your Board approve Amendment No. 4 to Agreement 20119 with Juan M. Lopez, M.D., a contract employee, for professional medical and administrative services in the Department of Obstetrics and Gynecology, for the period July 1, 2019 through September 30, 2022. Dr. Lopez, a board-certified obstetrician and gynecologist, has been employed by Kern Medical Center since 2004. Currently he serves as Chair of the Department.

The proposed Amendment is extending the term of the Agreement by 90 days from October 1, 2022 through December 31, 2022, during which time a new agreement will be negotiated with Dr. Lopez. The Amendment increases the maximum payable by \$115,000, from \$1,465,000 to \$1,580,000, to cover the extended term.

Therefore, it is recommended that your Board approve Amendment No. 4 to Agreement 20119 with Juan M. Lopez, M.D., for professional medical and administrative services in the Department of Obstetrics and Gynecology, extending the term for 90 days from October 1, 2022 through December 31, 2022, increasing the maximum payable by \$115,000, from \$1,465,000 to \$1,580,000, to cover the extended term, and authorize the Chairman to sign.

AMENDMENT NO. 4
TO
AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Juan M. Lopez, M.D.)

This Amendment No. 4 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Juan M. Lopez, M.D. (“Physician”).

RECITALS

(a) Authority and Physician have heretofore entered into an Agreement for Professional Services (Agt. #20119, dated May 30, 2019), Amendment No. 1 (Agt. #55319, dated November 26, 2019), Amendment No. 2 (Agt. #05321, dated February 15, 2022), and Amendment No. 3 (Agt. #074-2022, dated July 20, 2022) (the “Agreement”), for the period July 1, 2019 through September 30, 2022, whereby Physician provides professional medical and administrative services in the Department of Obstetrics and Gynecology at KMC; and

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

(c) The Agreement is amended effective October 1, 2022;

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.** The term of this Agreement shall commence as of July 1, 2019 (the “Commencement Date”), and shall end December 31, 2022 (the “Term”), unless earlier terminated pursuant to other provisions of this Agreement as herein stated. This Agreement may be renewed for additional terms, but only upon mutual written agreement of the parties. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement date and each annual period thereafter.”

2. Section 5, Compensation Package, paragraph 5.8, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“5.8 **Maximum Payable.** The maximum compensation payable under this Agreement shall not exceed \$1,580,000 over the 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 take 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.

[Intentionally left blank]

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 4
as of the day and year first written above.

PHYSICIAN

By _____
Juan M. Lopez, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Amend4.Lopez.091422



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

September 21, 2022

Subject: Proposed Amendment No. 2 to Agreement 055-2019 with United Neuroscience, Inc.

Recommended Action: Approve, Authorize the Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Amendment No. 2 with United Neuroscience, Inc., an independent contractor, for professional medical services in the Department of Medicine. The group has provided neurology, neuro-interventional radiology and telemedicine services at Kern Medical since 2015, with seizure and epilepsy monitoring coverage added in 2019 to the list of services. The services provide by United Neuroscience are a vital component of Kern Medical's stroke program and epilepsy monitoring service.

The proposed Amendment extends the term of the Agreement for two years from October 1, 2022 through September 30, 2024, increases coverage rates for the neurology clinic (from \$500 to \$600 for each half day clinic) and interventional radiology (from \$975 to \$1,200 per day), and increases the maximum payable by \$2,250,000, from \$3,040,000 to \$5,290,000, to cover the extended term.

Therefore, it is recommended that your Board approve Amendment No. 2 to Agreement 055-2019 with United Neuroscience, Inc., for professional medical services in the Department of Medicine for the period October 1, 2019 through September 30, 2022, extending the term two years from October 1, 2022 through September 30, 2024, increasing the maximum payable by \$2,250,000, from \$3,040,000 to \$5,290,000, to cover the extended term, and authorize the Chairman to sign.

AMENDMENT NO. 2
TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – United Neuroscience, Inc.)

This Amendment No. 2 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and United Neuroscience, Inc., a California professional medical corporation (“Contractor”), with its principal place of business located at 2323 16th Street, Suite 400, Bakersfield, California 93301.

RECITALS

(a) Authority and Contractor have heretofore entered into an Agreement for Professional Services (Agt. #055-2019, dated September 18, 2019) and Amendment No. 1 (Agt. #054-2021, dated September 15, 2021) (“Agreement”), for the period October 1, 2019 through September 30, 2022, for professional medical services in the Department of Medicine 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 September 21, 2022;

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 October 1, 2019 (the “Effective Date”), and shall end September 30, 2024, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.”

2. Section 4, Payment for Services, paragraph 4.1, Compensation, subparagraph 4.1.2, Neurology Clinic, shall be deleted in its entirety and replaced with the following:

“4.1.2 **Neurology Clinic.** Contractor shall be paid a fixed fee in the amount of \$600 for each scheduled on-half (½) day clinic.”

3. Section 4, Payment for Services, paragraph 4.1, Compensation, subparagraph 4.1.4, Interventional Radiology Coverage, shall be deleted in its entirety and replaced with the following:

“4.1.4 **Interventional Radiology Coverage.** Contractor shall be paid a per diem rate of \$1,200 per day for interventional radiology coverage.”

4. 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 \$5,290,000 over the five (5) year term of this Agreement.”

5. Section 36, Termination, shall be deleted in its entirety and replaced with the following:

“36. **Termination.**

36.1 Termination without Cause. Either party may terminate this Agreement, without cause, upon one hundred twenty (120) days’ prior written notice to the other party.

36.2 Immediate Termination. Authority shall have the right to terminate this Agreement at any time upon the occurrence of any one or more of the following events:

- A) Breach of this Agreement by Contractor where such breach is not cured within thirty (30) calendar days after Authority gives written notice of such breach to Contractor;
- B) Authority ceases operations;
- C) Contractor is unable to obtain or maintain sufficient insurance, as required under this Agreement, for any reason;
- D) Contractor makes an assignment for the benefit of creditors, applies to any court for the appointment of a trustee or receiver over its assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, dissolution, liquidation or other similar law of any jurisdiction;
- E) Contractor is rendered unable to comply with the terms of this Agreement for any reason;
- F) Contractor engages in conduct that, in Authority’s good faith determination, jeopardizes the mental or physical health, safety or well-being of any person or damages the reputation of Authority or KMC;
- G) Within a twelve (12) month period, Contractor has two (2) or more medical malpractice claims filed against him or her, or he or she becomes the subject of two (2) or more adverse proceedings by the Medical Staff regarding the performance of professional medical services;

- H) Any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body, or any notice of a decision, finding, interpretation or action by any governmental, court or other third party which, in the opinion of Authority, if or when implemented, would result in the arrangement between the parties under this Agreement to subject Authority or any of its employees or agents, to civil or criminal prosecution or monetary penalties on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement;
- I) Violation of any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or KMC is subject;
- J) Contractor makes an unauthorized use or disclosure of confidential or proprietary information by Contractor which causes material harm to Authority or KMC;
- K) Commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty by Contractor against Authority or KMC; or
- L) The loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal, due to the actions of Contractor."

6. Exhibit "D," Insurance, shall be deleted in its entirety and replaced with Amendment No. 1 to Exhibit "D," Insurance, attached hereto and incorporated herein by this reference.

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

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

9. 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.

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

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 2
as of the day and year first written above.

UNITED NEUROSCIENCE, INC.

By _____
Kiron Thomas, M.D.
Its President

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Amend2.United Neuroscience.090622

AMENDMENT NO. 1
TO
EXHIBIT “D”
INSURANCE

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by Authority. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

Authority reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers' Compensation and Employers Liability Insurance:

- (a) Required if Contractor has employees. If Contractor currently has no employees, Contractor's written confirmation of such will be required before execution of this Agreement. If Contractor engages any employees during the term of this Agreement or any extensions thereof, Contractor agrees to obtain the specified Workers' Compensation and Employers Liability insurance.
- (b) Workers' Compensation insurance with statutory limits as required by the California Labor Code.
- (c) Employers Liability with limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- (d) Waiver of Subrogation: The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Authority for all work performed by Contractor, its employees, agents and subcontractors.
- (e) Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance:

- (a) Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- (b) Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Authority requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- (c) If Contractor has no Owned automobiles, the General Liability policy shall include Non-Owned and Hired Automobile Liability in the amount of \$1,000,000 combined single limit per accident.

- (d) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000, it must be approved in advance by Authority. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Authority's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Authority.
- (e) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 below for full Additional Insured wording.
- (f) The insurance provided to Authority as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by Authority.
- (g) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "F" definition of insured contract in ISO form CG 00 01, or equivalent).
- (h) The policy shall cover inter-insured suits between Authority and Contractor and include a "separation of insureds" or "severability" clause, which treats each insured separately.
- (i) Required Evidence of Insurance: (i) Copy of the additional insured endorsement or policy language granting additional insured status; and (ii) Certificate of Insurance.

3. Automobile Liability Insurance:

- (a) Minimum Limits: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (b) Insurance shall apply to all Owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions thereof.
- (c) Insurance shall include coverage for Non-Owned and Hired autos. (See requirements in section 1(c) above if there is no separate Automobile Liability coverage.)
- (d) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 for full Additional Insured wording.
- (e) Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies: Insurers shall have an A.M. Best's rating of at least A;VII.

5. Additional Insured Wording: "**Kern County Hospital Authority, its officers, officials, employees and volunteers**" are to be named as Additional Insureds as per each section where noted above.

6. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

- (a) The Retroactive Date must be shown and must be before the Effective Date of the Agreement or the beginning of contract work.
- (b) Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract work*.
- (c) If coverage is canceled or non-renewed, and *not replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, Contractor must purchase “extended reporting” coverage for a minimum of *five (5) years* after completion of the contract work.

7. Documentation:

- (a) The Certificate of Insurance must include the following reference: **“Agreement for Professional Services.”**
- (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with Authority for the entire term of this Agreement and any additional periods if specified in sections 1, 2 or 3 above.
- (c) The name and address for the Certificates of Insurance and Additional Insured endorsements is Kern County Hospital Authority, c/o Kern Medical Center, 1700 Mount Vernon Avenue, Bakersfield, California 93306.
- (d) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least 10 days before expiration or other termination of the existing policy.
- (e) Contractor shall provide immediate written notice if: (i) any of the required insurance policies is terminated; (ii) the limits of any of the required policies are reduced; or (iii) the deductible or self-insured retention is increased.
- (f) Upon written request, certified copies of required insurance policies must be provided to Authority within 30 days.

8. Policy Obligations: Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

9. Waiver of Subrogation: Contractor hereby grants to Authority a waiver of any right to subrogation, which any insurer of said Contractor may acquire against Authority by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Authority has received a waiver of subrogation endorsement from the insurer.

10. Primary Coverage: For any claims related to this Agreement, Contractor’s insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects Authority, its officers, directors, officials, employees, and volunteers. Any insurance or self-insurance maintained by Authority, its officers, directors, officials, employees, or volunteers shall be excess of Contractor’s insurance and shall not contribute with it.

11. Material Breach: If Contractor fails to maintain the insurance required by this Agreement, it shall be deemed a material breach of this Agreement. Authority, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, Authority may purchase the required insurance, and without further notice to Contractor, Authority may deduct from sums due to Contractor any premium costs advanced by Authority for such insurance. These remedies shall be in addition to any other remedies available to Authority.

[Intentionally left blank]



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

September 21, 2022

Subject: Proposed Lease Schedule with Presidio Technology Capital, LLC, for the lease of equipment, software, and services, under Quote #2003222212052-02, to improve information technology infrastructures and data storage in support of various radiological services under the terms and conditions of the Master Services Agreement (053-2018)

Recommended Action: Approve; Authorize Chairman to sign and Authorize Chief Executive Officer to sign receipt of equipment when delivered.

Summary:

Kern Medical requests your Board approve the proposed Lease Schedule with Presidio Technology Capital, LLC, for the lease of data storage and backup solutions for Kern Medical. These solutions will provide sufficient redundant data storage for all Kern Medical systems and enterprise backup of all data, which is necessary to support the current radiological (PACS/CPACS) operations and the pending roll out of a new radiological (PACS) platform.

The Kern Medical Information Technology department reviewed the past work completed and determined Presidio Technology Capital, LLC to be the best strategic decision for Kern Medical, as their solutions have vastly improved current operations and these services will continue to align with new radiological (PACS) software.

The three-year cost of the lease will be \$289,894 plus any taxes and fees, with a monthly lease cost of \$8,473 plus any taxes and fees, beginning on the lease commitment date.

The Agreement contains non-standard terms and conditions that cannot be approved as to form by Counsel due to the additional terms incorporated by Exhibit A, including but not limited to the inability to terminate the lease without cause. Efforts were made to negotiate these term that cannot be approved as to form to no avail.

Therefore, it is recommended that your Board approve the Lease Schedule for the lease of equipment under Quote 2003222212052-02 with Presidio Technology Capital, LLC, for a term of thirty - six (36) months effective on the lease commencement date, with a total cost of \$289,894 plus any taxes and fees, and authorize the Chairman to sign and the Chief Executive Officer to sign for receipt of the equipment when delivered.

**QUOTE:** 2003222212052-02

DATE: 08/18/2022

PAGE: 1 of 2

TO: Kern Medical Center
Shane Stapleton
1700 Mt Vernon Ave
Bakersfield, CA 93306-4018

shane.stapleton@kernmedical.com
(p) (661) 326-2000 x 62615
(f) (661) 862-7682

FROM: Presidio Networked Solutions Group, LLC
Larry Porush
5000 Hopyard Rd
Suite 188
Pleasanton, CA 94588

lporush@presidio.com
(p) +1.818.936.9824

Customer#: KERNM001
Account Manager: Larry Porush
Inside Sales Rep: Timothy Kidd
Title: Rubrik 8-18
Comments: quote expires on 9/30/2022

#	Part #	Description	Unit Price	Qty	Ext Price
1	RS-BT-RCDM-T	CLD DATA MGMT SW/ /USABLE BETB LICS PREM SUP PREPAY Comments: 36 month support term billed upfront	\$0.01	105	\$1.05
2	RS-BT-FE-PE-PP	FOUNDATION ED /USABLE BETB LICS SABLE BETB PREM SUP PREPAY Comments: 36 month support term billed upfront	\$1,248.00	30	\$37,440.00
3	RS-HW-SVC-PE-S2	PREM SUP FOR R6000S HARDWARE SVCS PREPAY Comments: 36 month support term billed upfront	\$10,099.20	1	\$10,099.20
4	RS-BT-CVA-PE-PP	CLOUD VAULT - ARCHIVE PER BETB LICS PREM SUP PREPAY Comments: 36 month support term billed upfront	\$122.88	200	\$24,576.00
5	RA-PS-INST-ONST	PROFESSIONAL SVCS ONSITE SVCS INSTALLATION Comments:	\$8,500.00	1	\$8,500.00
6	RA-PS-CON-RMOT	PRO SERV REMOTE CONSULT SERV/DALICS Y USE WIN 6 MS OF PURCHASE PP Comments:	\$3,173.33	1	\$3,173.33
7	RS-BT-EE-PE-PP	ENTERPRISE EDITION /USABLE BETBSLIC SABLE BETB PREMIUM SUPPORT PREPAY Comments: 36 month support term billed upfront	\$1,969.92	75	\$147,744.00
8	RS-HW-SVC-PE-S2	PREM SUP FOR R6000S HARDWARE SVCS PREPAY Comments: 36 month support term billed upfront	\$10,099.20	1	\$10,099.20
9	RHA-6404S-01	R6404S APPLIANCE 48TB 64GB SFP+PERP SMC Comments:	\$20,350.57	1	\$20,350.57
10	RCA-F3M-CBL-01	FIBER OPTIC OM3 LC CALBE 3M 4PKCABL SMC Comments:	\$74.91	2	\$149.82
11	RCA-SFP-TSR-01	SM 10G/1G DUAL RATE CPNT SFP+ TRANSCEIVER Comments:	\$469.23	2	\$938.46
12	RHA-6410S-01	R6410S APPLIANCE 120TB 96GB PERP DUAL SFP+ SMC Comments:	\$25,733.17	1	\$25,733.17
13	RCA-F3M-CBL-01	FIBER OPTIC OM3 LC CALBE 3M 4PKCABL SMC Comments:	\$74.91	2	\$149.82

**QUOTE:**

2003222212052-02

DATE:

08/18/2022

PAGE:

2 of 2

14	RCA-SFP-TSR-01	SM 10G/1G DUAL RATE	CPNT SFP+ TRANSCEIVER	\$469.23	2	\$938.46
Comments:						

			Sub Total:	\$289,893.08
			Grand Total:	\$289,893.08

This quote is governed by the Master Services Agreement HA 053-2018 dated August 15, 2018, as amended.

No signed quote. PO required.

PRESIDIO[®]

TECHNOLOGY CAPITAL

PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT, SUITE 120 ■ NORCROSS, GA. 30092-9204

LESSEE LEGAL NAME: Kern County Hospital Authority
ADDRESS: 1700 Mt. Vernon Ave.
Bakersfield, CA 93306-4018

FEDERAL TAX ID NO: 364642420
STATE INCORPORATED: CA
STATE ID NO: C3157027

Lease Schedule

This Schedule is attached to and made a part of the MLA dated as of July 24, 2018 ("Lease"), between Lessor and Lessee, and the items of Equipment described below or on the attached Exhibit A constitute the "Equipment" referred to in Section 1 thereof. The terms and conditions of the MLA are incorporated herein by reference.

1. **RENTAL PERIOD:** 36 months beginning on the Lease Commencement Date.

2. **PAYMENTS:**

- a) From and after the Lease Commencement Date, the rent for the Equipment during the Rental Period shall be \$8,472.80 per Rent Interval. Payments shall be made, in advance, on the 1st day of the month for each Rent Interval during the Rental Period of this Lease.
- b) Rent Interval: MONTHLY
- c) Base Lease Rate Factor: .029131
- d) Total Equipment Cost: \$289,893.10

3. **EQUIPMENT:** ☒ Equipment is listed on attached Exhibit A to Lease Schedule.

4. **TRANSITION PERIOD:** Notwithstanding anything to the contrary in the MLA, upon completion of the Rental Period, the Schedule will be automatically continued for an additional three (3) month transition period ("Transition Term") at the same Payment. Upon completion of the Transition Term, the Rental Period will continue for successive three (3) month periods at the same rental rate unless and until Lessee or Lessor terminate it upon three (3) months prior notice or, if applicable, purchase it in accordance with the stated purchase option. In the event that, during the Transition Term, Lessee enters into a new Schedule with Lessor for computer equipment to replace the Equipment, Lessor will not charge Lessee a rental fee for the use of such replacement equipment during the Transition Term.

5. **INDEXING PERIOD:** Notwithstanding anything to the contrary in the MLA, Lessee and Lessor acknowledge and agree that for the period commencing on 08/26/2022 and ending on the Acceptance Date (the "Indexing Period"), the periodic Payment set forth in this Schedule will be equal to the Total Equipment Cost times the Adjusted Lease Rate Factor. The Adjusted Lease Rate Factor and final Payment amount will be determined as of the Acceptance Date, stated on the COA, and will be equal to (.029131) (the "Base Lease Rate Factor") plus .000042 for every ten (10) basis point increase between the 3 year swap rate as of 08/26/2022 (3.51%) (the "Index Rate") and the same rate as of the Acceptance Date as published by the Intercontinental Exchange ("ICE").

6. **LESSEE REPRESENTATIONS:** Lessee represents, warrants, and covenants to Lessor that Lessee's legal name, jurisdiction of organization, form of organization, federal and state tax ID number and principal place of business are completely and accurately set forth above.

7. **FAIR MARKET VALUE PURCHASE OPTION:** Provided no Event of Default has occurred and is continuing and provided the Lease shall not have previously terminated or expired, including any extensions, renewal terms or transition terms, by giving Lessor irrevocable notice at least ninety (90) days prior to the end of Term, Lessee shall have the option to purchase all but not less than all of the Equipment subject to the Lease for its "Fair Market Value". Fair Market Value shall mean the value of the Equipment (on an installed and operating basis) which would be obtained in an arm's-length transaction between an informed and willing buyer-user (other than a Lessee currently in possession or a used equipment dealer) under no compulsion to buy, and an informed and willing seller under no compulsion to sell, and in such determination, costs of removal from the location of current use shall not be a deduction from such value. Fair Market Value shall be determined by Lessor in accordance with the preceding sentence. Provided Lessee has exercised its option to purchase, Lessee shall pay Lessor on the purchase date the purchase price in cash, together with all sales and other taxes or costs applicable to the transfer of the Equipment and any other amounts as may be due and owing under the Lease, whereupon Lessor shall transfer its interest in the Equipment to Lessee without recourse, on an AS-IS, WHERE-IS basis and without any warranty, express or implied from Lessor, other than the absence of any liens by or through Lessor, except those (if any) Lessee is obligated to discharge. It is understood and agreed that any Software included under the Schedule is copyright protected and not subject to sale by Lessor whether pursuant to this purchase option or otherwise. Lessee may assign Lessee's rights under this purchase

option only in connection with an authorized assignment of the Schedule.

8. ADDITIONAL PROVISIONS:

9. INSURANCE REQUIREMENTS (PLEASE REFER TO SECTION 12 OF THE MLA)

- a. General Liability: Combined single limit per occurrence amount: \$1,000,000.00 with Lessor, its successors and assigns listed as additional insured
- b. Property and casualty insurance coverage insuring against any loss or damage to the Equipment in an amount not less than the full replacement value of the Equipment with Lessor, its successors and assigns listed as lender's loss payee

10. THIS SCHEDULE IS ISSUED PURSUANT TO THE MLA, WHICH LESSEE HAS REVIEWED AND HEREBY REAFFIRMS, AND WILL BECOME EFFECTIVE ONLY WHEN ACCEPTED IN WRITING BY LESSOR. LESSEE AGREES THAT THE EQUIPMENT AND LESSEE'S OBLIGATIONS WILL BE SUBJECT TO THE TERMS AND CONDITIONS OF THIS SCHEDULE AS IT INCORPORATES THOSE OF THE MLA. CAPITALIZED TERMS NOT DEFINED HEREIN HAVE THE MEANINGS SET FORTH IN THE MLA.

Presidio Technology Capital, LLC

Kern County Hospital Authority

By: _____ ◀Sign here
Authorized Signature

By: _____ ◀Sign here
Authorized Signature

Name (Type or Print) Title

Russell Bigler, Chairman Board of Governors
Name (Type or Print) Title

Date

Date

L.02.3.0621 - prepared by TW on 08/26/2022

REVIEWED ONLY
NOT APPROVED AS TO FORM
By [Signature]
Legal Services Department

PRESIDIO[®]

TECHNOLOGY CAPITAL

PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT ■ NORCROSS, GEORGIA 30092

EXHIBIT A TO SCHEDULE NUMBER 681594 to MASTER LEASE AGREEMENT

ATTACHED TO AND MADE A PART OF the Master Lease Schedule Number 681594 ("Schedule") to the Master Lease Agreement dated July 24, 2018 between **Presidio Technology Capital, LLC** ("Lessor") and **Kern County Hospital Authority** ("Lessee").

I. MODIFICATIONS

A.1 For purposes of the Equipment on the Schedule, the Master Lease Agreement is amended by adding the following to the end thereof as new paragraphs:

32. NONAPPROPRIATION OF FUNDS.

If Lessee's governing body, or, if applicable, the governmental entity from which Lessee obtains its operating and/or capital funds to appropriate money for any fiscal year sufficient for the continued performance by Lessee of all of Lessee's obligations under this Lease. Lessee may, upon giving prior written notice to Lessor effective 60 days after the giving of such notice and upon the exhaustion of the funding authorized for the then current appropriation period, return the Equipment at Lessee's expense and thereupon be released of its obligation to make all rental payments to Lessor due thereafter. The Equipment shall be returned to Lessor freight prepaid and insured to any location in the continental United States designated by Lessor in the same condition as when first delivered to Lessee, reasonable wear and tear resulting solely from authorized use thereof excepted. The foregoing notice [shall state the failure of the legislative body or funding authority to appropriate the necessary funds as reason for cancellation and] shall be accompanied by payment of all amounts then due to Lessor during the current fiscal year under the Agreement. Upon termination under this Section 32, Lessee shall not be responsible for the payment of any additional payments coming due in succeeding fiscal years.

In the event Lessee cancels the Equipment pursuant to the terms of this Section 32, Lessor shall retain all sums paid hereunder by Lessee including any security deposits paid hereunder, and in addition, Lessee shall pay to Lessor the termination charge, if any, specified in the applicable Schedule hereto.

33. REPRESENTATIONS OF LESSEE.

Lessee represents and agrees as of the date of this Lease, and, so long as this Lease is in effect or any part of Lessee's obligations to Lessor remain unfulfilled, shall continue to agree at all times, that:

(a) All requirements have been met, and procedures have occurred in order to insure the enforceability of this Lease and Lessee has complied with such public bidding requirements, if any, as may be applicable to the transactions contemplated by this Lease.

(b) The Equipment will be used by Lessee only for the purpose of performing one or more governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority and will not be used in a trade or business of any person or entity other than Lessee.

(c) Lessee has funds available to pay all Payments until the end of its current appropriation period, and it will request funds to make payments in each appropriation period, from now until the end of the term of the Lease.

(d) This Lease has been duly executed and constitutes a valid, legal and binding obligation of Lessee enforceable against Lessee in accordance with the respective terms hereof.

(e) Lessee has an immediate need for, and expects to make immediate use of, the Equipment, which need is essential and not temporary or expected to diminish during the applicable Lease term. Lessee presently intends to continue each schedule hereunder for its entire lease term and to pay all rental payments relating thereto.

II. The complete and exclusive statement of the agreement relating to this subject consists of the Master Lease Agreement, the Schedule and this Exhibit A. This statement of the agreement supersedes all proposals, letters and other agreements, oral or written, and all other communications between the parties relating to this subject. There are no promises, representations or warranties other than as expressly set forth in the Master Lease Agreement and the Schedule, as modified by this Exhibit A.

IN WITNESS WHEREOF, each party has caused this Exhibit A to be executed by its duly authorized representative.

Presidio Technology Capital, LLC

Kern County Hospital Authority

By: _____

By: _____

Name: _____

Name Russell Bigler

Title: _____

Title: Chairman, Board of Governors

Date: _____

Date: _____

PRESIDIO[®]

TECHNOLOGY CAPITAL

PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT, SUITE 120 ■ NORCROSS, GA. 30092-9204

Exhibit A to Lease Schedule Equipment

1. LESSEE LEGAL NAME: Kern County Hospital Authority
ADDRESS: 1700 Mt. Vernon Ave.
Bakersfield, CA 93306-4018

2. EQUIPMENT: Equipment is continued on the next page of this Exhibit A to Lease Schedule.

Base Lease Rate Factor: .029131

THIS EXHIBIT A TO LEASE SCHEDULE IS MADE PART OF THIS SCHEDULE STN NO. 681594 TO THE MLA DATED JULY 24, 2018, AND WILL BECOME EFFECTIVE ONLY WHEN ACCEPTED IN WRITING BY LESSOR AT ITS OFFICES IN NORCROSS, GEORGIA.

Presidio Technology Capital, LLC

Kern County Hospital Authority

By: _____ ◀ Sign here
Authorized Signature

By: _____ ◀ Sign here
Authorized Signature

Name (Type or Print) Title

Russell Bigler, Chairman, Board of Governors

Name (Type or Print) Title

Date

Date

DATE OF ACCEPTANCE BY LESSOR:

Norcross, Georgia

PRESIDIO[®]

TECHNOLOGY CAPITAL

STN: 681594
Legal Name: Kern County Hospital Authority

Install Site Address: 1700 Mt. Vernon Avenue; Bakersfield, CA 93306-4018

Payment Amount: \$8,472.80

Item #	Qty	Type/Model	Serial #	Description
1	105	RS-BT-RCDM-T		CLD DATA MGMT SW/ /USABLE BETB LICS PREM SUP PREPAY
2	30	RS-BT-FE-PE-PP		FOUNDATION ED /USABLE BETB LICS SABLE BETB PREM SUP PREPAY
3	1	RS-HW-SVC-PE-S2		PREM SUP FOR R6000S HARDWARE SVCS PREPAY
4	200	RS-BT-CVA-PE-PP		CLOUD VAULT - ARCHIVE PER BETB LICS PREM SUP PREPAY
5	1	RA-PS-INST-ONST		PROFESSIONAL SVCS ONSITE SVCS INSTALLATION
6	1	RA-PS-CON-RMOT		PRO SERV REMOTE CONSULT SERV/DALICS Y USE W/IN 6 MS OF PURCHASE PP
7	75	RS-BT-EE-PE-PP		ENTERPRISE EDITION /USABLE BETBSLIC SABLE BETB PREMIUM SUPPORT PREPA
8	1	RS-HW-SVC-PE-S2		PREM SUP FOR R6000S HARDWARE SVCS PREPAY
9	1	RHA-6404S-01		R6404S APPLIANCE 48TB 64GB SFP+PERP SMC
10	2	RCA-F3M-CBL-01		FIBER OPTIC OM3 LC CALBE 3M 4PKCABL SMC
11	2	RCA-SFP-TSR-01		SM 10G/1G DUAL RATE CPNT SFP+ TRANSCEIVER
12	1	RHA-6410S-01		R6410S APPLIANCE 120TB 96GB PERP DUAL SFP+ SMC
13	2	RCA-F3M-CBL-01		FIBER OPTIC OM3 LC CALBE 3M 4PKCABL SMC
14	2	RCA-SFP-TSR-01		SM 10G/1G DUAL RATE CPNT SFP+ TRANSCEIVER

Initial Here _____



August 26, 2022

Presidio Technology Capital, LLC

2 Sun Court, Suite 120

Norcross, GA 30092-9204

RE: Master Lease Agreement ("Lease Agreement") dated July 24, 2018 and Lease Schedule STN: **681594** dated _____ each by and between **Presidio Technology Capital, LLC** ("Lessor") and **Kern County Hospital Authority**, ("Lessee")

Under the above-referenced Lease Agreement and all Lease Schedules, Lessee is required to maintain certain insurance policies with respect to the Equipment listed on Lease Schedules to the Lease Agreement between Lessor and Lessee. Subject thereto, provided that insurance policies are not required if Lessee has an adequate self-insurance program. This letter is for the sole purpose of describing Lessee's self-insurance program.

- I. Kern County Hospital Authority maintains a robust self-insurance program which includes coverage for Commercial General Liability exposures, including property damage and public liability, arising out of Authority operations as allowed pursuant to Government Code Section 990 and Health and Safety Code Section 101855. This program consists of a Risk Management department overseen by the Vice President and General Counsel of the Authority. The program is self-administered with sufficient staff to resolve claims in a timely and effective manner.
 - (a) The self-insurance program is limited to a retention of \$1 million per occurrence with significant insurance coverage purchased in excess of the self-insured retention. The Authority maintains sufficient assets and reserves to cover its self-insured obligations.
 - (b) The Authority's self-insurance program will only consider full replacement value or stated value if contractually agreed upon, otherwise settlement of property damage is limited to the actual cash value at the time of the loss.
 - (c) As indicated above, the Authority maintains excess coverage in excess of the \$1 million per occurrence retention. Said coverage is currently placed with Columbia Casualty (CNA).
 - (d) The Authority's General Liability exposure is capped pursuant to the California Government Tort Claims Act (910, 910.2 & 910.4)

Owned and Operated by the Kern County Hospital Authority
A Designated Public Hospital

1700 Mount Vernon Avenue | Bakersfield, CA 93306 | (661) 326-2000 | KernMedical.com

Capitalized terms contained herein but not defined shall have the same meaning as defined under the Master Lease Agreement.

Please do not hesitate to contact me if you have any questions concerning this letter.

Very truly yours,

KERN COUNTY HOSPITAL AUTHORITY



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

September 21, 2022

Subject: Proposed Agreement with McMurtrey Lince, Inc. for renovations to the Kern Medical Emergency Department

Recommended Action: Make a 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; and authorize the Chief Executive Officer to approve future change orders in an amount not to exceed 10% of \$498,500.

Summary:

Kern Medical requests your Board approve the proposed Agreement with McMurtrey Lince, Inc., in the amount of \$498,500, for renovations to the Kern Medical emergency department, which includes construction of a new isolation and anteroom. The Agreement is effective as of September 21, 2022 and construction is anticipated to be completed within 6 months.

Therefore, it is recommended that your Board make a 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 approve future change orders in an amount not to exceed 10% of \$498,500.

DOCUMENT 00500

AGREEMENT

THIS AGREEMENT, dated this **21st** day of September, 2022, is by and between **McMurtrey Lince, Inc.**, whose place of business is located at **1025 Espee Street, Bakersfield, CA 93301** ("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:

Emergency New Isolation Room (10076)

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 **four hundred ninety-eight thousand five hundred dollars (\$498,500.00)** 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 **90 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 five hundred (\$500.00) 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 00452	Non-Collusion Declaration
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
Specifications	Division 01
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 A. Mason
Jamie Mason, Hospital Counsel

By _____
Russell E. Bigler, Chairman
"AUTHORITY"

APPROVED AS TO CONTENT:
KERN MEDICAL HOSPITAL

Contractor's Name

By _____
Scott Thygerson, Chief Executive Officer

Type of Entity
(corporation, partnership, sole proprietorship)

By Mike Fink 9/6/22
Michael Fink, Senior Facility Director

By [Signature]
Signature

James Mennig
Typed Name

VP/CEO
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



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

September 21, 2022

Subject: Proposed Amendment No. 4 to Agreement No. 27716 for Clinical Workflow Solutions Purchase and License Master Agreement with Hill-Rom Company, Inc.

Recommended Action: Make a 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

Summary:

Kern Medical requests your Board approve the proposed Amendment No. 4 to the Agreement with Hill-Rom Company, Inc. for software upgrades to the 2nd Floor C Wing Nurse Call system, additional materials and unforeseen allowances for the relocation of the 4th Floor C Wing Nurse Call system, and to remove the Nurse Call system and components for the 3rd Floor D Wing, as the design has changed requiring an updated proposal when the project is ready for construction.

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. On November 18, 2020, Amendment No. 2 was executed for the Nurse Call system for the 4th Floor C Wing project. On February 17, 2021 Amendment No. 3 was executed for the annual software upgrades to the 2nd Floor C Wing Nurse Call system.

Payment for Services	Previous Agreements	Proposed Agreement
Nurse Call 2 nd Floor C Wing (original agreement)	\$173,916	
Nurse Call 3 rd Floor D Wing (Amendment No. 1; no work initiated or funds spent)	\$265,000	
Nurse Call 4 th Floor C Wing (Amendment No. 2)	\$207,192	
Nurse Call 2 nd Floor C Wing Service Agreement (Amendment No. 3)	\$10,929	
Nurse Call 2 nd Floor C Wing & 4 th Floor C Wing Service Agreement (Amendment No. 4)		\$28,043
Nurse Call 3 rd Floor D Wing Removal (Amendment No. 4)		(\$265,000)

Therefore, it is recommended, that your Board make a finding the project is exempt from further CEQA review per sections 15301, 15302 and 15061(b)(3) of State CEQA Guidelines, approve Amendment No. 4 to the Agreement with Hill-Rom Company, Inc., effective September 21, 2022, for software upgrades to the 2nd Floor C Wing Nurse Call system and additional materials and unforeseen allowances for the relocation of the 4th Floor C Wing Nurse Call system in the amount of \$28,043, and remove the Nurse Call system and components for the 3rd Floor D Wing in the amount of \$265,000, with a total project costs not to exceed \$420,080, and authorize the Chairman to sign.

**AMENDMENT NO. 4 TO THE
CLINICAL WORKFLOW SOLUTIONS PURCHASE AND LICENSE
MASTER AGREEMENT**

(Kern County Hospital Authority – Hill-Rom Company, Inc.)

This Amendment No. 4 to the Clinical Workflow Solutions Purchase and License Master Agreement (“Amendment No. 4”) is entered into this 21st day of September 2022, 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; 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 Amendment No. 3 (Customer Agt. #HA 010-2021, dated February 17, 2021) to complete additional services for the phased installation of the Nurse Call System located on the Second Floor of C Wing; and

B. Customer requires additional products and services for the maintenance of the Nurse Call System located on the Second Floor and Fourth Floor of C Wing; and

C. Hill-Rom has agreed to provide such products and services as necessary to complete the project pertaining to the Second Floor and Fourth Floor of C Wing; and

D. Additionally, Customer no longer requires products and/or services necessary for a Nurse Call System located on the Third Floor of the D Wing; and

E. Hill-Rom has agreed to remove products and/or services pertaining to a Nurse Call System located on the Third Floor of the D Wing from the Agreement; and

F. The products and services needed to complete the Second Floor and Fourth Floor C Wing Nurse project, as outlined in Appendix #5 and Appendix #6, will increase by \$19,172.04 for software upgrades, plus an additional \$5,000 allowance for unforeseen conditions, and \$3,871.14 for additional materials, respectively, with a maximum combined total for the Second Floor and Fourth Floor C Wing Nurse Project not to exceed 420,077.99; and the cost of the Third

Floor D Wing Nurse Call System which has a maximum not to exceed of \$265,000.00 will be deleted in its entirety; and

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

H. The Agreement is amended effective September 21, 2022.

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 #5**

Appendix #5, Proposal Number CRYQ8115, to Amendment No. 4 is added to the Agreement and incorporated herein by this reference.

2. **Appendix #6**

Appendix #6, Change Order Request CWAQ6398, to Amendment No. 4 is added to the Agreement and incorporated herein by this reference.

3. **Appendix #2**

Appendix #2, Proposal Number LRDSQ1199-01, to Amendment No. 1 is deleted in its entirety.

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

5. This Amendment No. 4 shall be governed by and construed in accordance with the laws of the state of California.

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

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


[INTENTIONALLY LEFT BLANK]

IN WITNESS TO THE FOREGOING, the Parties have executed this Amendment No. 4 as of the day and year first written above.

KERN COUNTY HOSPITAL AUTHORITY

HILL-ROM COMPANY, INC.

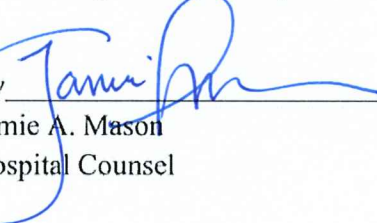
By _____
Russell Bigler
Chairman, Board of Governors

DocuSigned by:
By 
Printed Name: Tiffany Chambers
Signing Reason: I approve this document
Title: Sales Head of 3rd Communications
September 12, 2021 4:21 PM EDT
F986258D0EE64B41ACDC358227102C1

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

APPROVED AS TO FORM:
KCHA Legal Services Department

By _____
Scott Thygerson
Chief Executive Officer M7.

By 
Jamie A. Mason
Hospital Counsel



Prepared for:

Kern Medical Center
1700 Mt Vernon Ave
Bakersfield, CA 93306
us



Voalte® Nurse Call

VNC Software Maintenance Agreement

This Proposal is for the Software Maintenance Agreement (SMA) and Extended Service Agreement (ESA).

Christopher Russo
Hillrom Clinical Workflow Solutions
315-554-4080 phone
315-685-3694 fax
Christopher.Russo@Hillrom.com

Account Number	604551
Proposal Number	CRYQ8115-03
Proposal Date	7/26/2022
Proposal Type	Renewal

**This proposal is valid for 60 days from
the proposal date.
Payment Terms are Net 30**

Voalte® Nurse Call Support Services



Hillrom

Protecting Patients by Anticipating Care™
Hill-Rom collects the information that matters. Identifies opportunities to improve care and delivers actionable insight to caregivers and patients - all supported by clinicians, every step of the way.



Protect your investment every step of the way

Hill-Rom's Voalte® Nurse Call is designed to protect patients by anticipating care. Like any Health IT product, it requires software upgrades, technical support and maintenance. The below service offerings are designed to ensure your facility is supported every step of the way.

Coverage	Software Maintenance Agreement	Extended Service Agreement
Software upgrades (including labor and certification)	✓	
24/7/365 technical support from OEM engineers	✓	
OEM parts replacement, including on-site spare parts package		✓
On-site labor for any required maintenance, including all travel expenses		✓
Preventative maintenance (1 per year)		✓
RTLS battery maintenance (2 visits per year)*		✓
System configuration changes (up to 4 hours per year)		✓

The Software Maintenance Agreement is mandatory as specified in your facility's master agreement. If you opt out of the Extended Service Agreement Parts, Preventative Maintenance and On-site Labor are charged on a fee-for-service basis.

To complete this order and avoid a lapse in your VNC support, please submit the purchase order two weeks prior to expiration.

Hill-Rom Company Inc.

Kern Medical Center

By: 

By: _____

Printed Name : Tiffany Chambers

Printed Name : _____

Title : Area Vice President Care Communications

Title : _____

Date : 7/26/2022

Date : _____

*Not to exceed 500 monitor batteries and 5 days on-site per year
*Hill-Rom is not responsible for recycling of batteries



Hillrom

Protecting Parents by Anticipating Care[™]
Hillrom collects the information that matters, identifies opportunities to improve care and delivers actionable insight to caregivers and patients – all supported by clinicians, every step of the way.



Disclaimer: Early 2021, Navicare Nurse Call was rebranded to Voalte Nurse Call. Any reference to Voalte Nurse Call in this SMA is inclusive of legacy Navicare Nurse Call systems.

1069 State Route 46 East

Batesville, IN 47006-9167

800.445.3730

www.hill-rom.com

Qty	Part Number	Description	Unit	Extended
NNC Software Maintenance Agreement (SMA)				
Includes: Major & Minor Upgrades including Patches & Fixes for NNC Software, On-site Labor for Upgrades including System Certifications, 24/7/365 Remote Technical Diagnostics & Support, Minor Configuration Changes (Performed Remotely)- Up to 4 Hours.				
1	P25NNC010	Coverage For: 2nd FI 2C, 3CX, ADT, Wireless, Standard Reporting Extended From: 11/1/2022 to 10/31/2023 SOFTWARE MAINTENANCE AGREEMENT	\$7,123.14	\$7,123.14
NNC SMA Total				\$7,123.14
NNC Extended Service Agreement (ESA)				
Includes: Part Replacement, On-Site Labor including Travel & Living Expenses, 1 Preventative Maintenance per install, Minor Configuration Changes (On-Site)-4 Hour Maximum,				
Coverage For: 2nd FI 2C, 3CX, ADT, Wireless, Standard Reporting Extended From: 11-1-2022 TO 10-31-2023 EXTENDED SERVICE AGREEMENT				
1	P25NNC011		\$12,048.90	\$12,048.90
NNC ESA Total				\$12,048.90
NNC SMA ESA 2022-2023 Total				\$19,172.04

Please send purchase orders to:
email: ConnectedProductsServiceContracts@hillrom.com
Fax: 919 882-1249

APPENDIX #6



Change Order Request

Kern Medical Center
1700 Mt. Vernon Ave

Bakersfield, CA 93306

Document Number: QWAQ6398

Proposal Date: 7/26/2022

JDE Number: 604551

Prepared By: Louis Schulman

Project Name: ACD 16 Change Order

Qty	Part Number Group	Description Items to Add	Unit	Extended
1	P2500NNC1B00	GRAPHICAL STAFF CONSOLE (DESK MT.)	\$1,721.80	\$1,721.80
1	P2500NNC0A00	GROUNDING KIT STAFF CONSOLE (DESK)	\$174.75	\$174.75
2	P2520NNC2B02	SWITCH, BATH SWITCH, W/O CANCEL, SUPERVISED	\$27.10	\$54.20
1	P2520NNC2B01	SWITCH, BATH SWITCH, W/CANCEL, SUPERVISED	\$33.37	\$33.37
2	P2545A01	SUPERVISED INTERFACE MODULE	\$68.85	\$137.70
2	P2599NNC3B00	RCB3 WO ENCL-ENHCED, UPOE CMPT	\$259.70	\$519.40
2	P2549A03	ENCLOSURE, ROOM BOX, FOR USE WITH RCB	\$48.86	\$97.72
2	P25NNC096-P	NAVICARE ENHANCED BASE SW 3PTY	\$439.60	\$879.20
1	P25NNC010	SOFTWARE MAINTENANCE AGREEMENT	\$256.00	\$256.00
SubTotal				\$3,874.14
			Total Tax	\$0.00
			Grand Total	\$3,874.14

* Unless noted otherwise, taxes are NOT included in the proposed price.



Nav/Care Nurse Call - Requires Server Upgrade and/or SMA Renewal

RCB3s included in this proposal require NNC Software (SW) 3.9.x.

An active SMA is required for NNC software upgrades. SMA proposal XXXX must be purchased to reactivate SMA.

Software version 3.9.100 and up requires the NNC server to be joined to the customer's domain.

Windows Server (2012 R2, 2016) and SQL Server (2014, 2016) Standard are required for NNC software version 3.9.x. See IT Sales Executive for current server hardware requirements. This proposal does not include Physical Servers, Windows Operating Server or SQL Server software.

Existing Database and Enterprise servers require memory upgrades to support 3.9 software.



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

September 21, 2022

Subject: Proposed Agreement with Rajinder P. Singh, M.D., an independent contractor, 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 Agreement with Rajinder P. Singh, M.D., for professional medical services in the Department of Radiology. Dr. Singh provides radiology reading services on an as-needed basis in the Department.

Dr. Singh has provided radiology services at Kern Medical as an independent contractor since 2013. Kern Medical continues to require the services of Dr. Singh to provide scheduled and as-needed coverage for the Department and both parties have agreed to the terms of a new one-year agreement, effective November 1, 2022. Dr. Singh will be compensated based on a per diem rate of \$1,900 per weekday, and \$2,100 for weekend and holiday coverage, as assigned by the Department Chair. The agreement includes a maximum payable of \$500,000 over the term of the agreement. Kern Medical will bill and collect all professional fees for services provided by the Medical Group during the term of the agreement.

Therefore, it is recommended that your Board approve the Agreement with Rajinder P. Singh, M.D., for professional medical services in the Department of Radiology, from October 7, 2022, through October 6, 2023, in an amount not to exceed \$500,000 over the term of the agreement and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Rajinder P. Singh, M.D.)**

This Agreement for Professional Services (“Agreement”) is made and entered into this _____ day of _____, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), and Rajinder P. Singh, M.D., a sole proprietor (“Contractor”), whose principal place of business is located at P.O. Box 25021, Fresno, California 93729-5021.

**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 owns and operates Kern Medical Center (“KMC”), a general acute care hospital located at 1700 Mount Vernon Avenue, Bakersfield, California (the “Premises”), in which is located the Department of Radiology (the “Department”); and

(c) Authority requires the assistance of Contractor to provide professional medical services to patients of KMC and teaching services to resident physicians employed by Authority, as such services are unavailable from Authority resources, and Contractor agrees to provide such services on the terms and conditions set forth in this Agreement; and

(d) Contractor has special knowledge, training and experience, and is qualified to render such services;

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.** This Agreement shall be effective and the term shall commence as of October 7, 2022 (the “Effective Date”), and shall end October 6, 2023, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.

2. **Obligations of Contractor.**

2.1 **Specified Services.** Contractor shall render those services set forth in Exhibit “A,” attached hereto and incorporated herein by this reference. Such services may be changed from time to time by agreement of the parties in accordance with the provisions of this Agreement.

2.2 Representations. Contractor makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement: (i) Contractor has the expertise and support staff necessary to provide the services described in this Agreement; and (ii) Contractor does not have any actual or potential interests adverse to Authority nor does Contractor represent a person or firm with an interest adverse to Authority with reference to the subject of this Agreement; and (iii) Contractor shall diligently provide all required services in a timely and professional manner in accordance with the terms and conditions set forth in this Agreement.

2.3 Standard of Care. Authority has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees that all of his work will be performed and that his operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by Authority shall not operate as a waiver or release.

2.4 Performance Standard. Contractor shall perform all services hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. If Authority determines that any of Contractor's work is not in accordance with such level of competency and standard of care, Authority, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with Authority to review the quality of the work and resolve matters of concern; (b) terminate this Agreement pursuant to the provisions of section 36; or (c) pursue any and all other remedies at law or in equity.

2.5 Qualifications.

2.5.1 Licensure/Board Certification. Contractor shall at all times during the term of this Agreement be duly licensed as a physician and surgeon in the state of California, and certified by the American Board of Radiology in diagnostic radiology-general and maintain such certification at all times during the term of this Agreement.

2.5.2 Medical Staff Status. Contractor shall at all times during the term of this Agreement be a member in good standing of the KMC medical staff with "active" or "courtesy" staff status and hold all clinical privileges on the active or courtesy medical staff appropriate to the discharge of his obligations under this Agreement.

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

2.5.4 Training/Experience. Contractor shall have (i) recent diagnostic radiology experience, (ii) a background to include experience working with other clinical departments, teaching residents and medical students, participating in hospital committees, and working on pathways and evidence-based guidelines, and (iii) ongoing acute care hospital experience.

2.6 Loss or Limitation. Contractor shall notify KMC promptly of any loss, sanction, suspension or material limitations of his license to practice in the state of California, Controlled Substance Registration Certificate issued by the Drug Enforcement Administration, right to participate in the Medicare or Medicaid programs, or specialty qualifications for medical staff membership or clinical privileges.

2.7 Standards of Medical Practice. The standards of medical practice and professional duties of Contractor shall be in accordance with the KMC Medical Staff Bylaws, Rules, Regulations, and policies, the standards for practice 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.

2.8 Medical Record Documentation. Contractor shall cause a complete medical record to be timely prepared and maintained for each patient seen by Contractor. 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 Contractor will 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.

2.9 Quality Improvement and Risk Management. Contractor shall participate in (i) the quality improvement and risk management programs of KMC and serve on such committees as may be required; (ii) ongoing quality improvement activities, such as audits, which will be conducted annually in the Department in order to evaluate and enhance the quality of patient care; and (iii) risk management activities designed to identify, evaluate and reduce the risk of patient injury associated with care. At a minimum, Contractor shall ensure that the quality improvement program consists of the following integrated components: (i) professional development that provides continuous performance feedback that is benchmarked, evaluated, and rated individually and collectively; (ii) clinical standards that are evidence-based and grounded in industry best practices; (iii) performance improvement that is outcomes-focused and based on quality indicators/metrics with quarterly reporting of same; and (iv) customer satisfaction that is feedback/survey-driven and objectively and comparatively measured, tracked/trended, and analyzed. The appropriate review mechanism will be applied in accordance with the provisions of the KMC Medical Staff Bylaws, The Joint Commission, and applicable law.

2.10 Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold Authority harmless from any liability which Contractor may incur to the United States or to the state of California or otherwise as a consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case Authority is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish Authority with proof of payment of taxes on these earnings.

2.11 Nonexclusive Services. Contractor understands and agrees that Authority will utilize the services of Contractor pursuant to the terms of this Agreement on a non-exclusive basis. Contractor further agrees that Authority shall retain the option to enter into agreements with other organizations for purposes of securing the services, in its sole discretion.

3. **Obligations of Authority.**

3.1 Authority Designee. Authority shall designate a primary contact, who will arrange for KMC staff assistance as may be required.

3.2 Space. KMC shall furnish for the use of Contractor such space and facilities as may be deemed necessary by KMC for the proper operation and conduct of the Department. KMC shall, in its sole discretion, determine the amount and type of space and facilities to be provided herein. Contractor shall use the space and equipment solely for the performance of the services required under this Agreement. Contractor shall not use such space or equipment for other business or personal use.

3.3 Use Limitations on Space. The use of any part of the space occupied by the Department for the general or private practice of medicine is prohibited. Contractor shall use the items furnished under this Agreement only for the performance of services required by this Agreement. This Agreement shall not be construed to be a lease to Contractor of any portion of the Premises, and insofar as Contractor may use a portion of said Premises, Contractor does so as a licensee only, and Authority and KMC shall, at all times, have full and free access to the same.

3.4 Equipment. KMC shall furnish for the use of the Department such equipment as is deemed necessary by KMC for the proper operation and conduct of the Department consistent with community standards. KMC shall keep and maintain this equipment in good order and repair and replace such equipment, as is reasonably necessary and subject to the usual purchasing practices of Authority and KMC and budget constraints.

3.5 Services and Supplies. KMC shall provide or arrange for the provision of janitorial services, housekeeping services, laundry and utilities, together with such other hospital services, including medical records, administrative and engineering services, and expendable supplies as KMC deems necessary for the proper operation and conduct of the Department.

3.6 Control Retained in KMC. In compliance with title 22, California Code of Regulations, section 70713 KMC will retain professional and administrative responsibility for services rendered under this Agreement. Contractor shall apprise KMC of recommendations, plans for implementation and continuing assessment through dated and signed reports, which shall be retained by KMC for follow-up action and evaluation of performance.

4. **Payment for Services.**

4.1 Compensation. As consideration for the services provided by Contractor hereunder, Authority shall pay Contractor according to the fee schedule set forth in this paragraph 4.1. All services are payable in arrears.

4.1.1 Shift Coverage. Authority shall pay Contractor a per diem rate of \$1,900 per day for weekday coverage (Monday-Friday) and \$2,100 per day for weekend and holiday coverage (Saturday and Sunday; designated Authority holidays only).

4.1.2 Payment All-inclusive. The compensation paid to Contractor is inclusive of accommodations, mileage reimbursement, car rental, meals, and incidental expenses.

4.1.3 Limitations on Compensation. Except as expressly stated herein, neither Contractor nor Group Physicians shall receive any benefits from Authority, including without limitation, health benefits, sick leave, vacation, holidays, deferred compensation or retirement.

4.1.4 Fair Market Value Compensation. The compensation provided under section 4.1 represents the parties' good faith determination of the reasonable fair market value compensation for the services to be provided by Contractor and Group Physicians under this Agreement.

4.2 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$500,000 over the one (1) year term of this Agreement.

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

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

4.5 Professional Fee Billing. KMC shall have the exclusive right to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Contractor to KMC patients during the term of this Agreement. All professional fees generated by Contractor for services rendered to KMC patients at KMC or a KMC location during the term of this Agreement, including both cash collections and accounts receivable, shall be the sole and exclusive property of KMC, whether received by KMC or by Contractor and whether received during the term of this Agreement or anytime thereafter. Contractor 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.

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

5. **Access to Books and Records.** Contractor shall make available, upon written request from Authority or KMC, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement, and Contractor’s books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of seven (7) years after the termination or expiration of this Agreement. If Contractor is requested to disclose books, documents or records pursuant to this section for any purpose, Contractor shall notify KMC of the nature and scope of the request, and Contractor shall make available, upon written request of KMC, all such books, documents or records.

6. **Anti-referral Laws.** Contractor acknowledges that she is subject to certain federal and state laws governing the referral of patients, which are in effect during the term of this Agreement. These laws include (i) prohibitions on payments for referral or to induce the referral of patients, and (ii) the referral of patients by a physician for certain designated health care services to an entity with which the physician (or his or her immediate family) has a financial relationship (Cal. Business and Professions Code sections 650 et seq.; Cal. Labor Code sections 139.3 and 139.31; section 1128B (b) of the Social Security Act; and section 1877 of the Social Security Act). The parties expressly agree that nothing contained in this Agreement shall require either the referral of any patients to, or order of any goods or services from Contractor or KMC. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party shall knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. section 1320a-7b).

7. **Assignment.** Contractor shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement. Contractor shall not assign any money due or which becomes due to Contractor under this Agreement without the prior written approval of Authority.

8. **Audits, Inspection and Retention of Records.** Contractor agrees to maintain and make available to Authority accurate books and records relative to all his activities under this Agreement. Contractor shall permit Authority to audit, examine and make excerpts and transcripts from such records, and to conduct audits or reviews of all invoices, materials, records or personnel or other data related to all other matters covered by this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not

less than four (4) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The state of California shall have the same rights conferred upon Authority herein.

9. **Authority to Incur Financial Obligation.** It is understood that Contractor, 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.** The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

11. **Change in Law.** In the event that a change in state or federal law or regulatory requirement (or the application thereof), any of which renders this Agreement illegal, impossible to perform, or commercially impracticable, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendments(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within thirty (30) days of such negotiation period, this Agreement shall automatically terminate at the end of such thirty (30) day period.

12. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement shall be construed pursuant to the laws of the state of California. It is expressly acknowledged that this Agreement has been entered into and will be performed within the County of Kern. Should any suit or action be commenced to enforce or interpret the terms of this Agreement or any claim arising under it, it is expressly agreed that proper venue shall be in County of Kern, state of California.

13. **Compliance with Law.** Contractor 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.

14. **Compliance Program.** Contractor acknowledges that KMC has implemented a compliance program for the purpose of ensuring adherence to applicable federal and state laws, regulations and other standards. Contractor agrees that in the course of performance of his duties described herein that he shall act, and cause his employees to act, in conformance with the policies set forth therein. KMC shall make available such information relating to its compliance program as is appropriate to assist Contractor in adhering to the policies set forth in the compliance program. Contractor and his employees, if any, shall participate in compliance training and education as reasonably requested by KMC.

15. **Confidentiality.**

15.1 **Use and Disclosure Restrictions.** Neither party shall, without the written consent of the other, communicate confidential information of the other, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that the receiving party would protect its own confidential information. The foregoing obligations will not restrict either party

from disclosing confidential information of the other party: (i) pursuant to applicable law; (ii) pursuant to the order or requirement of a court, administrative agency, or other governmental body, on condition that the party required to make such a disclosure gives reasonable written notice to the other party to contest such order or requirement; and (iii) on a confidential basis to a party's legal or financial advisors.

15.2 Trade Secrets. The parties acknowledge that each party, in connection with their respective business, has developed certain operating manuals, symbols, trademarks, trade names, service marks, designs, patient lists, procedures, processes, and other copyrighted, patented, trademarked, or legally protectable information which is confidential and proprietary to the party that constitute its trade secrets. The parties shall not use any name, symbol, mark, or other proprietary information of the other party except as expressly permitted.

15.3 Medical Records. The parties agree to maintain the confidentiality of all medical records pertaining to the provision of services under this Agreement in accordance with applicable federal and state laws and regulations including, but not limited to, the California Confidentiality of Medical Records Information Act, codified at section 56.1 of the California Civil Code, California Evidence Code sections 1156 and 1157, and the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations.

15.4 Medical Staff and Committee Records. All records, files, proceedings and related information of Contractor, KMC and the medical staff and its committees pertaining to the evaluation and improvements of the quality of patient care at KMC shall be kept strictly confidential by Contractor. Contractor shall not voluntarily disclose such confidential information, either orally or in writing, except as expressly required by law or pursuant to written authorization by KMC, which may be given or withheld in the sole discretion of KMC.

15.5 Ownership of Records. All documents, papers, notes, memoranda, computer files and other written or electronic records of any kind ("Documents"), in whatever form or format, assembled, prepared or utilized by Contractor during and in connection with this Agreement shall remain the property of Authority at all times. Upon the expiration or termination of this Agreement, Contractor shall promptly deliver to Authority all such Documents, which have not already been provided to Authority in such form or format as Authority deems appropriate. Such Documents shall be and will remain the property of Authority without restriction or limitation. Contractor may retain copies of the above-described Documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Authority.

15.6 Non-disparagement. Each party agrees that they shall not make or cause to be made, any written (including, but not limited to, any emails, internet postings, remarks or statements) or verbal assertions, statements or other communications regarding the other party's business or each other which may be in any manner whatsoever defamatory, detrimental or unfavorable to such other party. Each party agrees that these non-disparagement covenants shall survive the termination of this Agreement.

16. **Conflict of Interest.** Contractor 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 or that would otherwise conflict in any manner or degree with the performance of his services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. 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.
17. **Consent.** Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.
18. **Construction.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Contractor and Authority acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and Authority acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
19. **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.
20. **Disqualified Persons.** The parties mutually represent and warrant to one another that they and their respective representatives are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 U.S.C. section 1320a-7b-(f) (the “Federal health care programs”) and/or present on the exclusion database of the Office of the Inspector General (“OIG”) or the Government Services Administration (“GSA”); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits. This shall be an ongoing representation and warranty during the term of this Agreement and a party shall immediately notify the other party of any change in the status of any of the representations and/or warranties set forth in this section. Any breach of this section shall give the non-breaching party the right to terminate this Agreement immediately upon written notice.
21. **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.

22. **Immigration Compliance.** Contractor shall comply with all provisions of immigration law with respect to hiring, recruiting or referring for employment persons whose authorization for employment in the United States has been verified, and shall provide KMC with a copy of such verification required in 8 USCA section 1324a. Contractor agrees to indemnify, defend, and hold harmless Authority, its agents, officers, and employees, from any liability, damages, or causes of action arising out of Contractor's failure to comply with this section.

23. **Indemnification and Hold Harmless.** Authority shall assume liability for and indemnify and hold Contractor harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Contractor or for which Contractor becomes liable, arising out of or related to professional services rendered or which a third party alleges should have been rendered by Contractor pursuant to this Agreement. Authority's obligation under this paragraph shall extend from the Effective Date and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of professional services Contractor 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 KMC 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 Contractor harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

24. **Independent Contractor.** In the performance of the services under this Agreement, Contractor shall be, and acknowledges that Contractor is in fact and law, an independent contractor and not an agent or employee of Authority. Contractor has and retains the right to exercise full supervision and control over the manner and methods of providing services to Authority under this Agreement. Contractor retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Contractor in the provision of services under this Agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employment taxes whether federal, state or local, and compliance with any and all other laws regulating employment.

25. **Informal Dispute Resolution.** Controversies between the parties with respect to this Agreement, or the rights of either party, or with respect to any transaction contemplated by this Agreement, shall be resolved, to the extent possible, by informal meetings and discussions among appropriate representatives of the parties.

26. **Insurance.** With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit "C," attached hereto and incorporated herein by this reference.

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

28. **No Third Party Beneficiaries.** It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Authority and Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of Authority and Contractor that any such person or entity, other than Authority or Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

29. **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 Contractor, 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. Contractor will be given thirty (30) days' prior written notice in the event that Authority requires such an action.

30. **Non-collusion Covenant.** Contractor represents and agrees that he has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with Authority. Contractor has received from Authority no incentive or special payments, nor considerations, not related to the provision of services under this Agreement.

31. **Nondiscrimination.** Neither Contractor, nor any officer, agent, employee, servant or subcontractor of Contractor shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, ancestry, national origin, religion, sex, actual or perceived sexual orientation, marital status, age, pregnancy, medical condition, handicap or other prohibited basis, either directly, indirectly or through contractual or other arrangements.

32. **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 Contractor. 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.

33. **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 Contractor:

Notice to Authority:

Rajinder P. Singh, M.D.
P.O. Box 25021
Fresno, California 93729-5021

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

34. **Signature Authority.** Each party represents that they have full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

35. **Sole Agreement.** This Agreement, including all attachments hereto, 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.

36. **Termination.**

36.1 **Termination without Cause.** Either party may terminate this Agreement, without cause, upon thirty (30) days' prior written notice to the other party.

36.2 **Termination by Authority.** Authority shall have the right to terminate this Agreement at any time upon the occurrence of any one or more of the following events:

- A) Breach of this Agreement by Contractor where such breach is not cured within thirty (30) calendar days after Authority gives written notice of such breach to Contractor;
- B) Authority ceases operations;
- C) Contractor is unable to obtain or maintain sufficient insurance, as required under this Agreement, for any reason;
- D) Contractor makes an assignment for the benefit of creditors, applies to any court for the appointment of a trustee or receiver over its assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, dissolution, liquidation or other similar law of any jurisdiction;
- E) Contractor is rendered unable to comply with the terms of this Agreement for any reason;
- F) Contractor engages in conduct that, in Authority's good faith determination, jeopardizes the mental or physical health, safety or well-being of any person or damages the reputation of Authority or KMC;

- G) Within a twelve (12) month period, Contractor has two (2) or more medical malpractice claims filed against him or her, or he or she becomes the subject of two (2) or more adverse proceedings by the Medical Staff regarding the performance of professional medical services;
- H) Any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body, or any notice of a decision, finding, interpretation or action by any governmental, court or other third party which, in the opinion of Authority, if or when implemented, would result in the arrangement between the parties under this Agreement to subject Authority or any of its employees or agents, to civil or criminal prosecution or monetary penalties on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement;
- I) Violation of any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or KMC is subject;
- J) Contractor makes unauthorized use or disclosure of confidential or proprietary information by Contractor which causes material harm to Authority or KMC;
- K) Commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty by Contractor against Authority or KMC; or
- L) The loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal, due to the actions of Contractor.

37. **Effect of Termination.**

37.1 **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 Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

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

37.3 **No Interference.** Following the expiration or earlier termination of this Agreement, Contractor shall not do anything or cause any person to do anything that might

interfere with any efforts by Authority to contract with any other individual or entity for the provision of services or to interfere in any way with any relationship between Authority and any provider that may replace Contractor.

37.4 **No Hearing Rights.** Termination of this Agreement by Authority or KMC for any reason shall not provide Contractor the right to a fair hearing or the other rights more particularly set forth in the KMC Medical Staff Bylaws.

38. **Time of Essence.** Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

39. **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.

CONTRACTOR

By _____
Rajinder P. Singh, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Agreement.Singh.082522

EXHIBIT “A”
DESCRIPTION OF SERVICES
Rajinder P. Singh, M.D.

1. Position Description. Reports to Chair, Department of Radiology; serves as a faculty member in the Department.
2. Assigned Duties. Contractor shall provide mutually agreed upon as-needed coverage for the radiology service at KMC.

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EXHIBIT “B”

IRS FORM W-9

EXHIBIT “C” INSURANCE

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by Authority. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

Authority reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers’ Compensation and Employers Liability Insurance:

- (a) Required if Contractor has employees. If Contractor currently has no employees, Contractor’s written confirmation of such will be required before execution of this Agreement. If Contractor engages any employees during the term of this Agreement or any extensions thereof, Contractor agrees to obtain the specified Workers’ Compensation and Employers Liability insurance.
- (b) Workers’ Compensation insurance with statutory limits as required by the California Labor Code.
- (c) Employers Liability with limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- (d) Waiver of Subrogation: The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Authority for all work performed by Contractor, its employees, agents and subcontractors.
- (e) Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance:

- (a) Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- (b) Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Authority requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- (c) If Contractor has no Owned automobiles, the General Liability policy shall include Non-Owned and Hired Automobile Liability in the amount of \$1,000,000 combined single limit per accident.

- (d) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Authority. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Authority's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Authority.
- (e) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 below for full Additional Insured wording.
- (f) The insurance provided to Authority as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by Authority.
- (g) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "F" definition of insured contract in ISO form CG 00 01, or equivalent).
- (h) The policy shall cover inter-insured suits between Authority and Contractor and include a "separation of insureds" or "severability" clause, which treats each insured separately.
- (i) Required Evidence of Insurance: (i) Copy of the additional insured endorsement or policy language granting additional insured status; and (ii) Certificate of Insurance.

3. Automobile Liability Insurance:

- (a) Minimum Limits: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (b) Insurance shall apply to all Owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions thereof.
- (c) Insurance shall include coverage for Non-Owned and Hired autos. (See requirements in section 1(c) above if there is no separate Automobile Liability coverage.)
- (d) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 for full Additional Insured wording.
- (e) Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies: Insurers shall have an A.M. Best's rating of at least A;VII.

5. Additional Insured Wording: "**Kern County Hospital Authority, its officers, officials, employees and volunteers**" are to be named as Additional Insureds as per each section where noted above.

6. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

- (a) The Retroactive Date must be shown and must be before the Effective Date of the Agreement or the beginning of contract work.
- (b) Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract work*.
- (c) If coverage is canceled or non-renewed, and *not replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, Contractor must purchase “extended reporting” coverage for a minimum of *five (5) years* after completion of the contract work.

7. Documentation:

- (a) The Certificate of Insurance must include the following reference: **“Agreement for Professional Services.”**
- (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with Authority for the entire term of this Agreement and any additional periods if specified in sections 1, 2 or 3 above.
- (c) The name and address for the Certificates of Insurance and Additional Insured endorsements is: Kern County Hospital Authority, c/o Kern Medical Center, 1700 Mount Vernon Avenue, Bakersfield, California 93306.
- (d) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least 10 days before expiration or other termination of the existing policy.
- (e) Contractor shall provide immediate written notice if: (i) any of the required insurance policies is terminated; (ii) the limits of any of the required policies are reduced; or (iii) the deductible or self-insured retention is increased.
- (f) Upon written request, certified copies of required insurance policies must be provided to Authority within 30 days.

8. Policy Obligations: Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

9. Waiver of Subrogation: Contractor hereby grants to Authority a waiver of any right to subrogation, which any insurer of said Contractor may acquire against Authority by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Authority has received a waiver of subrogation endorsement from the insurer.

10. Primary Coverage: For any claims related to this Agreement, Contractor’s insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects Authority, its officers, directors, officials, employees, and volunteers. Any insurance or self-insurance maintained by Authority, its officers, directors, officials, employees, or volunteers shall be excess of Contractor’s insurance and shall not contribute with it.

11. Material Breach: If Contractor fails to maintain the insurance required by this Agreement, it shall be deemed a material breach of this Agreement. Authority, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, Authority may purchase the required insurance, and without further notice to Contractor, Authority may deduct from sums due to Contractor any premium costs advanced by Authority for such insurance. These remedies shall be in addition to any other remedies available to Authority.

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

September 21, 2022

Subject: Proposed Agreement with Naheedy & Zarandy Medical Group, Inc., an independent contractor, 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 Agreement with Naheedy & Zarandy Medical Group, Inc. for professional medical services in the Department of Radiology. The Medical Group will provide remote and in-person radiology reading services through Dr. Mohammad Hossain Naheedy, M.D.

Dr. Naheedy has provided services to Kern Medical since 2010 through the Medical Group. Kern Medical continues to require the services of Dr. Naheedy to provide scheduled and as-needed coverage for the Department and both parties have agreed to the terms of a new two-year agreement, effective November 1, 2022. The Medical Group will be compensated based on an hourly rate of \$220 per hour for weekday, weekend, and holiday coverage, as assigned by the Department Chair. Kern Medical will bill and collect all professional fees for services provided by the Medical Group during the term of the agreement.

Therefore, it is recommended that your Board approve the Agreement with Naheedy & Zarandy Medical Group, Inc., an independent contractor, for professional medical services in the Department of Radiology from November 1, 2022, through October 31, 2024, in an amount not to exceed \$800,000 over the two-year term of the agreement, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Naheedy and Zarandy Medical Group, Inc.)**

This Agreement is made and entered into this ____ day of _____, 2022, between Kern County Hospital Authority, a public entity that is a local unit of government (“Authority”), and Naheedy and Zarandy Medical Group, Inc., a California professional medical corporation (“Contractor”), with its principal place of business located at 49 Goleta Point Drive, Corona Del Mar, California 92625.

**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 owns and operates Kern Medical Center (“KMC”), a general acute care hospital located at 1700 Mount Vernon Avenue, Bakersfield, California, and affiliated clinics (collectively, the “Premises”), in which is located the Department of Radiology (the “Department”); and

(c) Contractor is a California professional medical corporation with medical doctors (collectively, “Group Physicians” or individually, “Group Physician”) who provide services on behalf of Contractor; and

(d) Authority requires the assistance of Contractor to provide professional medical services to patients of KMC and teaching services to resident physicians employed by Authority, as such services are unavailable from Authority resources, and Contractor desires to provide such services on the terms and conditions set forth in this Agreement; and

(e) Contractor has special knowledge, training and experience, and is qualified to render such services;

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.** This Agreement shall be effective and the term shall commence as of November 1, 2022 (the “Effective Date”), and shall end October 31, 2024, unless earlier terminated pursuant to other provisions of this Agreement as herein stated.

2. **Obligations of Contractor.**

2.1 **Specified Services.** Contractor through Group Physicians shall render those services set forth in Exhibit "A," attached hereto and incorporated herein by this reference. Such services may be changed from time to time by agreement of the parties in accordance with the provisions of this Agreement.

2.2 **Representations.** Contractor makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement: (i) Contractor has the expertise and support staff necessary to provide the services described in this Agreement; and (ii) Contractor does not have any actual or potential interests adverse to Authority nor does Contractor represent a person or firm with an interest adverse to Authority with reference to the subject of this Agreement; and (iii) Contractor shall diligently provide all required services in a timely and professional manner in accordance with the terms and conditions set forth in this Agreement.

2.3 **Standard of Care.** Authority has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees that all of its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by Authority shall not operate as a waiver or release.

2.4 **Performance Standard.** Contractor shall perform all services hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. If Authority determines that any of Contractor's work is not in accordance with such level of competency and standard of care, Authority, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with Authority to review the quality of the work and resolve matters of concern; (b) terminate this Agreement pursuant to the provisions of section 36; or (c) pursue any and all other remedies at law or in equity.

2.5 **Assigned Personnel.** Contractor shall assign only competent personnel to perform the Services hereunder. In the event that at any time Authority, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform the services hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from Authority. Group Physicians providing services under this Agreement include, without limitation, Mohammad Hossain Naheedy, M.D.

2.6 **Qualifications of Group Physicians.**

2.6.1 **Licensure/Board Certification.** Group Physicians shall at all times during the term of this Agreement be duly licensed physicians and surgeons in the state of California, be practicing in the specialty of diagnostic radiology, and certified by the American Board of Radiology in diagnostic radiology-general and maintain such certification at all times during the term of this Agreement.

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

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

2.6.4 Training/Experience. Each Group Physician shall have (i) recent experience practicing in the medical specialty of diagnostic radiology, (ii) an academic background to include teaching and working in an academic medical center, experience working with other clinical departments, teaching residents and medical students, participating in hospital committees, and working on pathways and evidence-based guidelines, and (iii) ongoing acute care hospital experience.

2.7 Rights and Duties. Mohammad Hossain Naheedy, M.D., shall act as the authorized agent for Contractor in all matters relating to the performance of Group Physicians under this Agreement. Contractor shall cause Group Physicians to participate in the educational and committee activities of the KMC medical staff. Contractor shall, by contract, obligate Group Physicians to comply fully with all duties, obligations and restrictions imposed upon Contractor under this Agreement.

2.8 Loss or Limitation. Contractor shall notify KMC promptly of any loss, sanction, suspension or material limitations of any Group Physician’s license to practice in the state of California, Controlled Substance Registration Certificate issued by the Drug Enforcement Administration, right to participate in the Medicare or Medicaid programs, or specialty qualifications for medical staff membership or clinical privileges.

2.9 Standards of Medical Practice. The standards of medical practice and professional duties of all Group Physicians providing services under this Agreement shall be in accordance with the KMC Medical Staff Bylaws, Rules, Regulations, and policies, the standards for practice 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.

2.10 Medical Record Documentation. Contractor shall cause a complete medical record to be timely prepared and maintained for each patient seen by a Group Physician providing services under this Agreement. 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 Group Physicians will 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.

2.11 Quality Improvement and Risk Management. Contractor agrees that all Group Physicians shall participate in (i) the quality improvement and risk management programs of KMC and serve on such committees as may be required; (ii) ongoing quality improvement activities, such as audits, which will be conducted annually in the Department in order to evaluate and enhance the quality of patient care; and (iii) risk management activities designed to identify, evaluate and reduce the risk of patient injury associated with care. At a minimum, Contractor shall ensure that the quality improvement program consists of the following integrated components: (i) professional development that provides continuous performance feedback that is benchmarked, evaluated, and rated individually and collectively; (ii) clinical standards that are evidence-based and grounded in industry best practices; (iii) performance improvement that is outcomes-focused and based on quality indicators/metrics with quarterly reporting of same; and (iv) customer satisfaction that is feedback/survey-driven and objectively and comparatively measured, tracked/trended, and analyzed. The appropriate review mechanism will be applied in accordance with the provisions of the KMC Medical Staff Bylaws, The Joint Commission, and applicable law.

2.12 Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold Authority harmless from any liability which it may incur to the United States or to the state of California as a consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case Authority is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish Authority with proof of payment of taxes on these earnings.

2.13 Nonexclusive Services. Contractor understands and agrees that Authority will utilize the services of Contractor pursuant to the terms of this Agreement on a non-exclusive basis. Contractor further agrees that Authority shall retain the option to enter into agreements with other organizations for purposes of securing the services, in its sole discretion.

3. Obligations of Authority.

3.1 Authority Designee. Authority shall designate a primary contact, who will arrange for KMC staff assistance as may be required.

3.2 Space. KMC shall furnish for the use of Contractor and Group Physicians such space and facilities as may be deemed necessary by KMC for the proper operation and conduct of the Department. KMC shall, in its sole discretion, determine the amount and type of space and facilities to be provided herein. Contractor shall use the space and equipment solely for the performance of the services required under this Agreement. Neither Contractor nor Group Physicians shall use such space or equipment for other business or personal use.

3.3 Use Limitations on Space. The use of any part of the space occupied by the Department for the general or private practice of medicine is prohibited. Contractor and Group Physicians shall use the items furnished under this Agreement only for the performance of

services required by this Agreement. This Agreement shall not be construed to be a lease to Contractor or any Group Physician of any portion of the Premises, and insofar as Contractor or Group Physicians may use a portion of said Premises, Contractor and Group Physicians do so as licensees only, and Authority and KMC shall, at all times, have full and free access to the same.

3.4 Reading Station Equipment. Authority shall furnish for the use of Contractor such reading station equipment ("Equipment"), as is deemed necessary by KMC in order for Contractor to perform the services set forth in this Agreement at Contractor's office space located at 49 Goleta Point Drive, Corona Del Mar, California. Contractor shall not relocate the Equipment without the prior written approval of KMC. KMC shall keep and maintain this Equipment in good order and repair and replace such Equipment, as is reasonably necessary and subject to the usual purchasing practices of Authority and KMC and budget constraints. Contractor shall be responsible for installation and maintenance of any required connection to operate the Equipment. Contractor shall arrange with Authority's assigned primary contact to return the Equipment to KMC upon termination or expiration of this Agreement.

3.5 Equipment. KMC shall furnish for the use of the Department such equipment as is deemed necessary by KMC for the proper operation and conduct of the Department consistent with community standards. KMC shall keep and maintain this equipment in good order and repair and replace such equipment, as is reasonably necessary and subject to the usual purchasing practices of Authority and KMC and budget constraints.

3.6 Services and Supplies. KMC shall provide or arrange for the provision of janitorial services, housekeeping services, laundry and utilities, together with such other hospital services, including medical records, administrative and engineering services, and expendable supplies, as KMC deems necessary for the proper operation and conduct of the Department.

3.7 Control Retained in KMC. In compliance with title 22, California Code of Regulations, section 70713 KMC will retain professional and administrative responsibility for services rendered under this Agreement. Contractor shall apprise KMC of recommendations, plans for implementation and continuing assessment through dated and signed reports, which shall be retained by KMC for follow-up action and evaluation of performance.

4. **Payment for Services.**

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

4.1.1 Shift Coverage. Authority shall pay Contractor an hourly rate of \$220 per hour for shift coverage, regardless of the number of assigned shifts per month.

4.1.2 Emergency Night Shift Coverage. Authority shall pay Contractor an hourly rate of \$220 per hour for emergency night shift coverage (i.e., not a scheduled shift).

4.1.3 Payment All-inclusive. The compensation paid to Contractor is inclusive of accommodations, mileage reimbursement, car rental, meals, and incidental expenses.

4.1.4 Limitations on Compensation. Except as expressly stated herein, neither Contractor nor Group Physicians shall receive benefits from Authority, including without limitation, health benefits, sick leave, vacation, holidays, deferred compensation or retirement.

4.1.5 Fair Market Value Compensation. The compensation provided under section 4.1 represents the parties' good faith determination of the reasonable fair market value compensation for the services to be provided by Contractor under this Agreement.

4.2 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$800,000 over the two (2) year term of this Agreement.

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

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

4.5 Professional Fee Billing. KMC shall have the exclusive right to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Contractor and Group Physicians to KMC patients at KMC or a KMC location during the term of this Agreement. All professional fees generated by Contractor or Group Physicians for services rendered to KMC patients at KMC or a KMC location during the term of this Agreement, including both cash collections and accounts receivable, will be the sole and exclusive property of KMC, whether received by KMC or by Contractor or a Group Physician and whether received during the term of this Agreement or anytime thereafter. Contractor and Group Physicians hereby assign 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.

4.6 Managed Care Contracting. Contractor shall cooperate, and shall ensure that Group Physicians cooperate, in all reasonable respects necessary to facilitate KMC's entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable Authority or KMC to participate in any third-party payer arrangements, Contractor and/or Group Physicians shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from Authority and KMC, with any third-

party payer or intermediate organization (including any independent practice association) (each, a “Managed Care Organization”) designated by Authority or KMC for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written agreement with KMC regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization.

5. **Access to Books and Records.** Contractor shall make available, upon written request from Authority or KMC, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement, and Contractor’s books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of seven (7) years after the termination or expiration of this Agreement. If Contractor is requested to disclose books, documents or records pursuant to this section for any purpose, Contractor shall notify KMC of the nature and scope of the request, and Contractor shall make available, upon written request of KMC, all such books, documents or records.

6. **Anti-referral Laws.** Contractor acknowledges that it is subject to certain federal and state laws governing the referral of patients, which are in effect during the term of this Agreement. These laws include (i) prohibitions on payments for referral or to induce the referral of patients, and (ii) the referral of patients by a physician for certain designated health care services to an entity with which the physician (or his or her immediate family) has a financial relationship (Cal. Business and Professions Code sections 650 et seq.; Cal. Labor Code sections 139.3 and 139.31; section 1128B (b) of the Social Security Act; and section 1877 of the Social Security Act). The parties expressly agree that nothing contained in this Agreement shall require either the referral of any patients to, or order of any goods or services from Contractor or KMC. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party shall knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. section 1320a-7b).

7. **Assignment.** Contractor shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement. Contractor shall not assign any money due or which becomes due to Contractor under this Agreement without the prior written approval of Authority.

8. **Audits, Inspection and Retention of Records.** Contractor agrees to maintain and make available to Authority accurate books and records relative to all its activities under this Agreement. Contractor shall permit Authority to audit, examine and make excerpts and transcripts from such records, and to conduct audits or reviews of all invoices, materials, records or personnel or other data related to all other matters covered by this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than four (4) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The state of California shall have the same rights conferred upon Authority herein.

9. **Authority to Incur Financial Obligation.** It is understood that neither Contractor nor Group Physicians, in the 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.** The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

11. **Change in Law.** In the event that a change in state or federal law or regulatory requirement (or the application thereof), any of which renders this Agreement illegal, impossible to perform, or commercially impracticable, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendments(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within thirty (30) days of such negotiation period, this Agreement shall automatically terminate at the end of such thirty (30) day period.

12. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the state of California. It is expressly acknowledged that this Agreement has been entered into and will be performed within the County of Kern. Should any suit or action be commenced to enforce or interpret the terms of this Agreement or any claim arising under it, it is expressly agreed that proper venue shall be in County of Kern, state of California.

13. **Compliance with Law.** Contractor 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.

14. **Compliance Program.** Contractor acknowledges that KMC has implemented a compliance program for the purpose of ensuring adherence to applicable federal and state laws, regulations and other standards. Contractor agrees that in the course of performance of its duties described herein that it shall act, and cause its employees to act, in conformance with the policies set forth therein. KMC shall make available such information relating to its compliance program as is appropriate to assist Contractor in adhering to the policies set forth in the compliance program. Contractor and its employees shall participate in compliance training and education as reasonably requested by KMC.

15. **Confidentiality.**

15.1 **Use and Disclosure Restrictions.** Neither party shall, without the written consent of the other, communicate confidential information of the other, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that the receiving party would protect its own confidential information. The foregoing obligations will not restrict either party from disclosing confidential information of the other party: (i) pursuant to applicable law; (ii) pursuant to the order or requirement of a court, administrative agency, or other governmental body, on condition that the party required to make such a disclosure gives reasonable written

notice to the other party to contest such order or requirement; and (iii) on a confidential basis to its legal or financial advisors.

15.2 Trade Secrets. The parties acknowledge that each party, in connection with its business, has developed certain operating manuals, symbols, trademarks, trade names, service marks, designs, patient lists, procedures, processes, and other copyrighted, patented, trademarked, or legally protectable information which is confidential and proprietary to the party that constitute its trade secrets. The parties shall not use any name, symbol, mark, or other proprietary information of the other party except as expressly permitted.

15.3 Medical Records. The parties agree to maintain the confidentiality of all medical records pertaining to the provision of services under this Agreement in accordance with applicable federal and state laws and regulations including, but not limited to, the California Confidentiality of Medical Records Information Act, codified at section 56.1 of the California Civil Code, California Evidence Code sections 1156 and 1157, and the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations.

15.4 Medical Staff and Committee Records. All records, files, proceedings and related information of Group Physicians, KMC and the medical staff and its committees pertaining to the evaluation and improvements of the quality of patient care at KMC shall be kept strictly confidential by Contractor and Group Physicians. Neither Contractor nor Group Physicians shall voluntarily disclose such confidential information, either orally or in writing, except as expressly required by law or pursuant to written authorization by KMC, which may be given or withheld in the sole discretion of KMC.

15.5 Ownership of Records. All documents, papers, notes, memoranda, computer files and other written or electronic records of any kind ("Documents"), in whatever form or format, assembled, prepared or utilized by Contractor or Group Physicians during and in connection with this Agreement shall remain the property of Authority at all times. Upon the expiration or termination of this Agreement, Contractor shall promptly deliver to Authority all such Documents, which have not already been provided to Authority in such form or format, as Authority deems appropriate. Such Documents shall be and will remain the property of Authority without restriction or limitation. Contractor may retain copies of the above-described Documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Authority.

15.6 Non-disparagement. Each party agrees that it shall not make or cause to be made, any written (including, but not limited to, any emails, internet postings, remarks or statements) or verbal assertions, statements or other communications regarding the other party's business or each other which may be in any manner whatsoever defamatory, detrimental or unfavorable to such other party. Each party agrees that these non-disparagement covenants shall survive the termination of this Agreement.

16. Conflict of Interest. Contractor covenants that it has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state

law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. 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.

17. **Consent.** Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

18. **Construction.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Contractor and Authority acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and Authority acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

19. **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.

20. **Disqualified Persons.** The parties mutually represent and warrant to one another that they and their respective representatives are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 U.S.C. section 1320a-7b-(f) (the “Federal health care programs”) and/or present on the exclusion database of the Office of the Inspector General (“OIG”) or the Government Services Administration (“GSA”); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits. This shall be an ongoing representation and warranty during the term of this Agreement and a party shall immediately notify the other party of any change in the status of any of the representations and/or warranties set forth in this section. Any breach of this section shall give the non-breaching party the right to terminate this Agreement immediately upon written notice.

21. **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.

22. **Immigration Compliance.** Contractor shall comply with all provisions of immigration law with respect to hiring, recruiting or referring for employment persons whose authorization for employment in the United States has been verified, and shall provide KMC with a copy of such verification required in 8 USCA section 1324a. Contractor agrees to indemnify, defend, and hold harmless Authority, its agents, officers, and employees, from any liability, damages, or causes of action arising out of Contractor's failure to comply with this section 22.

23. **Indemnification and Hold Harmless.** Authority shall assume liability for and indemnify and hold Contractor and Group Physicians harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Contractor or Group Physicians or for which Contractor or Group Physicians becomes liable, arising out of or related to professional services rendered or which a third party alleges should have been rendered by Contractor or Group Physicians pursuant to this Agreement. Authority's obligation under this paragraph shall extend from the Effective Date and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of professional services Contractor or Group Physicians 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 KMC 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 Contractor or Group Physicians harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

24. **Independent Contractor.** In the performance of the services under this Agreement, Contractor shall be, and acknowledges that Contractor is in fact and law, an independent contractor and not an agent or employee of Authority. Contractor has and retains the right to exercise full supervision and control over the manner and methods of providing services to Authority under this Agreement. Contractor retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Contractor in the provision of services under this Agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employment taxes whether federal, state or local, and compliance with any and all other laws regulating employment.

25. **Informal Dispute Resolution.** Controversies between the parties with respect to this Agreement, or the rights of either party, or with respect to any transaction contemplated by this Agreement, shall be resolved, to the extent possible, by informal meetings and discussions among appropriate representatives of the parties.

26. **Insurance.** With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit "C," attached hereto and incorporated herein by this reference.

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

28. **No Third Party Beneficiaries.** It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Authority and Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of Authority and Contractor that any such person or entity, other than Authority or Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

29. **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 Contractor, 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. Contractor will be given 30 days' prior written notice in the event that Authority requires such an action.

30. **Non-collusion Covenant.** Contractor represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with Authority. Contractor has received from Authority no incentive or special payments, nor considerations, not related to the provision of services under this Agreement.

31. **Nondiscrimination.** Neither Contractor, nor any officer, agent, employee, servant or subcontractor of Contractor shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, ancestry, national origin, religion, sex, actual or perceived sexual orientation, marital status, age, pregnancy, medical condition, handicap or other prohibited basis, either directly, indirectly or through contractual or other arrangements.

32. **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 Contractor. 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.

33. **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 Contractor:

Naheedy and Zarandy Medical Group, Inc.
49 Goleta Point Drive
Corona Del Mar, California 92625
Attn.: Its President

Notice to Authority:

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

34. **Signature Authority.** Each party represents that they have full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

35. **Sole Agreement.** This Agreement, including all attachments hereto, 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.

36. **Termination.**

36.1 **Termination without Cause.** Either party may terminate this Agreement, without cause, upon thirty (30) days' prior written notice to the other party.

36.2 **Immediate Termination.** Authority shall have the right to terminate this Agreement at any time upon the occurrence of any one or more of the following events:

- A) Breach of this Agreement by Contractor where such breach is not cured within thirty (30) calendar days after Authority gives written notice of such breach to Contractor;
- B) Authority ceases operations;
- C) Contractor is unable to obtain or maintain sufficient insurance, as required under this Agreement, for any reason;
- D) Contractor makes an assignment for the benefit of creditors, applies to any court for the appointment of a trustee or receiver over its assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, dissolution, liquidation or other similar law of any jurisdiction;
- E) Contractor is rendered unable to comply with the terms of this Agreement for any reason;
- F) Contractor engages in conduct that, in Authority's good faith determination, jeopardizes the mental or physical health, safety or well-being of any person or damages the reputation of Authority or KMC;
- G) Within a twelve (12) month period, Contractor has two (2) or more medical malpractice claims filed against him or her, or he or she becomes the subject of two (2) or more adverse proceedings by the Medical Staff regarding the performance of professional medical services;

- H) Any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body, or any notice of a decision, finding, interpretation or action by any governmental, court or other third party which, in the opinion of Authority, if or when implemented, would result in the arrangement between the parties under this Agreement to subject Authority or any of its employees or agents, to civil or criminal prosecution or monetary penalties on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement;
- I) Violation of any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or KMC is subject;
- J) Contractor makes an unauthorized use or disclosure of confidential or proprietary information by Contractor which causes material harm to Authority or KMC;
- K) Commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty by Contractor against Authority or KMC; or
- L) The loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal, due to the actions of Contractor.

37. **Effect of Termination.**

37.1 **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 Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

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

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

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

38. **Time of Essence.** Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

39. **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.

NAHEEDY AND ZARANDY MEDICAL GROUP, INC.

By 

Mohammad Hossain Naheedy, M.D.
Its President

KERN COUNTY HOSPITAL AUTHORITY

By _____

Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____

Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____

Vice President & General Counsel
Kern County Hospital Authority

Agreement.Naheedy.090222

EXHIBIT “A
DESCRIPTION OF SERVICES
Naheedy and Zarandy Medical Group, Inc.

Contractor through Group Physicians shall provide services, as assigned by the Department Chair, as follows:

1. Contractor shall provide radiology services on-site at KMC or remotely from an office located 49 Goleta Point Drive, Corona Del Mar, California, and in accordance with generally accepted professional standards. Contractor will provide professional services for all patients who present to KMC for treatment.
2. Contractor shall perform such administrative and teaching duties and responsibilities, as mutually agreed upon between Contractor and the Department Chair.
3. Contractor shall provide shift coverage Monday through Friday, as assigned by the Department Chair.
4. Contractor shall provide shift coverage on Saturday and Sunday, as assigned by the Department Chair.
5. Contractor shall provide call coverage weekday nights from 6:00 p.m. to 8:00 a.m. and Saturday and Sunday, as assigned by the Department Chair. Contractor agrees to carry a pager when on call and respond to KMC within 30 minutes of being called. Contractor will cover one weekend in three. Contractor will cover one in three holidays and no fewer than four per year.
6. Contractor shall provide coverage an average of 15 shifts per months.
7. Contractor shall actively participate in assigned hospital and Department committees.
8. Contractor shall hold Group Physicians accountable for timely completion of medical records and work to improve the quality, accuracy, and completeness of their documentation.

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EXHIBIT “B”
IRS FORM W-9

EXHIBIT “C” INSURANCE

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by Authority. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

Authority reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers’ Compensation and Employers Liability Insurance:

- (a) Required if Contractor has employees. If Contractor currently has no employees, Contractor’s written confirmation of such will be required before execution of this Agreement. If Contractor engages any employees during the term of this Agreement or any extensions thereof, Contractor agrees to obtain the specified Workers’ Compensation and Employers Liability insurance.
- (b) Workers’ Compensation insurance with statutory limits as required by the California Labor Code.
- (c) Employers Liability with limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- (d) Waiver of Subrogation: The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Authority for all work performed by Contractor, its employees, agents and subcontractors.
- (e) Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance:

- (a) Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- (b) Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Authority requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- (c) If Contractor has no Owned automobiles, the General Liability policy shall include Non-Owned and Hired Automobile Liability in the amount of \$1,000,000 combined single limit per accident.

- (d) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000, it must be approved in advance by Authority. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Authority's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Authority.
- (e) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 below for full Additional Insured wording.
- (f) The insurance provided to Authority as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by Authority.
- (g) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "F" definition of insured contract in ISO form CG 00 01, or equivalent).
- (h) The policy shall cover inter-insured suits between Authority and Contractor and include a "separation of insureds" or "severability" clause, which treats each insured separately.
- (i) Required Evidence of Insurance: (i) Copy of the additional insured endorsement or policy language granting additional insured status; and (ii) Certificate of Insurance.

3. Automobile Liability Insurance:

- (a) Minimum Limits: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (b) Insurance shall apply to all Owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions thereof.
- (c) Insurance shall include coverage for Non-Owned and Hired autos. (See requirements in section 1(c) above if there is no separate Automobile Liability coverage.)
- (d) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 for full Additional Insured wording.
- (e) Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies: Insurers shall have an A.M. Best's rating of at least A;VII.

5. Additional Insured Wording: "**Kern County Hospital Authority, its officers, officials, employees and volunteers**" are to be named as Additional Insureds as per each section where noted above.

6. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

- (a) The Retroactive Date must be shown and must be before the Effective Date of the Agreement or the beginning of contract work.
- (b) Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract work*.
- (c) If coverage is canceled or non-renewed, and *not replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, Contractor must purchase “extended reporting” coverage for a minimum of *five (5) years* after completion of the contract work.

7. Documentation:

- (a) The Certificate of Insurance must include the following reference: **“Agreement for Professional Services.”**
- (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with Authority for the entire term of this Agreement and any additional periods if specified in sections 1, 2 or 3 above.
- (c) The name and address for the Certificates of Insurance and Additional Insured endorsements is Kern County Hospital Authority, c/o Kern Medical Center, 1700 Mount Vernon Avenue, Bakersfield, California 93306.
- (d) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least 10 days before expiration or other termination of the existing policy.
- (e) Contractor shall provide immediate written notice if: (i) any of the required insurance policies is terminated; (ii) the limits of any of the required policies are reduced; or (iii) the deductible or self-insured retention is increased.
- (f) Upon written request, certified copies of required insurance policies must be provided to Authority within 30 days.

8. Policy Obligations: Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

9. Waiver of Subrogation: Contractor hereby grants to Authority a waiver of any right to subrogation, which any insurer of said Contractor may acquire against Authority by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Authority has received a waiver of subrogation endorsement from the insurer.

10. Primary Coverage: For any claims related to this Agreement, Contractor’s insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects Authority, its officers, directors, officials, employees, and volunteers. Any insurance or self-insurance maintained by Authority, its officers, directors, officials, employees, or volunteers shall be excess of Contractor’s insurance and shall not contribute with it.

11. Material Breach: If Contractor fails to maintain the insurance required by this Agreement, it shall be deemed a material breach of this Agreement. Authority, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, Authority may purchase the required insurance, and without further notice to Contractor, Authority may deduct from sums due to Contractor any premium costs advanced by Authority for such insurance. These remedies shall be in addition to any other remedies available to Authority.

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

September 21, 2022

Subject: Proposed Amendment No. 1 to Agreement 073-2019 with Arman G. Froush, D.O., a contract employee, for professional medical and administrative 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. 1 to Agreement 073-2019 with Arman G. Froush, D.O., for professional medical and administrative services in the Department of Radiology. Dr. Froush, a board-certified interventional radiologist, has been employed by Kern Medical as a full-time employee since October 2016. Dr. Froush also serves as the Chair, Department of Radiology and Chief, Division of Vascular and Interventional Radiology.

Changes in staffing in the Division of Vascular and Interventional Radiology have resulted in a higher than anticipated number of on-call shifts worked by Dr. Froush, resulting in total compensation reaching the current maximum payable. Amendment No. 1 increases the maximum payable ensures Dr. Froush will continue to be paid for the provision of those critical services through the remainder of the term of the agreement.

Therefore, it is recommended that your Board approve the Amendment No. 1 to Agreement 073-2019 with Arman G. Froush, D.O., for professional medical and administrative services in the Department of Radiology, effective September 21, 2022, increasing the maximum payable by \$300,000, from \$2,850,000 to \$3,150,000 to cover the term, and authorize the Chairman to sign.

**AMENDMENT NO. 1
TO
AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Arman G. Froush, D.O.)**

This Amendment No. 1 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Arman G. Froush, D.O. (“Physician”).

RECITALS

(a) Authority and Physician have heretofore entered into an Agreement for Professional Services (Kern County Agt. #073-2019, dated December 11, 2019) (the “Agreement”), for the period December 11, 2019 through December 10, 2022, whereby Physician provides 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 September 21, 2022;

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 5.8, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“5.8 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$3,150,000 over the Term of this Agreement.”

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

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

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

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

[Intentionally left blank]

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

PHYSICIAN

By _____
Arman G. Froush, D.O.

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:

By _____
Scott Thygerson
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Vice President & General Counsel
Kern County Hospital Authority

Amend1.Froush.082522



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

September 21, 2022

Subject: Proposed Amendment No. 2 to Agreement 23316 with The Board of Trustees of the Leland Stanford Junior University, on behalf of the California Maternal Quality Care Collaborative / California Perinatal Quality Care Collaborative within the School of Medicine (CMQCC) for participation in the Maternal Data Center

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical has participated in CMQCC's Maternal Data Center beginning in October of 2016 as a requirement of the Public Hospital Redesign and Incentives in Medi-Cal (PRIME) program for capturing and reporting two of the program metrics. The PRIME program was replaced by the Quality Incentive Program (QIP), which maintains the two metrics required to be reported out of the Maternal Data Center.

This amendment extends the term of the agreement by three years through September 30, 2025, which extends beyond the Chief Executive Officer's signing authority. Participation in the MDC continues to be a requirement of the QIP program. Participation in the MDC is \$11,300 per year, but historically we have been successful in obtaining a grant through CMQCC to reduce the cost. Approval of this agreement will increase the maximum payable by \$35,000 to \$105,000 over the nine-year term of the agreement.

Therefore, it is recommended that your Board approve the Amendment No. 2 to Agreement 23316 with The Board of Trustees of the Leland Stanford Junior University, on behalf of the California Maternal Quality Care Collaborative / California Perinatal Quality Care Collaborative within the School of Medicine (CMQCC) for participation in the Maternal Data Center, extending the term of the agreement through September 30, 2025.

CALIFORNIA MATERNAL QUALITY CARE COLLABORATIVE SECOND AMENDMENT TO PARTICIPATION AGREEMENT

The California Maternal Quality Care Collaborate Participation Agreement (“Participation Agreement” or “Agreement”) effective as of October 1, 2016 (“Effective Date”), and amended with First Amendment on October 1, 2019 by and between The Board of Trustees of the Leland Stanford Junior University, on behalf of the California Maternal Quality Care Collaborative / California Perinatal Quality Care Collaborative within the School of Medicine (“CMQCC” or “Collaborative”), and the Kern County Hospital Authority, a local unit of government, which owns and operates Kern Medical Center (“Participant”), is hereby amended as set forth below effective October 1, 2022. (“Second Amendment”)

The purpose of this Second Amendment is to extend the term of the Agreement, and to revise or update certain other provisions of the Agreement.

1. **Terms.** Capitalized terms not defined herein shall be given the same meaning as set forth in the Agreement.
2. **Amendments.** The Participation Agreement shall be amended as follows:

- a. Section 4 (a) shall be deleted in its entirety and replaced with the following:

4 (a). The initial term of the Participation Agreement (“Initial Term”) is for a period of three (3) years beginning on the Effective Date. Upon the expiration of the Initial Term the Agreement shall be effective for an additional three-year term (the “First Renewal Term”), through September 30, 2022. Upon the expiration of the First Renewal Term, the Agreement shall be effective for an additional three-year term (the “Second Renewal Term”), through September 30, 2025. At the end of the Second Renewal Term, this Participation Agreement may be renewed upon the written agreement of both parties.

- b. Section 6 shall be deleted in its entirety and replaced with the following:

6. Fees and Payment.

- a) Fees. In consideration of the services provided under this Agreement, Participant agrees to pay CMQCC an annual membership fee as posted on the CMQCC website. Participant may be eligible for various discounts contingent on additional funding that CMQCC may have available.

The annual membership fee for CY 2023 is \$11,300. CMQCC reserves the right to increase fees and /or modify the discount framework from year to year; the updated fee and discount options will be posted on the CMQCC website no later than October 1st of each year for the next calendar year’s annual membership fee. In addition, CMQCC reserves the right to impose certain reasonable late fees on Participant for late payment of the annual membership fee.

- c. Section 10 of the Agreement shall be deleted in its entirety and replaced with the following:

10. Reserved.

d. Section 2.5.2 of Attachment A (Business Associate Agreement) (the "BA Agreement") shall be deleted in its entirety and replaced with the following:

2.5.2 Business Associate shall report any Security Incident involving electronic PHI of which it becomes aware in the following manner: (a) any actual, successful Security Incident will be reported to Covered Entity in writing without unreasonable delay, and (b) this section will be deemed as notice to Covered Entity that Business Associate periodically receives attempted, unsuccessful Security Incidents, and if unsuccessful, Business Associate will not provide any further notice, unless they result in a reportable breach.

3. **Entire Agreement.** This Second Amendment, First Amendment and the Participation Agreement contain the entire agreement of the Parties. It may not be changed orally, but only by an agreement in writing, signed by the Party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.
4. **Binding Effect.** This Second Amendment shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the Parties; it being understood, however, that the rights hereunder are personal to the Parties, and neither Party may assign its interest in or obligations under this Amendment without the prior written consent of the other Party.
5. **Electronic Signatures.** The Parties to this Second Amendment agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The Parties further waive any right to challenge the admissibility or authenticity of this Second Amendment in a court of law based solely on the absence of an original signature.
6. **Counterparts; Facsimiles.** This Second Amendment and any subsequent amendment to it may be executed in counterparts and all of these counterparts together shall be deemed to constitute one and the same agreement. Facsimile or .pdf copies hereof shall be deemed to be originals.

[Signature Page Follows --- Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties' authorized representatives as designated by each participating institution attest to and execute this Second Amendment, effective as of the Second Amendment Effective Date.

**THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR UNIVERSITY**

[PARTICIPANT]

By: K. Thompson

By: _____

Name: Kathleen Thompson

Name: Russell Bigler

Title: Dean's Office Representative
School of Medicine, Stanford University

Title: Chairman, Board of Governors

Date: 9/13/22

Date: _____

READ AND UNDERSTOOD:

By: Leslie Kowalewski

Name: Leslie A. Kowalewski

Title: Administrative Director,
California Maternal Quality Care
Collaborative ("CMQCC")

Date: 9/13/2022

APPROVED AS TO FORM
Legal Services Department

By: Jamie [Signature]
Kern County Hospital Authority



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

September 21, 2022

Subject: Proposed acceptance of donation of conference registration expenses from Cerner Corporation for the Oracle Cerner Annual Health Conference

Recommended Action: Approve; Adopt Resolution

Summary:

The Authority's conflict of interest policy prohibits employees from receiving or accepting money or any other consideration from anyone other than the Authority for the performance of an act which the employee would be required or expected to render in the regular course of his or her employment.

Cerner Corporation provides Kern Medical Center's electronic health record. Cerner Corporation has offered to donate to the Authority the conference registration fees for seven (7) Kern Medical staff members to attend the Oracle Cerner Annual Health Conference, in Kansas City, Missouri, from October 17-19, 2022. This training session is necessary in connection with official Authority business.

Kern Medical recommends your Board adopt the attached proposed resolution to accept the travel donation from Cerner Corporation for conference registration expenses and authorize the Chief Executive Officer to designate seven (7) staff members to attend this essential conference.

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

In the matter of:

Resolution No. 2022-____

**ACCEPTANCE OF DONATION OF TRAVEL
AND RELATED EXPENSES FROM CERNER
CORPORATION FOR THE ORACLE CERNER
ANNUAL HEALTH CONFERENCE**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 21st day of September, 2022, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) The conflict of interest policy for the Kern County Hospital Authority (“Authority”) prohibits Authority employees from receiving or accepting money or any other consideration from anyone other than the Authority for the performance of an act which the employee would be required or expected to render in the regular course of his or her employment; and

(b) Cerner Corporation provides the electronic health record system for Kern Medical Center; and

(c) Cerner Corporation has offered to donate to the Authority travel and related expenses (conference fees only) for seven Authority employees to attend the “Oracle Cerner Annual Health Conference” in Kansas City, Missouri, from October 17-19, 2022; and

(d) The training session is necessary in connection with official Authority business; and

(f) The Authority desires to obtain the donation of travel and related expenses from Cerner Corporation to the Authority and will retain full control over the use of the donation; and

(g) There are no restrictions as to how the donation may be used.

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

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

2. This Board hereby accepts from Cerner Corporation the donation of travel and related expenses (conference fees only) for seven Authority employees to travel to Kansas City, Missouri, to attend the “Oracle Cerner Annual Health Conference” from October 17-19, 2022.

3. This Board authorizes the Chief Executive Officer to designate seven Authority employees to attend the “Oracle Cerner Annual Health Conference” in Kansas City, Missouri, from October 17-19, 2022.

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

Chief Financial Officer
Legal Services Department
Human Resources Department



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

September 21, 2022

Subject: Proposed First Amendment to Agreement 074-2021 with Adventist Health Physicians Network for professional services

Recommended Action: Approve; Authorize the Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed First Amendment to Agreement 074-2021 with Adventist Health Physicians Network (AHPN) for professional services. The underlying Agreement was approved by your Board on December 15, 2021, as the first step in the process of bringing together Kern Medical and Adventist Health Bakersfield to partner in the development of a sought-after, powerful network of physicians for patients in Kern County.

The underlying Agreement with AHPN is for a term of 10 years from January 1, 2022 through December 31, 2031. During the term of the Agreement, Kern Medical will provide the professional medical services of certain Kern Medical physicians who specialize in various clinical specialties. The Amendment adds the specialties of urology and plastic surgery services to the list of partnered specialties. Kern Medical employed physicians will provide clinic coverage at AHPN Clinics and call coverage at Adventist Health Bakersfield. Additional clinical specialties, as mutually agreed upon by the parties, may be added in the future by way of an amendment to the Agreement, and could include endocrinology and gastroenterology.

AHPN will compensate Kern Medical monthly on a pass-through basis for the services provided by Kern Medical physicians in accordance with the fee schedule set forth in Exhibit 2.1 of the Amendment. Specifically, AHPN will pay Kern Medical various negotiated rates for urologists and plastic and reconstructive surgeons. Estimated compensation to be paid to Kern Medical totals \$3,543,628 annually. AHPN will have the exclusive right to bill and collect all professional fees for services provided by the Kern Medical physicians in the AHPN Clinics and at Adventist Health Bakersfield.

Therefore, it is recommended that your Board approve the First Amendment to the Agreement 074-2021 with Adventist Health Physicians Network for professional services, adding the specialties of urology and plastic surgery and compensation for the professional services provided by Kern Medical physicians, and authorize the Chief Executive Officer to sign.

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of September 15, 2022, by and between ADVENTIST HEALTH PHYSICIANS NETWORK, a California nonprofit religious corporation (“**AHPN**”), and KERN COUNTY HOSPITAL AUTHORITY, a public agency that is a local unit of government (“**Kern Medical**”) with respect to the following:

RECITALS

A. AHPN and Kern Medical have entered into that certain Professional Services Agreement, effective January 1, 2022 (the “**Agreement**”) pursuant to which Kern Medical provides the services of certain Kern Medical Physicians to provide professional services in certain specialties at AHPN Clinics.

B. AHPN and Kern Medical desire to amend the Agreement to remove the provision of professional services by Kern Medical Physicians in the specialty of neurosurgery and add urology and plastic surgery to the Agreement.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.
2. **Exhibit 1.1.** Exhibit 1.1 to the Agreement is hereby amended and restated to read in its entirety as **Exhibit 1.1.**
3. **Exhibit 2.1.** **Exhibit 2.1** to the Agreement is hereby amended and restated to read in its entirety as attached **Exhibit 2.1.**
4. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
5. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.
6. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

[signature page follows]

IN WITNESS WHEREOF, AHPN and Kern Medical have executed this Amendment as of the day and year first written above.

AHPN

ADVENTIST HEALTH PHYSICIANS
NETWORK, a California nonprofit religious
corporation

A red circular stamp with a white 'G' is positioned over the signature line.

By: Arby Nahapetian
Its President

KERN MEDICAL

KERN COUNTY HOSPITAL AUTHORITY

By: Scott Thygerson
Its Chief Executive Officer

Date: _____

APPROVED AS TO FORM:

By: Karen S. Barnes
Its Vice President and General Counsel

Exhibit 1.1

SPECIALTIES

1. Urology
2. Plastic Surgery

Exhibit 2.1

COMPENSATION

1. **Professional Compensation.** AHPN shall pay to Kern Medical the following amounts for the Services provided by Kern Medical Physician (the “**Monthly Compensation**”):

A. **Urology.** For Services in the specialty of urology, AHPN shall pay Kern Medical on a pass-through basis in accordance with the following:

- i. **Professional Services:** Eight Hundred Ninety-Two Thousand Seven Hundred Eleven Dollars and Eighty-Five Cents (\$892,711.85) per FTE Kern Physician per year (“**Urology PSA Compensation**”), subject to the terms and conditions set forth below in Section 1.A.iii of this Exhibit 2.1. An “**FTE**” is defined as a Kern Medical Physician who provides a minimum of two thousand eighty hours (2,080) of Services per year.
- ii. **Call Coverage:** Compensation for AHPN Clinic Coverage and Hospital Call Coverage shall be in accordance with the following, depending on the number of Panel Members in the specialty of urology (“**Urology Panel Members**”):

# Panel Members	Weekday Rate (Monday - Friday)	Weekend Rate (Saturday/Sunday)
4 (1:4 call ratio) 5 (1:5 call ratio)	\$1,600/day	\$1,600/day
6 (1:6 call ratio)	\$1,000/day	\$1,200/day
7 (1:7 call ratio)	\$500/day	\$600/day

In the event that there are eight (8) or more Urology Panel Members, there shall be no additional compensation paid to Kern Medical by AHPN for call coverage.

- iii. The Parties shall conduct an annual reconciliation against the actual costs incurred by Kern Medical for the employment costs associated with Kern Medical Physicians providing Services in the specialty of urology under this Agreement; provided, however, that the aggregate compensation paid to Kern Medical for Services under Sections 1.A.i and ii in the specialty of urology (“**Urology Aggregate Compensation**”) shall not exceed Three Million Two Hundred Eight-Three Thousand Six Hundred Twenty-Eight Dollars (\$3,283,628) per year (“**Urology PSA Cap**”) even if Kern Medical’s costs exceed such amount. In the event that Kern Medical’s costs are less than the Urology Aggregate Compensation, then Kern Medical shall remit the different to AHPN within thirty (30) days of each anniversary date of this Agreement.

B. Plastic Surgery. For Services in the specialty of plastic surgery, AHPN shall pay Kern Medical on a pass-through basis in accordance with the following:

- i. Professional Services and 24/7/365 Call Coverage: Two Hundred Sixty Thousand Dollars (\$260,000) for a 0.3 FTE Kern Medical Physician.

2. **Specialist Recruitment Expenses.** Upon mutual agreement by the Parties, the Parties shall equally split the costs incurred by either Party in the recruitment of certain specialist physicians to provide professional services in the communities served by the Parties, including, but not limited to the specialties of urology and gastroenterology. Upon successful recruitment of such specialist physician, the Parties shall amend this Agreement to reflect the Parties' agreement relating to compensation for the Services such recruited physician would provide to AHPN and its affiliates hereunder.

3. **Timing.** AHPN shall pay the Compensation due for Services performed by Kern Medical in the immediately preceding month within ten (10) business days after Kern Medical's submission of the monthly time report in accordance with this Agreement, as applicable.



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

September 21, 2022

Subject: Proposed Resolution Revising the Extension of Excess Medical Professional Liability Coverage to Kern Medical Employed and Independent Contractor Physicians

Recommended Action: Approve; Adopt Resolution

Summary:

Kern County Hospital Authority provides professional liability coverage in the form of indemnification for all claims relating to the professional medical services rendered on behalf of the Authority; provided, however, that the indemnification does not extend to any services rendered at any location other than Kern Medical Center and its affiliated clinics without approval of your Board. Effective July 1, 2022, the Authority has self-insured the first \$2,000,000 per medical incident or occurrence and has purchased umbrella coverage of \$25,000,000 in excess of the self-insured retention through MagMutual Insurance Company.

On January 20, 2021, your Board adopted Resolution No. 2021-002, which revised the extension of excess professional liability coverage to Kern Medical employed and independent contractor physicians at specific authorized off-site locations. Kern Medical is recommending that Adventist Health Physicians Network ("AHPN") be added to the list of authorized off-site locations to facilitate the provision of services of certain Kern Medical physicians to provide services in certain specified specialties at AHPN clinics pursuant to that Professional Services Agreement entered into as of January 1, 2022, by and between AHPN and the Authority.

Extending excess medical professional liability coverage to employed and independent contractor physicians at the additional off-site locations will enable the physicians to generate additional revenue for Kern Medical Center and will provide Kern Medical Center the opportunity to care for patients and continue to build its reputation as a hospital of excellence. There is no added cost to the Authority's medical professional liability program to extend the requested coverage.

The Authority will administer/submit claims, if any, in excess of the \$2,000,000 self-insured retention to CNA, the Authority's excess medical professional liability carrier.

Therefore, it is recommended that your Board approve the recommendation and adopt the attached resolution revising the extension of excess medical professional liability coverage for employed and independent contractor physicians, when providing professional medical services on behalf of Kern Medical Center at the facilities listed in the resolution, effective September 21, 2022.

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

In the matter of:

Resolution No. 2022-____

**REVISED EXTENSION OF EXCESS MEDICAL
PROFESSIONAL LIABILITY COVERAGE
FOR KERN COUNTY HOSPITAL AUTHORITY
EMPLOYED AND INDEPENDENT
CONTRACTOR PHYSICIANS**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 21st day of September, 2022, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) The Kern County Hospital Authority ("Authority") provides professional liability coverage in the form of indemnification for all claims relating to the services rendered on behalf of the Authority; provided, however, that the indemnification does not extend to any services rendered at any location other than Kern Medical Center and its affiliated clinics without approval of the Board of Governors; and

(b) On June 22, 2016, the Board of Governors adopted Resolution No. 2016-012, which extended excess professional liability coverage to Kern Medical Center employed and independent contractor physicians at specific authorized off-site locations; and

(c) On September 21, 2016, the Board of Governors adopted Resolution No. 2016-018, which revised the extension of excess professional liability coverage to include Millennium Surgery Center, Physicians Plaza Surgical Center, Northwest Surgery Center, and Southwest Surgical Center to the list of authorized off-site locations; and

(d) On March 21, 2018, the Board of Governors adopted Resolution No. 2018-004, which revised the extension of excess professional liability coverage to include Southern California Orthopedic Institute, Bakersfield Specialists Surgical Center, LLC, and Kern Medical Surgery Center, LLC to the list of authorized off-site locations; and

(e) On August 21, 2019, the Board of Governors adopted Resolution No. 2019-010, which revised the extension of excess professional liability coverage to include DaVita Casa Del Rio Ht at Home, DaVita Bakersfield Dialysis Center, and DaVita Northeast Dialysis to the list of authorized off-site locations; and

(f) On January 20, 2021, the Board of Governors adopted Resolution No. 2021-002, which revised the extension of excess professional liability coverage to include Omni Family Health to the list of authorized off-site locations; and

(g) Kern Medical Center is recommending that Adventist Health Physicians Network (“AHPN”), an affiliate of Adventist Health System/West, located at 2701 Chester Avenue, Bakersfield, California 93301, be added to the list of authorized off-site locations to facilitate the provision of services of certain Kern Medical Center physicians to provide services in certain specialties at AHPN clinics pursuant to that Professional Services Agreement entered into as of January 1, 2022, by and between AHPN and Authority; and

(h) Extending excess medical professional liability coverage to employed and independent contractor physicians at these additional off-site locations will enable the physicians to generate additional revenue for Kern Medical Center and will provide Kern Medical Center the opportunity to care for patients and continue to build its reputation as a hospital of excellence; and

(i) The Authority has self-insured the first \$2,000,000 per medical incident or occurrence and has purchased umbrella coverage of \$25,000,000 in excess of the self-insured retention, effective July 1, 2022; and

(j) There is no added cost to the Authority’s medical professional liability program to extend the requested coverage to these off-site locations; and

(k) The Authority will administer/submit claims, if any, in excess of the self-insured retention to MagMutual Insurance Company, the Authority's excess medical professional liability carrier.

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

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

2. This Board finds the best interests of the Authority shall be served by extending excess medical professional liability coverage to Kern Medical Center employed and independent contractor physicians at the following authorized off-site locations:

- (a) Comprehensive Blood and Cancer Center;
- (b) Mercy Hospital;
- (c) Bakersfield Memorial Hospital;
- (d) Adventist Health Bakersfield;
- (e) Bakersfield Heart Hospital;
- (f) Millennium Surgery Center;
- (g) Physicians Plaza Surgical Center;
- (h) Northwest Surgery Center;
- (i) Southwest Surgery Center;
- (j) Bahamas Surgery Center;
- (k) Clinica Sierra Vista;
- (l) Southern California Orthopedic Institute;
- (m) Bakersfield Specialists Surgical Center, LLC;
- (n) Kern Medical Surgery Center, LLC;
- (o) Kern County owned and operated correctional facilities;
- (p) Kern County Behavioral Health and Recovery Services;
- (q) DaVita Casa Del Rio Ht at Home;
- (r) DaVita Bakersfield Dialysis Center;
- (s) DaVita Northeast Dialysis;
- (t) Omni Family Health;
- (u) Adventist Health Physicians Network; and
- (v) Facilities owned or leased and operated by the Authority.

3. The provisions of this Resolution shall be effective, in force, and operative as of the 1st day of January, 2021.

4. Resolution No. 2021-002, adopted by the Board of Governors on January 20, 2021, is hereby repealed and superseded by this Resolution.

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

Kern Medical Center
Chief Executive Officer
Chief Financial Officer
Chief Medical Officer
Chief Ambulatory and Outreach Officer
Vice President, Strategic Development
Legal Services Department
Workers' Compensation & Liability Manager
MagMutual Insurance Company
Alliant Insurance Services, Inc.



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

September 21, 2022

Subject: Proposed retroactive Master Service Agreement with Signature Performance, Inc. d/b/a Signature Performance Healthcare LLC, to provide Medical Records Coding for the revenue cycle process.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Master Service Agreement with Signature Performance, Inc. for medical coding services for both facility and professional coding. Coding is a required part of the revenue cycle for sending out claims for payment.

On an average, daily basis 6 million dollars in charges are coded on the facility side and on the professional side a much higher volume is coded for an average daily 800,000 in charges. Current staffing levels would not be able to keep up with the rising volumes, therefore contract support is needed for continued revenue cycle efficiency.

A comparison of four (4) other companies was done and only one company was less expensive but with further research, the less expensive company did not rate as well as Signature Performance. The current agreement with Signature Performance went through Kern Medical's group purchasing organization ("GPO"), but to receive the discount, we are now proposing a direct agreement. The retroactive aspect of this Master Services Agreement is due to a delay from the vendor although, due to the current agreement through the GPO, there will be no gap in service.

The budgeted yearly cost of this contract is per year is \$2,745,000 for facility contracted coding services, and \$2,745,000 for Professional coding services. The cost for facility coding is based on the 12-month total invoices for 2021 for facility coding. The cost for the professional services is an estimated cost based on the current workload. **The total combined cost for this agreement is \$5,490,000 per year.**

Therefore, it is recommended that your Board approve the retroactive Master Service Agreement with Signature Performance, Inc. d/b/a Signature Performance Healthcare LLC for coding services for Kern Medical's Revenue Cycle beginning September 1, 2022 through August 31, 2023, with automatically renewal for successive one (1) year terms, in an amount not to exceed \$5,490,000 per year, and authorize the Chairman to sign.



MASTER SERVICE AGREEMENT

This Master Service Agreement for Medical Records Coding ("Agreement") is entered into by and between **Signature Performance, Inc. d/b/a Signature Performance Healthcare LLC**, located at 10330 Regency Parkway Drive, Suite 305, Omaha, Nebraska 68114 ("Signature Performance") and **Kern County Hospital Authority**, a local unit of government, which owns and operates **Kern Medical Center**, ("Client") located at 1700 Mount Vernon Avenue, Bakersfield, California 93306, (Individually a "Party" and collectively the "Parties.").

WITNESSETH:

WHEREAS, Signature Performance provides various Medical Records Coding services ("Services") as set forth in detail in attached Statement of Work ("SOW"), to healthcare providers;

WHEREAS, Client has determined that there is a legitimate need for the provision of such Services; and

WHEREAS, Signature Performance and Client desire to enter into this Agreement whereby Signature Performance will provide such Services to Client pursuant to the terms of this Agreement and attached SOW's.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, Signature Performance and Client agree as follows:

1. **Term of the Agreement.** Unless earlier terminated pursuant to section 30 below, this Agreement shall become effective on the 1st day of September 2022 (the "Effective Date") and shall remain in effect for 12 months from the Effective Date (the "Initial Term"). Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year terms (the "Renewal Term(s)") (collectively, with the Initial Term, the "Term"). Notwithstanding the foregoing, the termination or expiration of a SOW shall not affect this Agreement or any other SOW. In the event this Agreement is terminated or expires and a SOW hereunder is still in effect and not terminated or expired, the provisions of this Agreement shall govern such SOW until its termination or expiration.
2. **Responsibilities of the Parties.**
 - (a) Signature Performance agrees that it shall perform Services as further set forth and outlined in one or more SOW's to be separately executed by the Parties.
 - (b) The Parties acknowledge that the activities described in the Agreement and the exchange of information will be governed by the Health Insurance Portability and Accountability Act, as amended, and the regulations and official federal guidance promulgated thereunder (collectively, "HIPAA"). In that regard, the Parties acknowledge and warrant to each other that their respective activities undertaken pursuant to the Agreement shall

conform to the requirements set forth in the Business Associate Agreement (BAA) dated 9/1/2022 attached hereto as Exhibit C and by this reference incorporated herein.

3. **Audit Rights.** During the Term of this Agreement and for a period of at least four (4) years after the completion of the Agreement, Signature Performance shall maintain, in accordance with generally accepted accounting principles, such records as are necessary to substantiate that all charges for payment were valid and properly chargeable to Client. The records, whether written or in electronic form to be maintained hereunder, include, all documents relevant to Client's account which are retained consistent with Signature Performance's normal business practices. During the Term of this Agreement, Client's third-party audit representatives shall, upon reasonable prior notice to Signature Performance, during normal business hours, and at Client's sole cost and expense, be given the opportunity to audit such records of Signature Performance which are necessary to verify the accuracy of Signature Performance's invoices and charges. Such audits shall be conducted so as not to unduly interfere with Signature Performance's normal operations. Client may not conduct more than one audit during any calendar year. If the audit produces evidence of any variance from Client's invoices, a credit will be issued within fifteen (15) days of written notice of such variance to Signature Performance. Client will make available to Signature Performance any information reasonably necessary for Signature Performance to respond to or participate or defend itself in any investigation, proceeding or litigation.
4. **Record Availability.** Client shall provide records to Signature Performance on a routine and timely basis. The electronically stored record will be accessible via a HIPAA-approved secure connection by Signature Performance and Client via the Internet. This information will be available twenty four (24) hours a day, seven (7) days per week, except for required system maintenance. Notwithstanding the foregoing, Signature Performance reserves the right to determine upon what days and what times work shall be performed hereunder. Client shall provide Signature Performance access to the coding and abstracting systems at the Client via the VPN and as much advance notice as is practicable under the circumstances as to the dates and times that Signature Performance will be unable to perform the Services contemplated under this Agreement due to facility or equipment maintenance, malfunction, construction, or other circumstances prohibiting the performance of the Services hereunder. All images will be stored by Signature Performance for 30 days, or until the record has been coded, whichever is longer.
5. **Accuracy of Data.** Client agrees that the accuracy of any data submitted to Signature Performance for coding services shall be the sole responsibility of Client. Client acknowledges that Signature Performance does not assume and shall not be liable for any adverse consequences that may occur due to the inaccuracy of information provided to Signature Performance by Client for coding services.
6. **Turn Around Time.** Signature Performance agrees to perform these Services according to Client's protocol and within a reasonable period of time that is in accordance with industry standards. In the event Signature Performance agrees to a specific timeline for performance of Services hereunder and such Services are dependent on the delivery of information by

the client, any such information received after noon (12pm) CST will be considered received on the next business day.

7. **Communication.** Client will provide a single contact person within the Client organization to enable communication between Signature Performance and Client.
8. **Training.** Client will provide system access, assistance, and training to Signature Performance Management for any new computer systems Client implements and are required to be accessed by Signature Performance personnel. Client will provide internal coding guidelines to Coding Specialists at the beginning of training and as updated for duration of contract.
9. **Consideration; Fee Structure Changes.** In consideration of Signature Performance's performance under this Agreement, Client agrees to pay fees as set forth in the applicable SOW. Client acknowledges and agrees that (i) such fees are based upon information provided to Signature Performance by Client regarding Client's business and needs, (ii) Signature Performance is relying on the accuracy of such information to procure resources necessary to provide the Services and (iii) such fees assume that Client will perform the items in the SOW under "Client Responsibilities." If such information is not accurate, if there is a material change in Client's business or needs or if Client fails to perform such items, Signature Performance may, in its sole discretion, revise its fees under this Agreement upon sixty (60) days' notice to Client.
10. **Invoicing.** Signature Performance shall submit an invoice to Client once per month, for Services provided through the last day of the prior month. Client shall remit payment to Signature Performance for Services provided hereunder (without setoff, counterclaim or deduction of any kind) within thirty (30) days following receipt of the invoice.
11. **Late Penalty.** For all invoices not paid within thirty (60) days upon receipt by Client, Client agrees to reimburse Signature Performance for any and all costs incurred by Signature Performance to collect upon unpaid invoices, including attorney's fees and expenses related to such collection efforts.
12. **Indemnification / Liability.**
 - (a) **Signature Performance Indemnification.** Except as provided herein, Signature Performance agrees that it will indemnify, defend, and hold harmless Client, its officers, agents, and employees from any loss, cost, damage, expense, attorneys' fees, and liability arising out of, or as a result of, the sole negligent act or negligent failure to act of Signature Performance, or any of its agents or employees or arising from any claim alleging that the software provided to Client infringes any third party's valid proprietary rights;. During the term of this Agreement, Signature Performance shall maintain comprehensive liability insurance, including coverage for error and omissions, on an occurrence basis in the minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate, as well as Workers' Compensation insurance covering all Signature Performance

employees and agents who perform services pursuant to this Agreement. Signature Performance will not contract for the performance of any part of the services without imposing similar insurance obligations on any subcontractor so employed.

- (b) Client Indemnification. Client agrees that it will indemnify, defend, and hold harmless Signature Performance, its officer, agents, and employees from any loss, cost, damage, expense, attorneys' fees, and liability arising out of or as a result of the negligent act or negligent failure to act of Client, or any of its agents or employees. During the term of this Agreement, Client shall maintain comprehensive liability insurance or self-insurance, including coverage for error and omissions, on an occurrence basis in the minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate of all claims, as well as Workers' Compensation insurance covering all Client employees and agents who perform services pursuant to this Agreement.

13. Limitation of Liability.

- (a) Notwithstanding any other provision of this Agreement to the contrary, Signature Performance's liability to Client shall be limited to and shall in no event exceed the total amount actually paid by Client to Signature Performance under this Agreement during the twelve (12) month period prior to the date of said determination. In addition, Signature Performance shall not be responsible for any damages relating to or errors or omissions in any information received from the Client. Signature shall not be responsible for any unauthorized or other improper transmission by or on behalf of Client. Notwithstanding anything to the contrary, Signature's limitations of liability shall not apply to, affect, or limit: (i) any of Signature's duties to indemnify Customer in accordance with this agreement and/or (ii) any third party claims
- (b) In no event shall either Party be liable under the Agreement for any indirect, incidental, special, consequential or punitive damages, or damages for business interruption, loss of profits, revenue, data or use, or cost of cover suffered by the other Party or by any third party, whether in an action in contract or tort, and even if the Party has been advised of or is aware of the possibility of such damages; provided, however that the foregoing limitation shall not apply to any fines or penalties imposed by any federal or state administrative agency arising from or in connection with a violation of applicable law.
- (c) Liability of Client. The liabilities or obligations of Client with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Client and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California. California Health and Safety Code Section 101853(g)

14. Warranties. Signature Performance represents and warrants to Client that:

- (a) It will perform the Services described in this Agreement and in the SOWs in a timely, professional and workmanlike manner in full accordance with the terms of this

Agreement, all applicable laws, and the commercially reasonable standards of the industry using qualified personnel.

(b) Both Parties represent and warrant:

- i. Each has the requisite power and authority to enter into this Agreement (including any SOWs and the BAA) and to perform its defined obligations, and this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.
- ii. Each Party's execution and performance of this Agreement and all SOWs do not and will not violate the legal or contractual rights of any third party.
- iii. Each will protect the privacy and security of the personal health information of Client's patients and will also protect the other Party's Confidential Information.
- iv. Each will comply, in all respects, with the provisions of this Agreement (including any SOWs and the BAA).

15. Agreement Not To Hire Employees. During the term of this Agreement and for a period of one (1) year after termination of this Agreement, client shall not, directly or indirectly, knowingly solicit or hire any employee or employees of Signature Performance, or solicit or engage any independent contractor that Signature Performance exclusively engages, unless Signature Performance expressly agrees to such solicitation, hiring or engagement. In the event of breach of this Section, Client shall, within fifteen (15) days of the date the applicable employee is hired or contractor is engaged, pay to Signature Performance as liquidated damages, an amount equal to two times the annual salary or contractor payment, as applicable, of the person hired or engaged by Client. Signature Performance shall also be entitled to pursue any other remedies available under law.

16. Independent Contractors. None of the provisions of this Agreement are intended to create any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the Parties, nor any of their respective officers, directors, employees, or agents, shall have the authority to bind the other or shall be deemed or construed to be the agent, employee, or representative of the other except as may be specifically provided herein. Neither Party, nor any of their employees or agents, shall have any claim under this Agreement or otherwise against the other Party for Social Security benefits, workers' compensation, disability benefits, unemployment insurance, vacation, sick pay, or any other employee benefits of any kind. This provision shall survive termination of this Agreement.

17. Amendments. This Agreement may be amended only by an instrument in writing signed by the Parties hereto.

18. **Assignment.** Neither Party may assign this Agreement without the prior written approval of the other Party.

19. **Confidentiality of Materials.** All knowledge and information acquired, directly or indirectly, which is not already in the public domain by Signature Performance during the term of this Agreement concerning the business affairs, operations, customer bases, and financial data of Client is deemed to be confidential and proprietary to Client ("Client Confidential Information"), will be held in trust and confidence by Signature Performance, and Signature Performance shall maintain in confidence Client Confidential Information and prevent disclosure thereof to others, except to the extent disclosure is required by applicable law or is necessary in order to provide the Services.

Likewise, all knowledge and information acquired, directly or indirectly, which is not already in the public domain by Client during the term of this Agreement concerning the business affairs, operations, customer bases, and financial data of Signature Performance ("SP Confidential Information") is deemed to be confidential and proprietary to Signature Performance, will be held in trust and confidence by Client, and Client shall maintain in confidence SP Confidential Information and prevent disclosure thereof to others, except to the extent disclosure is required by applicable law.

20. **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all previous contracts or agreements between the Parties with respect to the subject matter contained herein.

21. **Equal Opportunity Employment.** Signature Performance is an Equal Employment Opportunity/Affirmative Action Employer. Signature Performance assures fair and equal treatment in all its employment practices for all persons regardless of race, national origin, color, religion, sex, age, or against any qualified handicapped individual, disabled Veteran or Vietnam Veterans. Signature Performance will take appropriate affirmative action to employ and to advance in employment qualified women, minority group members, disabled individuals, disabled Veterans and Vietnam Veterans.

22. **Governing Law.** Intentionally Omitted.

23. **Severability.** If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable, the remainder of this Agreement and the application of any term or provision to person or circumstance other than those to which it is held invalid or unenforceable to the fullest extent permitted by law.

24. **Excluded Provider.** Each party hereby represents and warrants that it is not now and at no time has been excluded from participation in any federally funded health care program, including Medicare and Medicaid. Each party hereby agrees to immediately notify the other of any actual exclusion from any federally funded health care program, including Medicare and Medicaid. Each party further represents and warrants that none of its employees are now excluded from participation in any federally funded health care program, including

Medicare and Medicaid, and that if an employee of one party becomes so excluded, such employee shall be terminated. In the event that either party is excluded from participation in any federally funded health care program during the term of this Agreement, this Agreement shall, as of the effective date of such exclusion or breach, automatically terminate. Each party shall indemnify the other for any and all damages arising from this Agreement which result from its exclusion from any federally funded health care program, including Medicare and Medicaid.

25. **Effect of Government Regulation.** Either party shall have the right to terminate or amend this Agreement, without liability, to comply with any legal order, ruling, opinion, procedure, policy, or other guidance issued by any federal or state agency, or to comply with any provision of law, regulation, or any requirement of accreditation, tax-exemption, federally-funded health care program participation or licensure which: (i) invalidates or is inconsistent with the provisions of this Agreement; (ii) would cause a party to be in violation of the law; or (iii) jeopardizes the good standing status of licensure, accreditation or participation in any federally-funded health care program, including the Medicare and Medicaid programs, of either party, or any affiliate of either party. If either party deems it necessary to amend this Agreement as provided in this Section and the amendment is unacceptable to the other party, the other party may choose to terminate this Agreement without cause.
26. **Waiver of Breach.** The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as nor be construed to be, a waiver of any subsequent breach thereof.
27. **Notices.** All notices and other communications required or permitted to be given shall be made in writing and shall be considered given and received when (a) personally delivered to the other Party, (b) delivered by courier, (c) delivered by facsimile or (d) deposited in the United States mail, postage prepaid, return receipt requested and addressed as set forth below or at such other address such Party shall have specified by notice given in accordance with the provisions of this Section:

If to Signature Performance:

Signature Performance
Josh Klein
Vice President of Operations
10330 Regency Parkway Dr.
Suite 305
Omaha, NE 68114

If to Client:

Kern Medical Center
1700 Mt. Vernon Ave.
Bakersfield, CA 93306
Attn: Chief Executive Officer
contracts@kernmedical.com

*With a copy by regular United States mail,
postage prepaid, to:*

*With a copy by regular United States
mail, postage prepaid, to:*

Corporate Compliance
Signature Performance, Inc..
10330 Regency Parkway Dr.
Suite 305
Omaha, NE 68114

28. Force Majeure. Notwithstanding any provision hereof, non-performance by either Party of its obligations hereunder, whether whole or in part, which are due to any cause, contingency, event or condition not within its control or which it could not by reasonable diligence have avoided or remedied, shall not constitute a breach of this Agreement by such Party.

29. Termination. This Agreement may be terminated as follows:

- (a) Termination by Agreement. Signature Performance and Client. May agree in writing that this Agreement may be terminated on the terms and date stipulated therein.
- (b) Termination and Notice of Default. If either party breaches this Agreement and fails to cure such breach to the satisfaction of the other party within thirty (30) days following a written notice from the non-breaching party, the non-breaching party may immediately terminate this Agreement by giving written notice of such termination to the other party. If Signature Performance terminates this Agreement pursuant to this Section (b), Client shall not be relieved from any remaining payment due to its minimum commitment reflected in Exhibit B.
- (c) Termination Without Cause. Either party may terminate this Agreement upon sixty (60) days written notice to the other party; provided, however, that if Client terminates this Agreement without cause pursuant to this Section c), Client shall not be relieved from any remaining payment due for work that has been completed or in process of being completed.

30. Suspension of Services. In the event Client becomes delinquent on payment to Signature Performance for Services, Signature Performance shall have the right, at its option, to suspend Services, without being in breach of this Agreement, until such time as Client becomes current on payment for Services. Signature Performance's right to suspend Services shall be in addition to any and all other rights and recourse Signature Performance may have for Client's failure to pay for Services. Signature Performance's decision to suspend or not suspend Services for non-payment shall not be construed as a waiver of Signature Performance's right to suspend Services at any time for non-payment in the future and Signature Performance shall be deemed to have the right to suspend Services for non-payment at any time at its option and discretion.

31. Integration and Understanding. There are no understandings between the Parties hereto as to the subject matter of this fully integrated Agreement other than as herein set forth and in the documents specifically incorporated herein. All previous communications concerning the subject matter of this Agreement are hereby superseded and this Agreement shall constitute the entire and integrated Agreement between the Parties.



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above. Each Party hereto, by executing this Agreement below, states that it has read and understands this Agreement in its entirety.

**Kern County Hospital Authority
On behalf of Kern Medical Center**

**Signature Performance, Inc.
d/b/a Signature Performance Health Care, LLC**

By: _____

By: KJ Hudgins

Name: Russell Bigler

Name: Karen Hudgins

Title: Chairman, Board of Governors

Title: President & COO

Date: September 21, 2022

Date: 9/15/2022

APPROVED AS TO FORM
Legal Services Department

By: [Signature]
Kern County Hospital Authority



EXHIBIT A
Statement of Work 001
Under Master Service Agreement Dated 9/1/2022

BETWEEN
Signature Performance, Inc. d/b/a Signature Performance
Healthcare LLC ("Signature Performance")

AND

Kern County Hospital Authority ("Client")

Pursuant to this Agreement, Signature Performance and Client agree as follows:

1. GENERAL DESCRIPTION OF WORK

Signature Performance will provide approximately 50-60 FTE who are United States based medical coders credentialed by one of the two coding accrediting bodies of AHIMA and or AAPC to remotely code Client's patient records in accordance with the ICD-10-CM/PCS guidelines, CPT and HCPCS official coding guidelines recognized by the American Hospital Association (AHA), the Centers for Medicare and Medicaid Services (CMS), and the American Medical Association (AMA).

The medical coding services include:

1. Inpatient
2. Outpatient
 - a. Emergency Department
 - b. Clinic
 - c. Ancillary Services
3. Professional Fee coding
 - a. Inpatient rounds
 - b. Observation rounds
 - c. Multi-specialty outpatient services

Signature Performance will provide and maintain the equipment needed for staff to perform these Services. Signature Performance will follow the policies and procedures provided and approved by the Client. In the event a particular policy or procedure is unclear, Signature Performance will seek clarification from Client regarding the implementation of those policies and procedures.

Client Responsibilities

1. Provide remote access to patient accounting, medical records, HIM systems, and any other applicable systems
2. Provide remote training on patient accounting, medical records, and HIM systems as needed
3. Help facilitate coding and/or provider training session participation as needed



4. Client will share with Signature Performance any specific Client coding processes or procedures.
5. Provide Signature Performance with data and reports if applicable (to be defined) via a secure SFTP site.

2. SCHEDULE OF SERVICES

Statement of Work 001 shall remain in effect for 12 months from the Effective Date (the "Initial SOW Term"). Upon expiration of the Initial SOW Term, Statement of Work 001 shall automatically renew for successive one (1) year terms (the "SOW Renewal Term(s)") (collectively, with the Initial SOW Term, the "Term").

All other terms and conditions are governed by the Master Service Agreement dated 9/1/2022.

IN WITNESS WHEREOF, the parties hereto have executed this Statement of Work 001 by their duly authorized officers.

Kern County Hospital Authority
On behalf of Kern Medical Center

Signature Performance, Inc.
d/b/a Signature Performance Health Care, LLC

By: _____

By: KJ Hudgins

Name: Russell Bigler

Name: Karen Hudgins

Title: Chairman, Board of Governors

Title: President & COO

Date: September 21, 2022

Date: 9/15/2022

EXHIBIT B

Fee Schedule: Coding, Auditing, & HIM Services

Signature Performance will provide Services to Client on a Time and Materials basis at the following labor rates:

Task	Price per Hour
Inpatient 2 days or Less	\$ 74.37
IP 3-6 days	\$ 76.18
IP 7-10 days	\$ 77.99
IP greater than 10 days	\$ 79.80
ER with E/M	\$ 62.47
OP Diagnostic (Ancillary)	\$ 57.94
OP (Clinic)	\$ 61.56
Professional Fee	\$ 61.56
Clinic w/ EM	\$61.56

*Onsight coding and Physician Training services will be priced upon request

Remote Coding Program – Overtime (in excess of 40 per week),

Weekend, and Holiday Coverage

Coding	Remote/ Hourly
Inpatient	One and ½ times hourly rate
Outpatient, Ambulatory Surgery, ER & Claim/Coding Edit Resolution	One and ½ times hourly rate
DRG Validation	One and ½ times hourly rate

EXHIBIT C

BUSINESS ASSOCIATE AGREEMENT

This **BUSINESS ASSOCIATE AGREEMENT** (“BAA”) is made by and between **KERN COUNTY HOSPITAL AUTHORITY**, a local unit of government, which owns and operates **KERN MEDICAL CENTER**, Covered Entity (“CE”), and **Signature Performance Healthcare, Inc., d/b/a/ Signature Performance Health Care, LLC**, Business Associate (“BA”), this 4th day of August, 2022 (“Effective Date”). Terms used in this BAA without definition shall have the respective meanings assigned to such terms by the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act and their implementing regulations as amended from time to time (collectively, “HIPAA”).

RECITALS

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

WHEREAS, BA performs Services for or on behalf of CE, and in performing said Services, BA creates, receives, maintains, or transmits Protected Health Information (“**PHI**”);

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

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

AGREEMENT

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

ARTICLE I
DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II OBLIGATIONS OF BUSINESS ASSOCIATE

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

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

2.3 Reporting Non-Permitted Use or Disclosure.

2.3.1 Reporting Security Incidents and Non-Permitted Use or Disclosure. BA shall report to CE in writing each Security Incident or Use or Disclosure that is made by BA, members of its Workforce, or SubContractors that is not specifically permitted by this BAA no later than twenty-four (24) hours after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Notwithstanding the foregoing, BA and CE acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and CE acknowledges and agrees that no additional notification to CE of such ineffective Security Incidents is required, as long as no such incident results in unauthorized access, Use or Disclosure of PHI. BA shall investigate each Security Incident or non-permitted Use or Disclosure of CE’s PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of

Unsecured PHI and shall provide a summary of its investigation and risk assessment to CE. BA shall document and retain records of its investigation of any suspected Breach, including its reports to CE under this Section 2.3.1. BA shall take prompt corrective action and any action required by applicable state or federal laws and regulations relating to such Security Incident or non-permitted disclosure. If BA or CE, in its review of this initial report, determines that such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then BA shall comply with the additional requirements of Section 2.3.2 below.

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

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

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

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

2.6 Access to Protected Health Information. To the extent that BA maintains a Designated Record Set on behalf of CE and within fifteen (15) days of a request by CE, BA shall

make the PHI it maintains (or which is maintained by its SubContractors) in Designated Record Sets available to CE for inspection and copying, or to an Individual to enable CE to fulfill its obligations under 45 C.F.R. § 164.524. If BA maintains PHI in a Designated Record Set electronically, BA shall provide such information in the electronic form and format requested by the CE if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by CE to enable CE to fulfill its obligations under 45 C.F.R. § 164.524(c)(2). BA shall notify CE within five (5) days of receipt of a request for access to PHI from an Individual.

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

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

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

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

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

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

ARTICLE III OBLIGATIONS OF COVERED ENTITY

3.1 CE's Obligations.

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

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

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

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

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

ARTICLE IV TERM AND TERMINATION

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

4.2 Termination of Underlying Agreement.

4.2.1 A breach by BA of any provision of this BAA, as determined by CE, shall constitute a material breach of the Underlying Agreement and shall provide grounds for immediate termination of the Underlying Agreement, any provision in the Underlying Agreement to the contrary notwithstanding.

4.2.2 CE may terminate the Underlying Agreement, effective immediately, if:
(i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Rules or

other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

4.3 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in any Underlying Agreement, upon CE's knowledge of a material breach or violation of this BAA by BA, CE shall either:

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

4.3.2 Upon thirty (30) calendar day written notice to BA, immediately terminate this BAA and any Underlying Agreement if CE determines that such breach cannot be cured.

4.4 Disposition of Protected Health Information Upon Termination or Expiration.

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

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

ARTICLE V MISCELLANEOUS

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

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

5.3 Relationship to Underlying Agreement Provisions. In the event that a provision of this BAA is contrary to a provision of an Underlying Agreement, the provision of this BAA

shall control. Otherwise, this BAA shall be construed under, and in accordance with, the terms of such Underlying Agreement, and shall be considered an amendment of and supplement to such Underlying Agreement.

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

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

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

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

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

5.9 Legal Actions. Promptly, but no later than five (5) business days after notice thereof, BA shall advise CE of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may

affect the interests of CE or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

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

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

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

Covered Entity's Notice Address:

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

Business Associate's Notice Address:

Signature Performance, Inc.
Corporate Compliance
1033 Regency Parkway Dr.
Suite 305
Omaha, NE 68114

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

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

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

5.16 Governing Law; Applicable Law and Venue. This BAA shall be construed in accordance with the laws of the State of California applicable to agreements made and to be performed in such state. Any dispute between the Parties shall be brought before the Superior Court of Kern County, California, which shall have jurisdiction over all such claims.

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

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

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

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

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

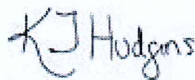
The Parties hereto have executed this BAA as of the Effective Date.

COVERED ENTITY:

The Kern County Hospital Authority on
behalf of Kern Medical Center

BUSINESS ASSOCIATE:

Signature Performance, Inc., d/b/a Signature
Performance Health Care, LLC



Name: Russell Bigler

Name: Karen Hudgins

Title: Chairman, Board of Governors

Title: President & COO

Date: September 21, 2022

Date: 9/15/2022



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

September 21, 2022

Subject: Response to Board referral for a trending analysis report of Kern Medical Center births (from August 17, 2022)

Recommended Action: Receive and File

Summary:

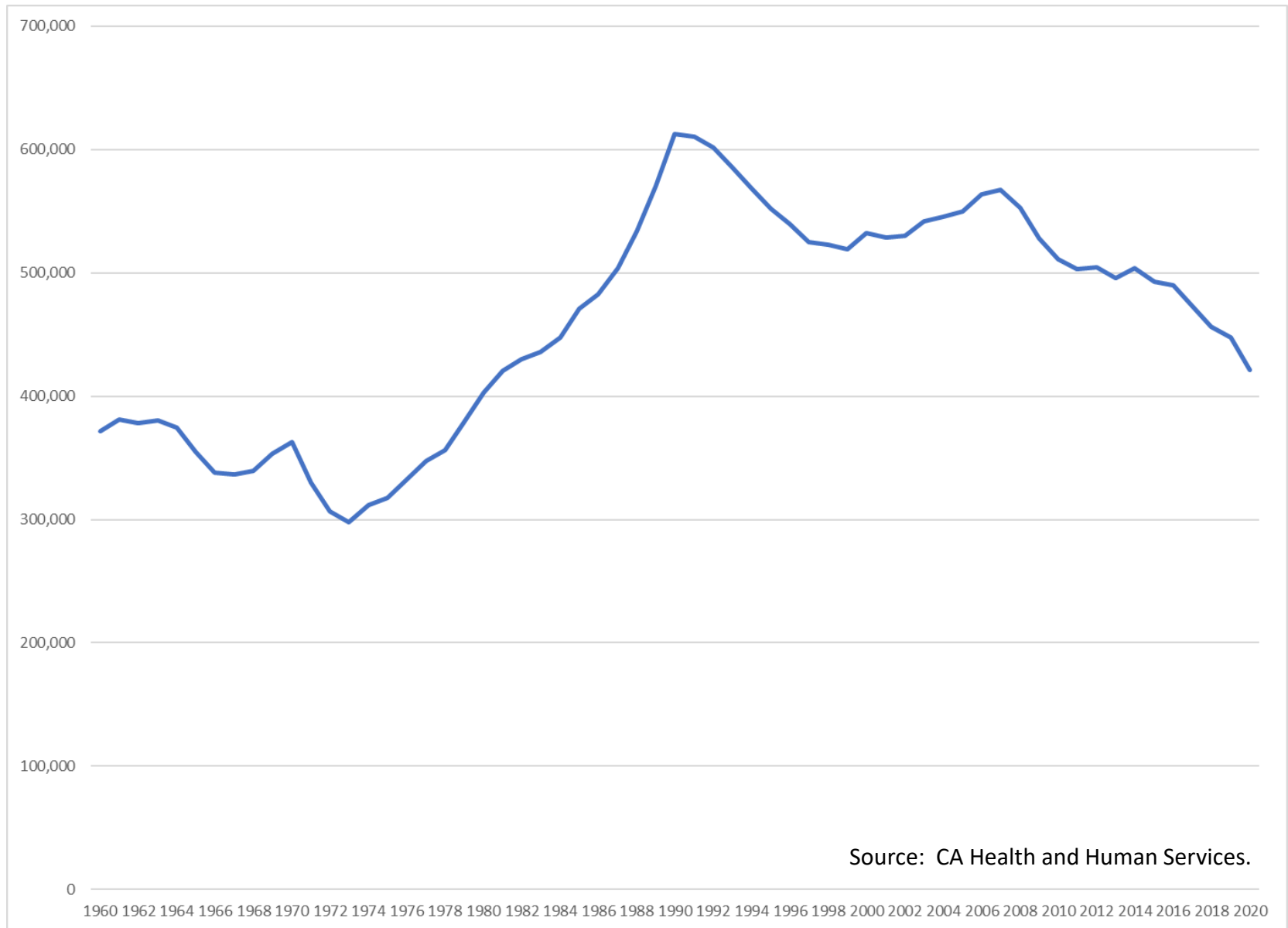
On August 17, 2022, your Board made a referral to staff for a trending analysis report of Kern Medical Center births.

Therefore, it is recommended that your Board receive and file the attached trending analysis report of Kern Medical Center births.

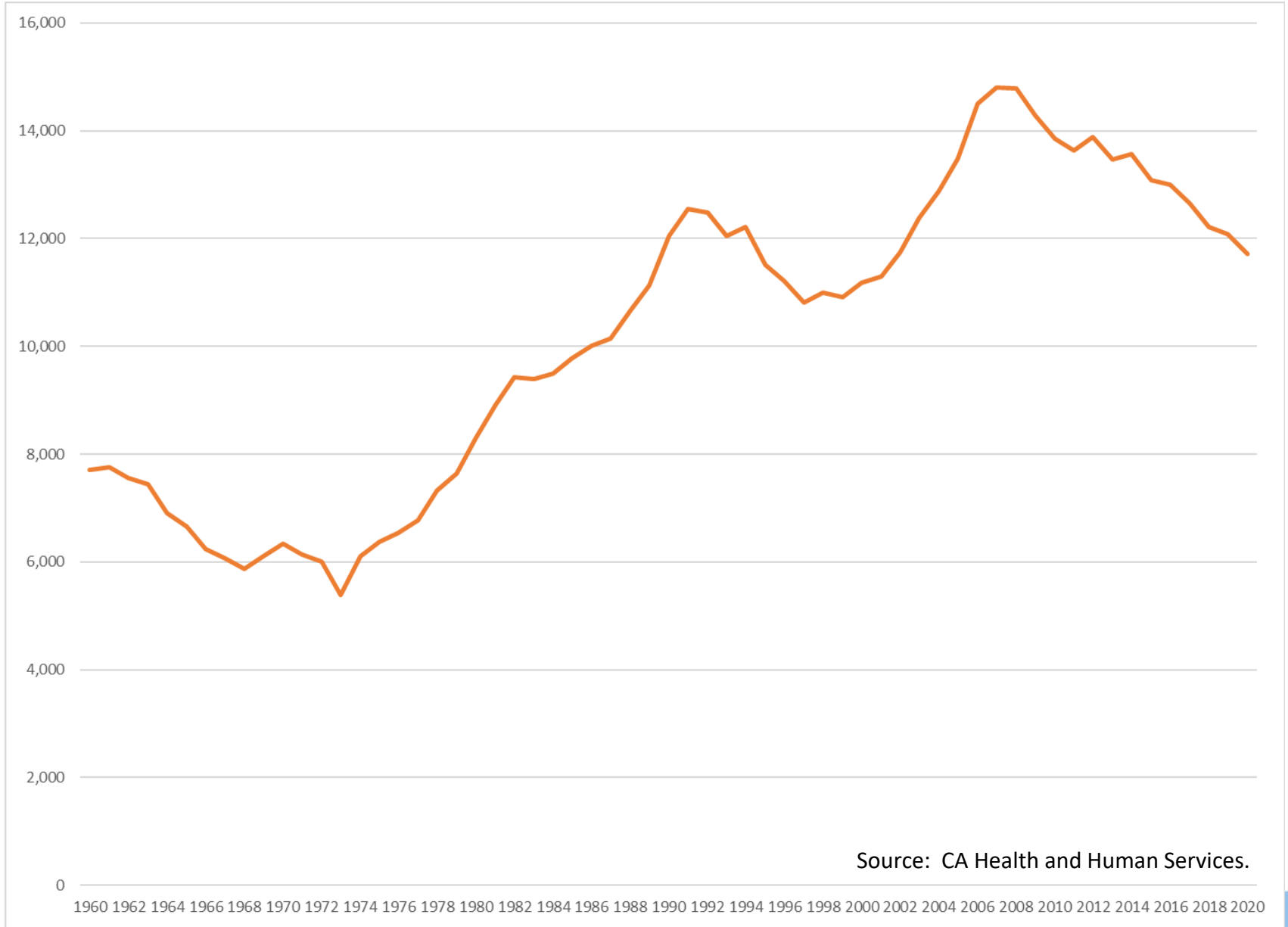


Kern County Birth Data Presented Sept 21, 2022

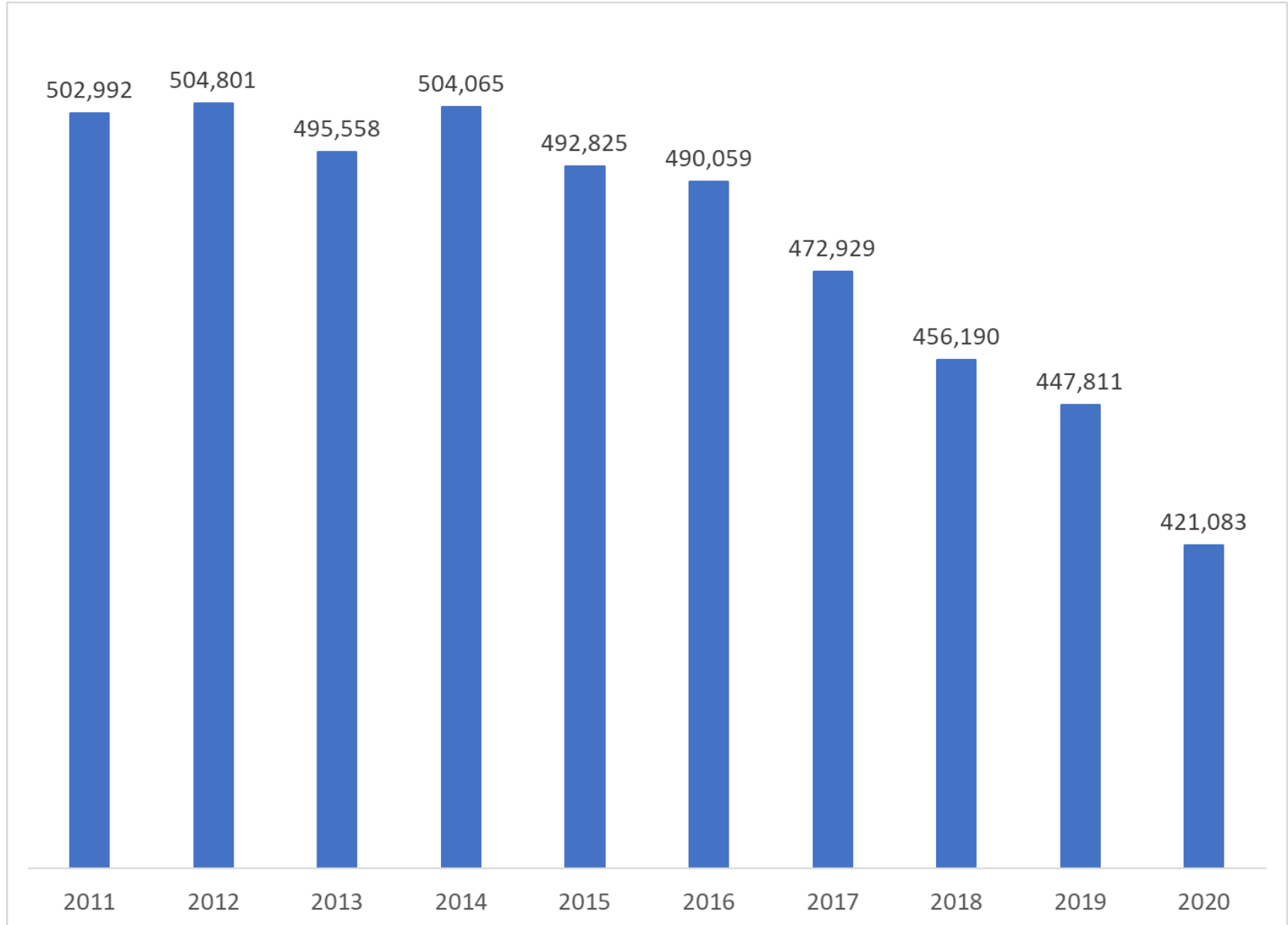
California – Total Births 1960-2020



Kern County – Total Births 1960-2020

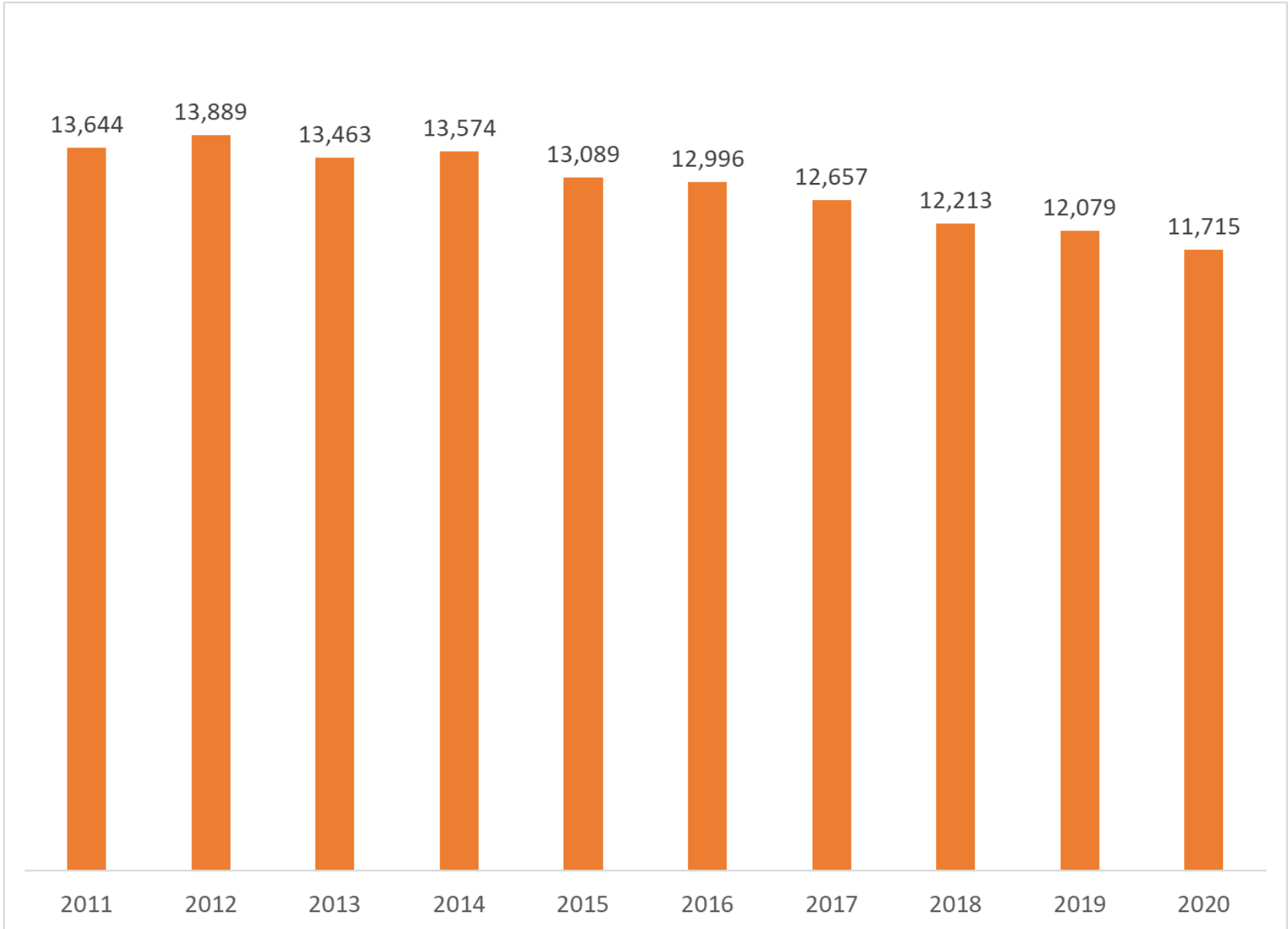


California – Total Births 2011-2020



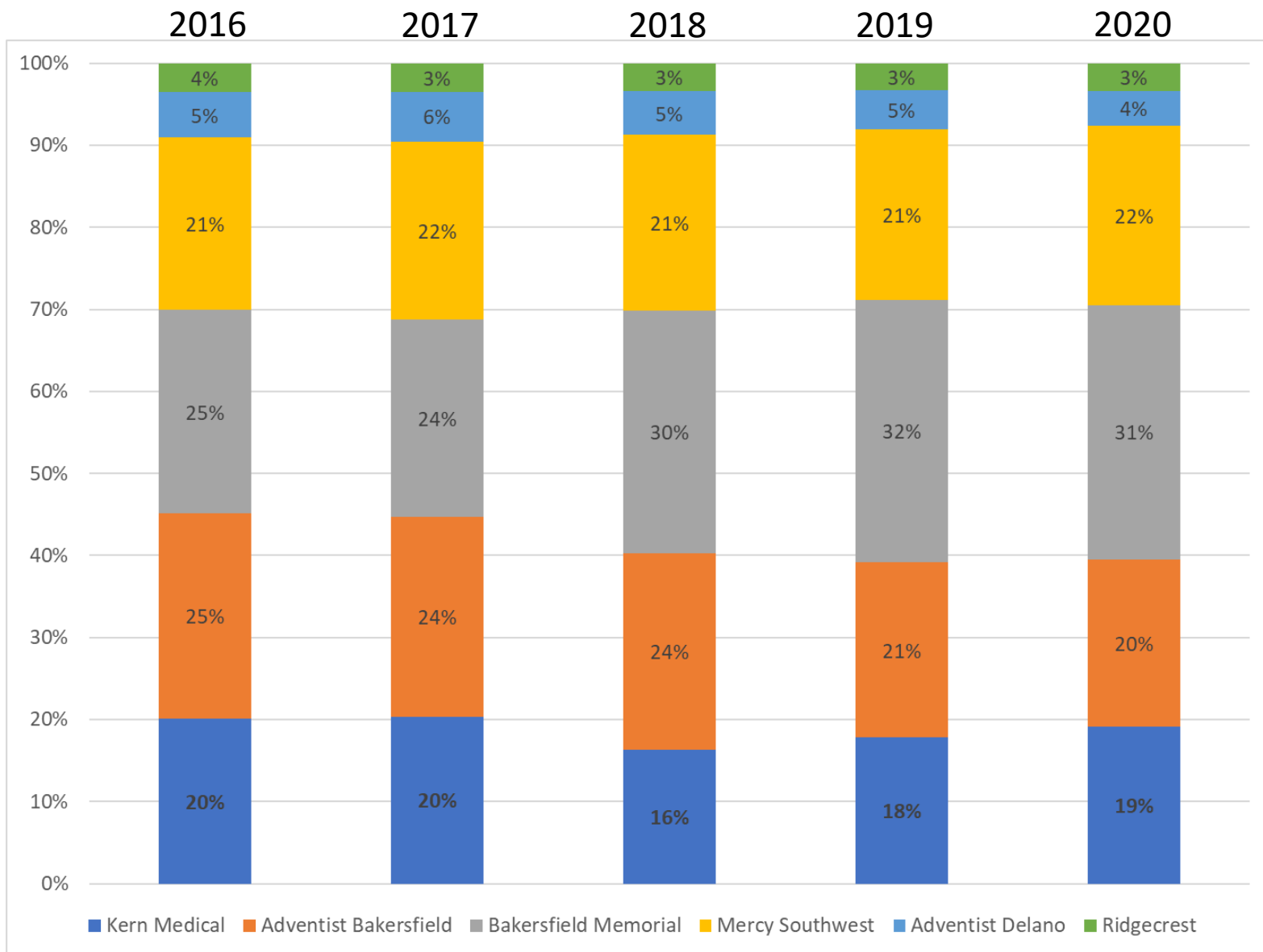
Source: CA Health and Human Services.

Kern County – Total Births 2011-2020



Source: CA Health and Human Services.

Kern County Hospitals – Market Share 2016-2020



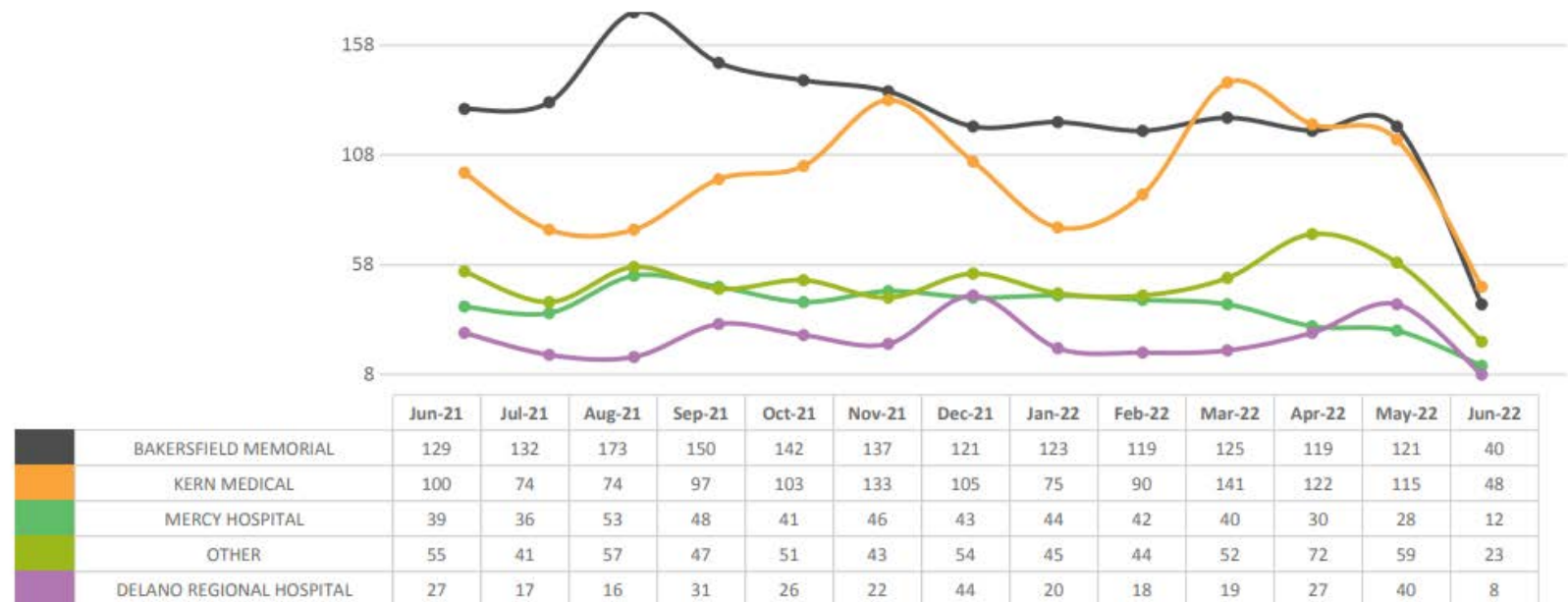
Source: CA HCAI (formerly OSHPD).

Kern Health Systems Births June '21-June'22



Governed Reporting System

Obstetrics Metrics



Note: Data are claims based. June '22 data are not complete.



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

September 21, 2022

Subject: Kern County Hospital Authority Financial Report – July 2022

Recommended Action: Receive and File

Summary:

Kern Medical Operations:

Kern Medical key performance indicators:

- Average Daily Census of 155 for July is 10 more than the July budget of 145 and 5 more than the 150 average over the last three months
- Admissions of 1,715 for July are 719 more than the July budget of 996 and 122 more than the 1,593 average over the last three months
- Total Surgeries of 446 for July are 26 less than the July budget of 472 and 9 less than the 455 average over the last three months
- Clinic Visits of 13,545 for July are 2,300 less than the July budget of 15,845 and 2,001 less than the 15,546 average over the last three months. The total includes 179 COVID-19 vaccination visits

The following items have budget variances for the month of July 2022:

Patient Revenue:

Gross patient revenue has an unfavorable budget variance for July due to temporary billing delays in certain inpatient departments at the beginning of the fiscal year. Kern Medical expects higher than average gross patient revenue next month as the billing backlog is cleared in August. Net patient revenue was ahead of plan for the month.

Indigent Funding Revenue:

Indigent funding has an unfavorable budget variance due to a conservative approach to recognizing indigent funding revenue. During each month of fiscal year 2023 Kern Medical will only recognize 95% of the total projected revenue for the Managed Care Rate Range Program, the Medi-Cal Quality Assurance Fee Program, the Physician SPA Program, the Graduate Medical Education (GME) Program, and the AB915 Outpatient Supplemental Funding Program. Kern Medical will recognize 100% of total projected revenue for the Medi-Cal waiver programs including the Global Payment Program (GPP), CalAIM, the Enhanced Payment Program (EPP), and the Quality Incentive Program (QIP).

Other Operating Revenue:

Other operating revenue has an unfavorable budget variance for the month primarily because less than the average amount of revenue was received for Kern Health System grant funding and for Proposition 56 funding. Funding from these two sources is received quarterly, or on an otherwise inconsistent basis throughout the year. 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.

Owned and Operated by the Kern County Hospital Authority
A Designated Public Hospital

1700 Mount Vernon Avenue | Bakersfield, CA 93306 | (661) 326-2000 | KernMedical.com

Other Non-Operating Revenue:

Other non-operating revenue has an unfavorable budget variance for the month because federal and state COVID-19 related funding is budgeted evenly throughout FY 2023 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.

Nurse Registry Expense:

Nurse registry expense is over budget for the month because of higher than average registry usage in the hospital due to strong census levels. During the past two years the staffing agencies that provide registry nurse services were charging higher than average costs per hour due to nurse shortages during the pandemic. The hourly rates charged by the staffing agencies are significantly lower than at various COVID-related peaks. COVID-19 remains active and Kern Medical plans to continue its need for registry services.

Medical Fees:

Medical fees are slightly over budget for the month because of an increase in services provided by the Acute Care Medical Surgery Group. The budget for this line item was reduced for FY 2023 with the expectation of less usage of contract physician services.

Other Professional Fees:

Other professional fees are over budget for the month because of higher than average legal expenses. In addition, July expenses include start-up fees for Universal Healthcare's Enhanced Care Management (ECM) services.

Supplies Expense:

Supplies expense is under budget for the month due to lower than average costs for pharmaceuticals and general medical supplies.

Purchased Services:

Purchased services are over budget for the month because of higher than average costs for patient care that was provided by out-of-network sources and higher than average ambulance expenses.

Other Expenses:

Other expenses are over budget for the month, primarily because of higher than average utility costs. Electricity expense was particularly high due to extreme weather conditions.

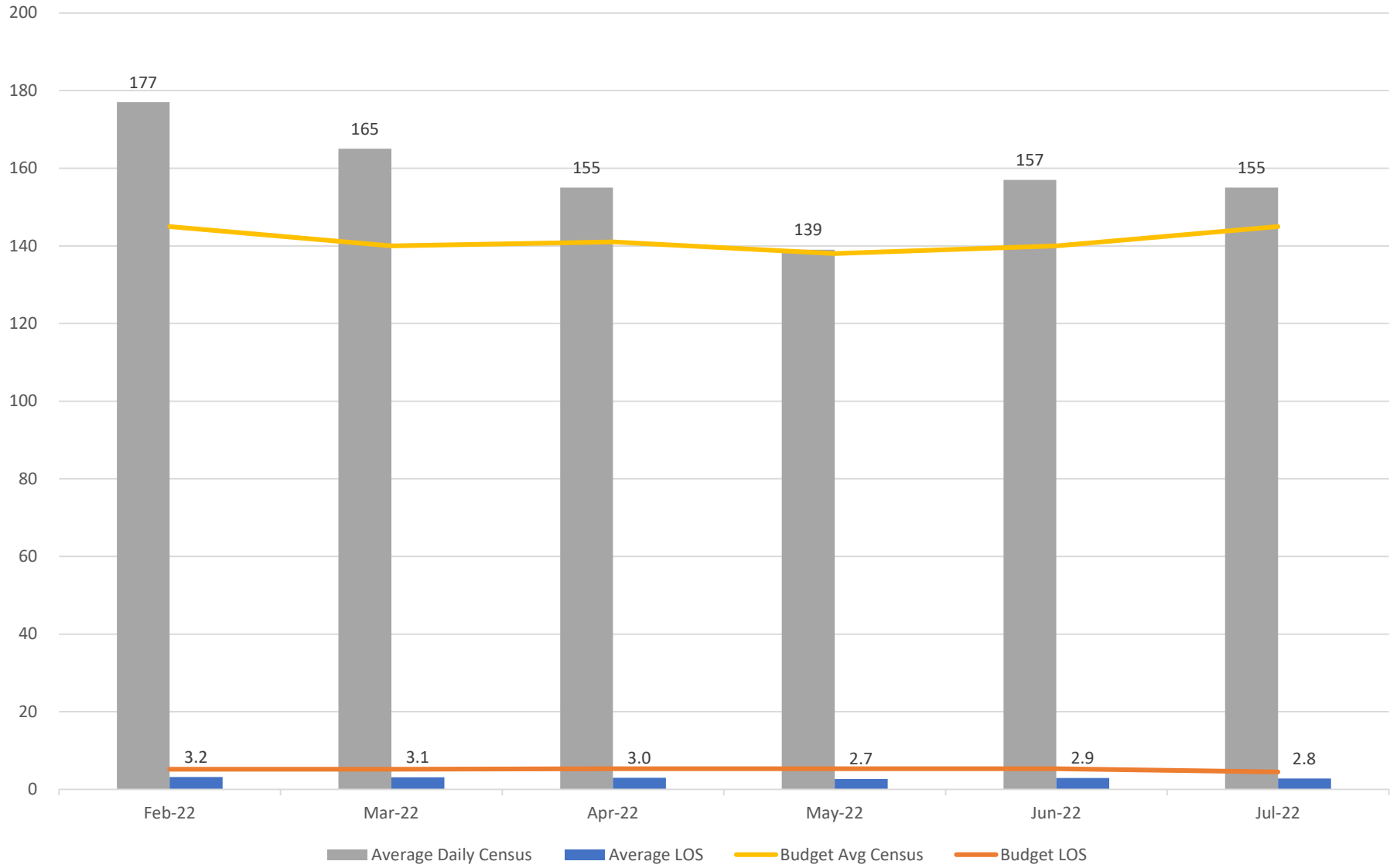
Depreciation and Amortization Expense:

Kern Medical operated at the budgeted dollar amount for depreciation and amortization expense for the month of July 2022.

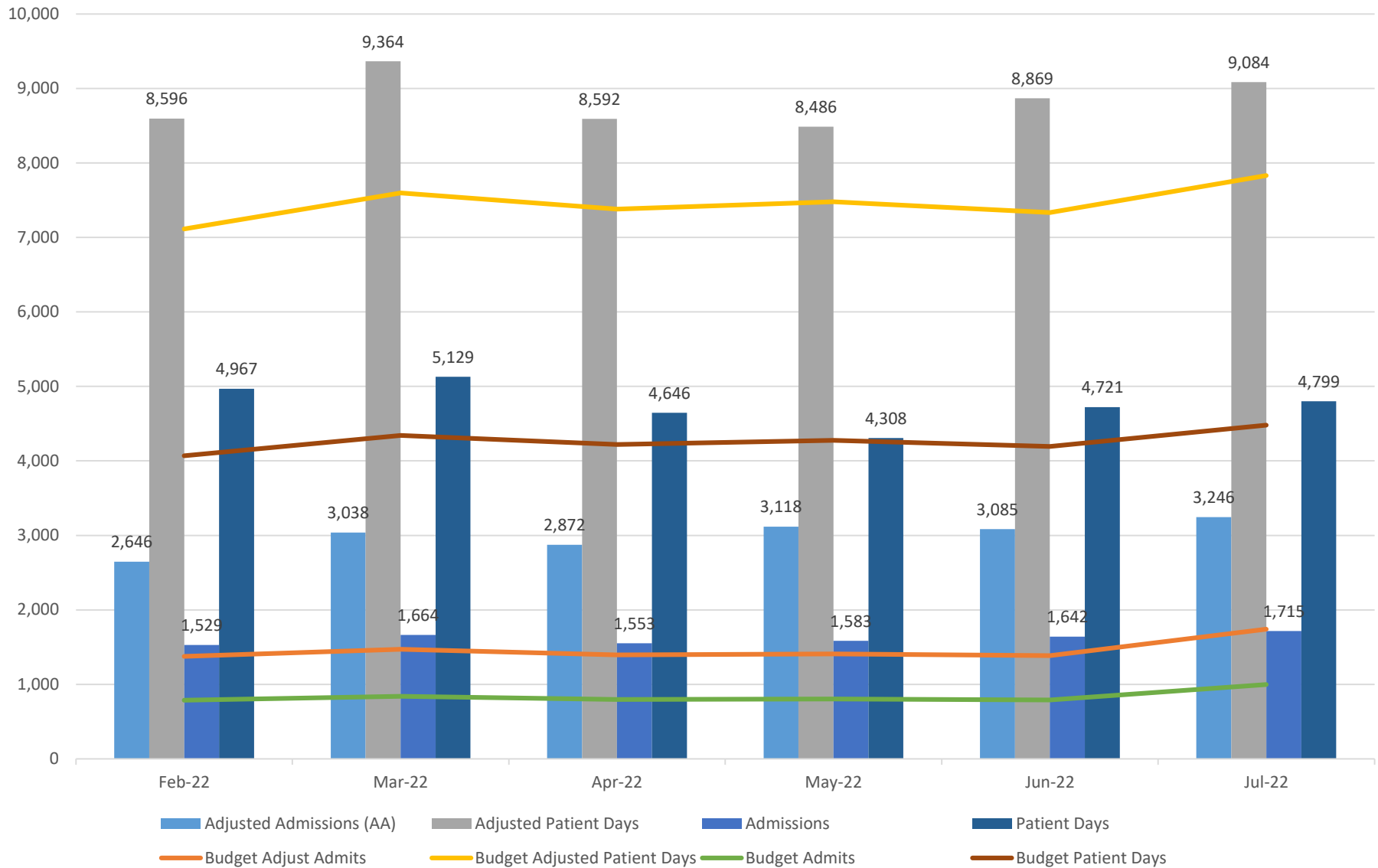


**BOARD OF GOVERNORS' REPORT
KERN MEDICAL – JULY 2022**

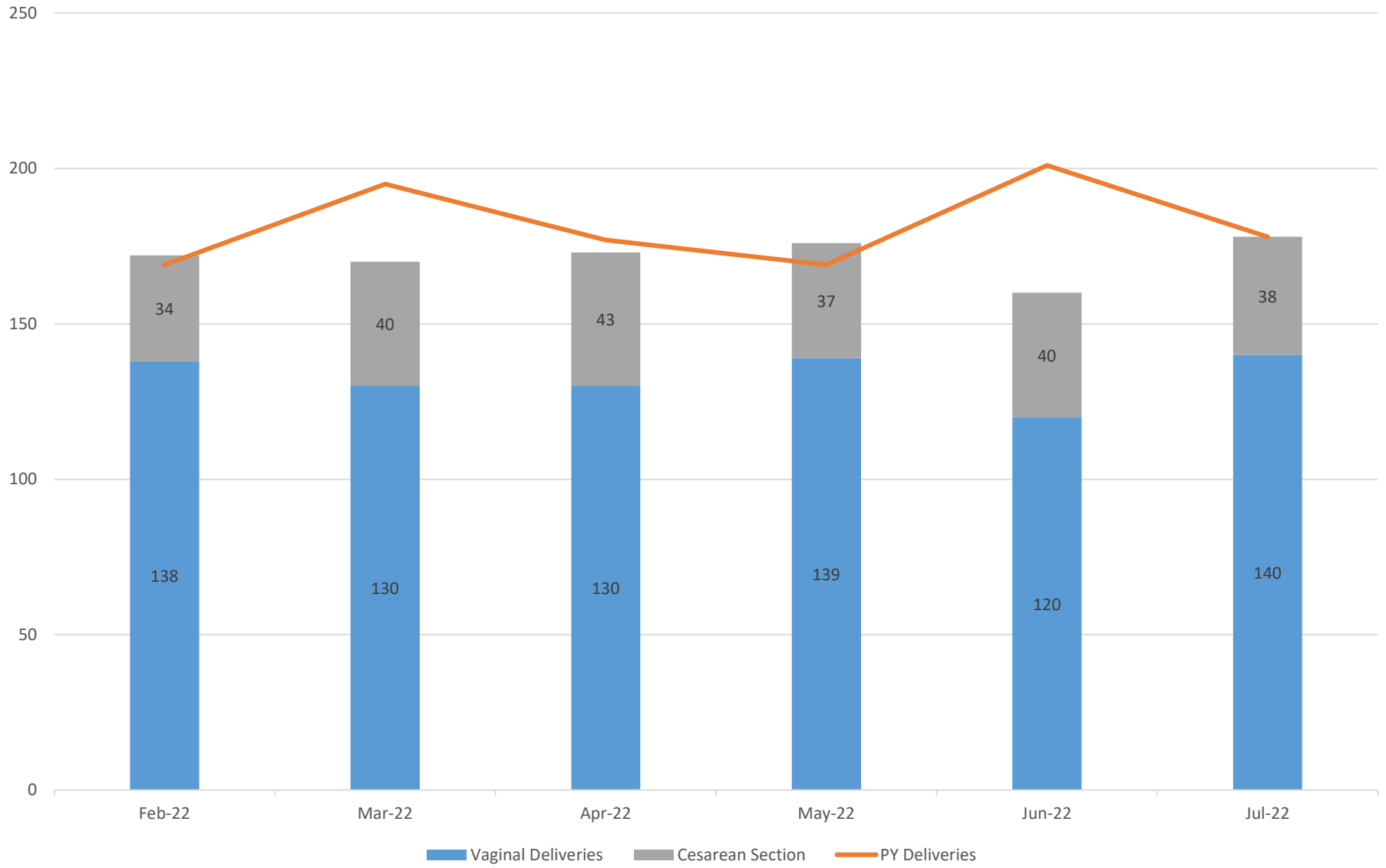
Census & ALOS



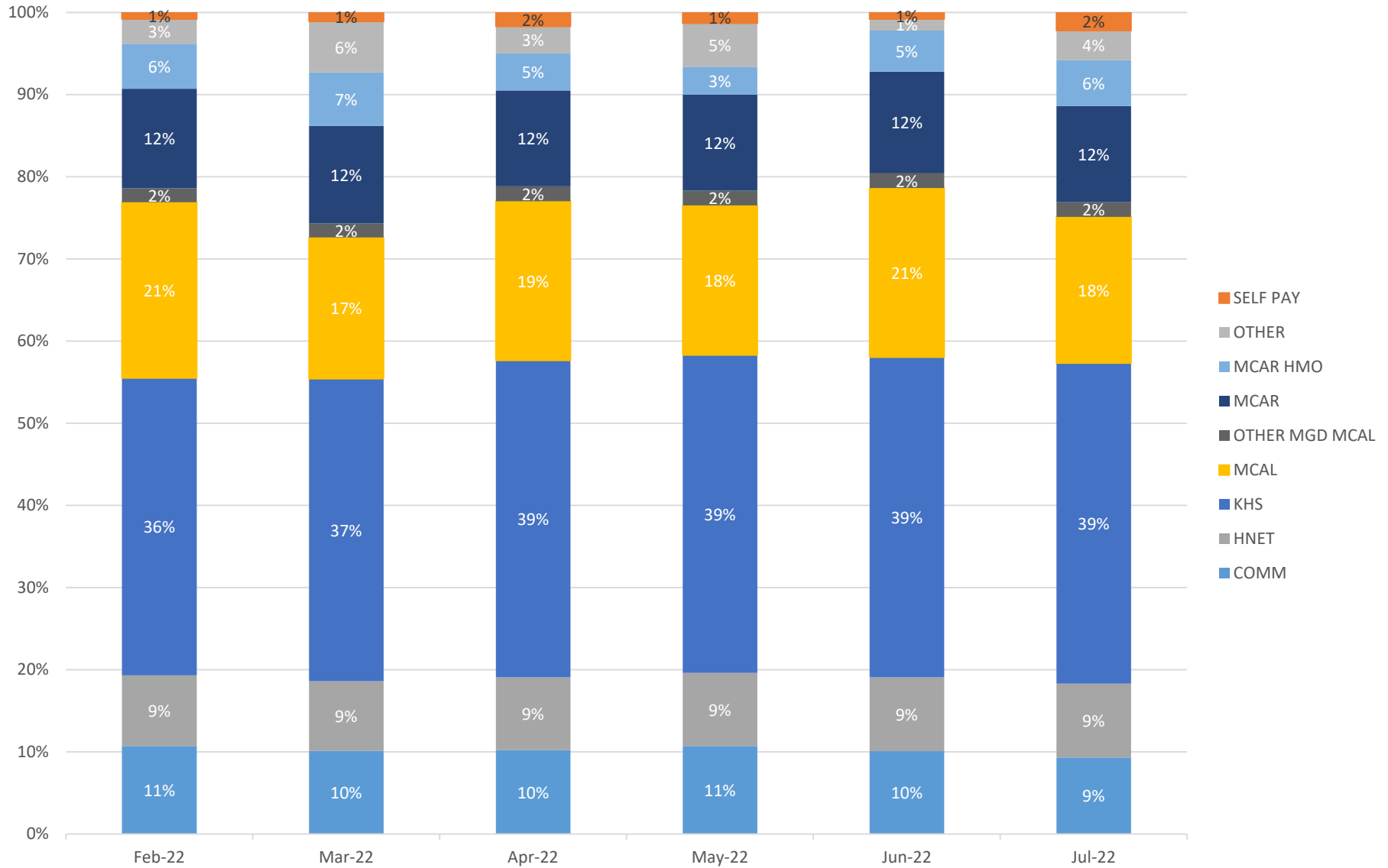
Hospital Volumes



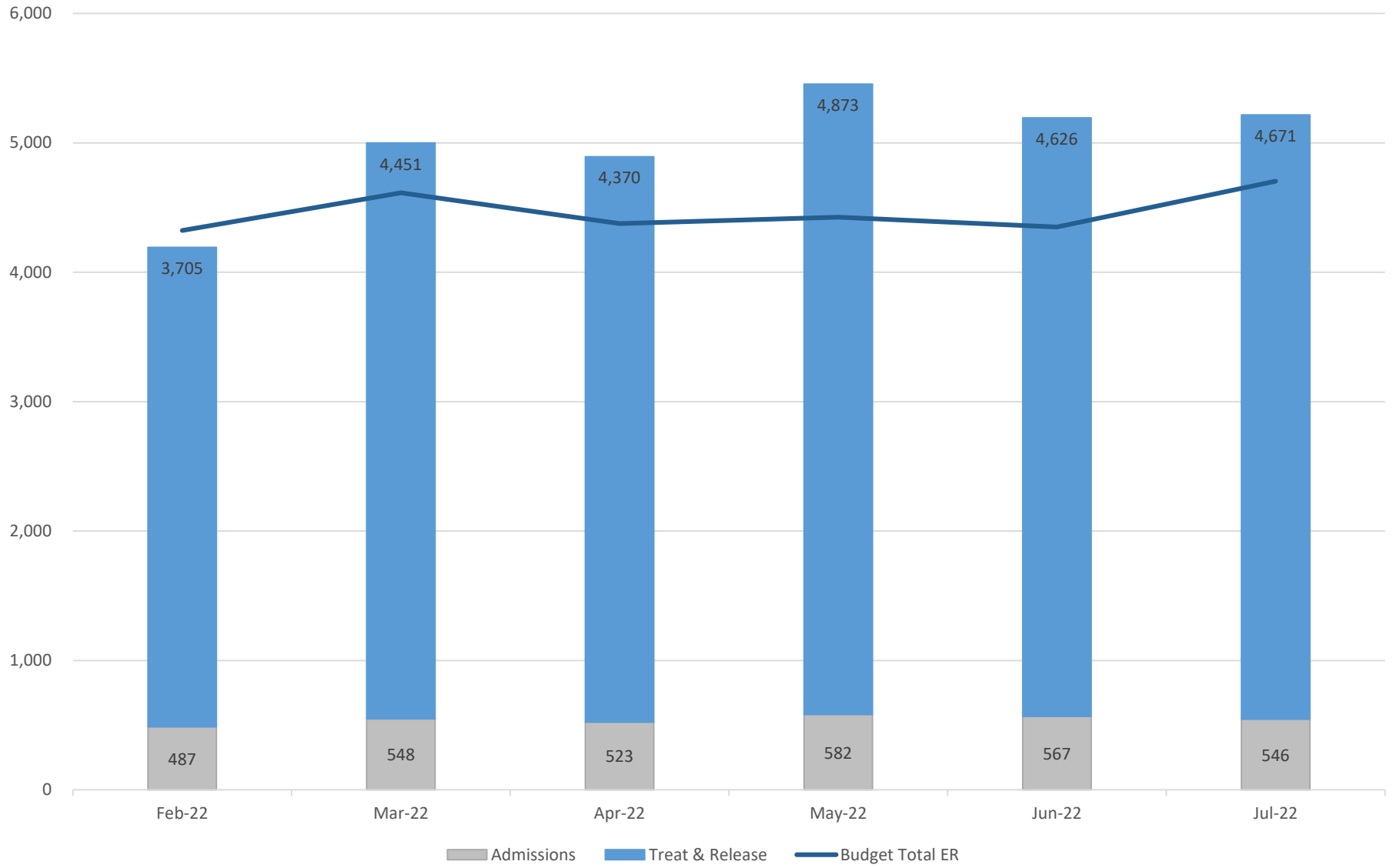
Deliveries



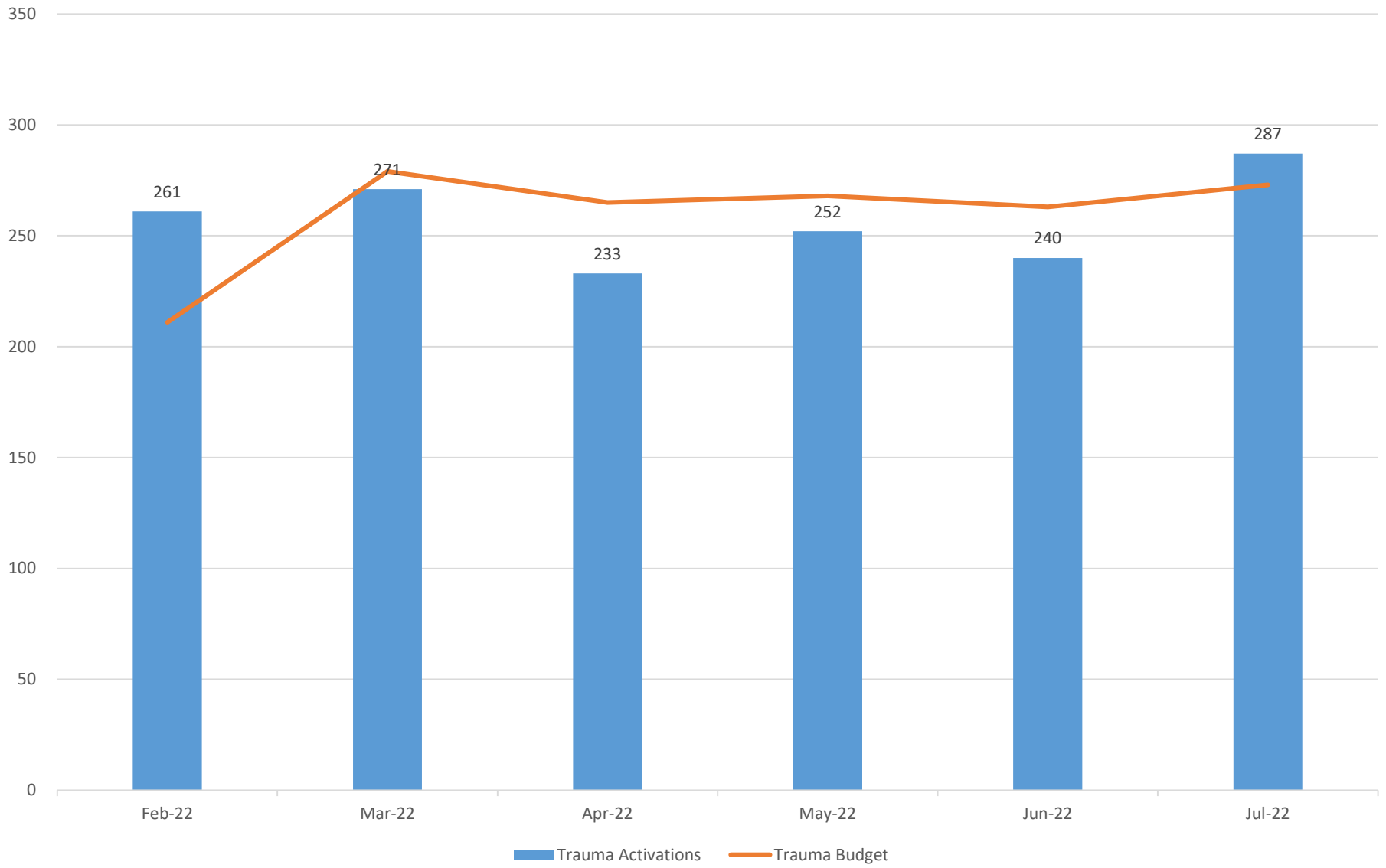
PAYER MIX



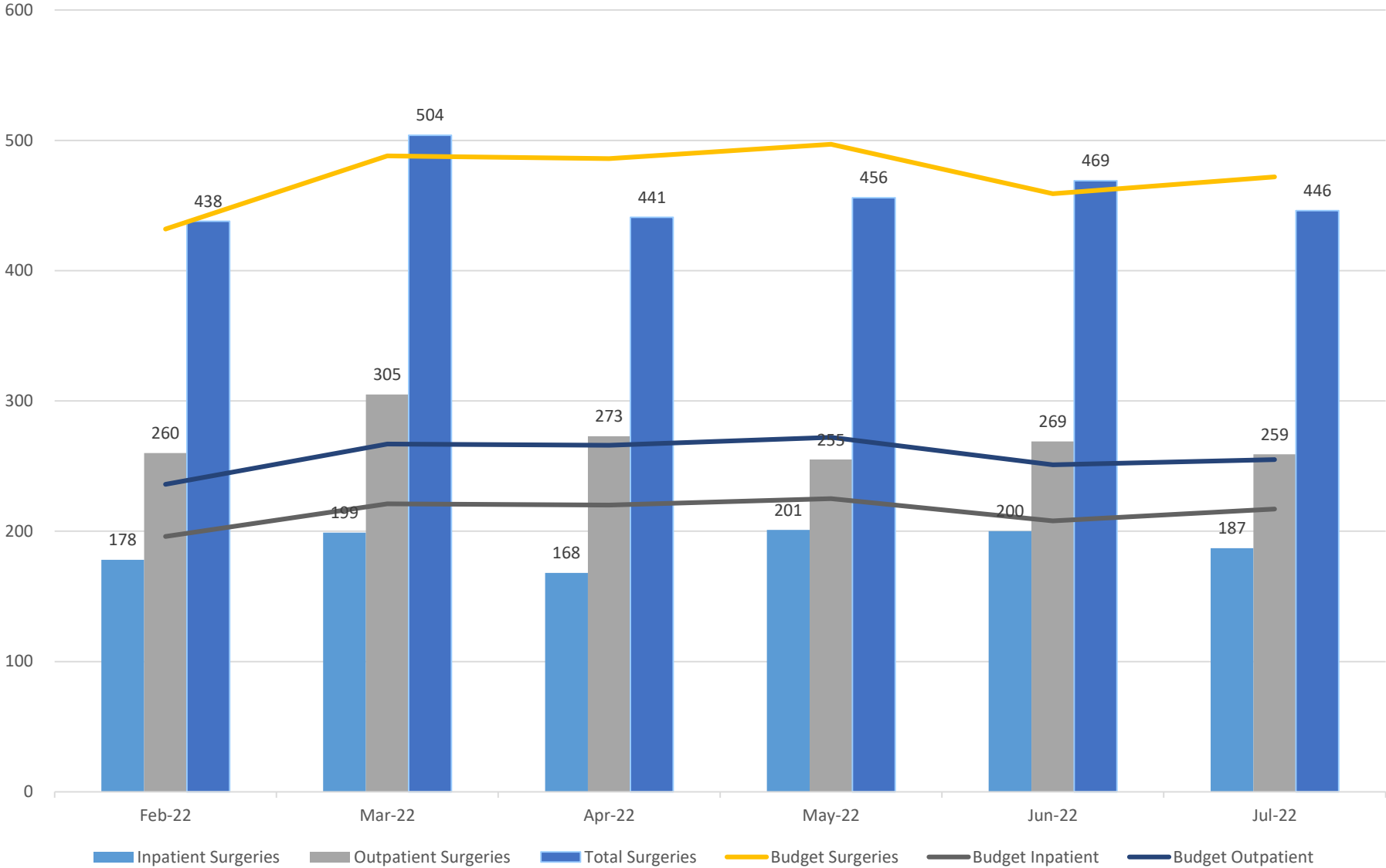
Emergency Room Volume



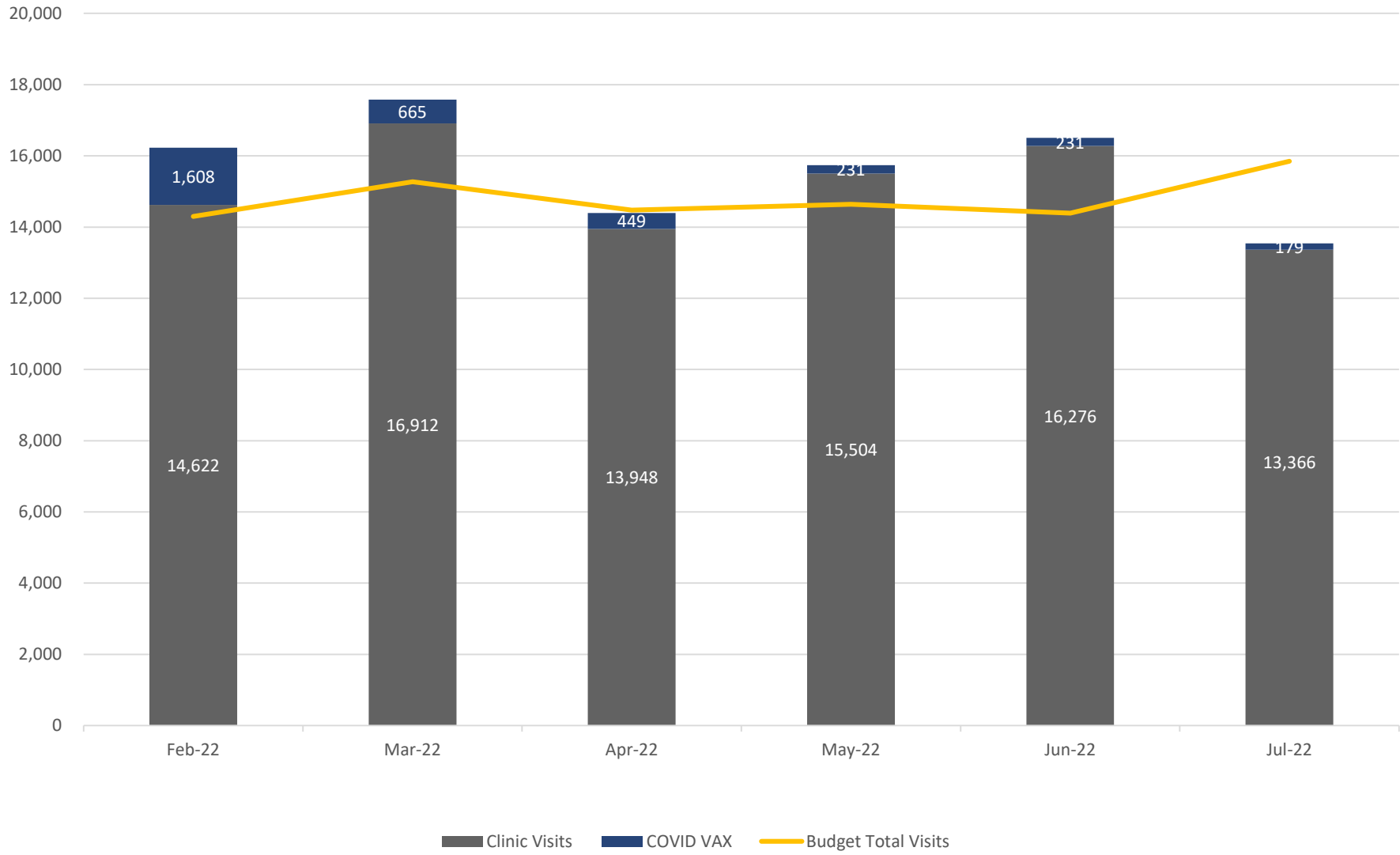
Trauma Activations



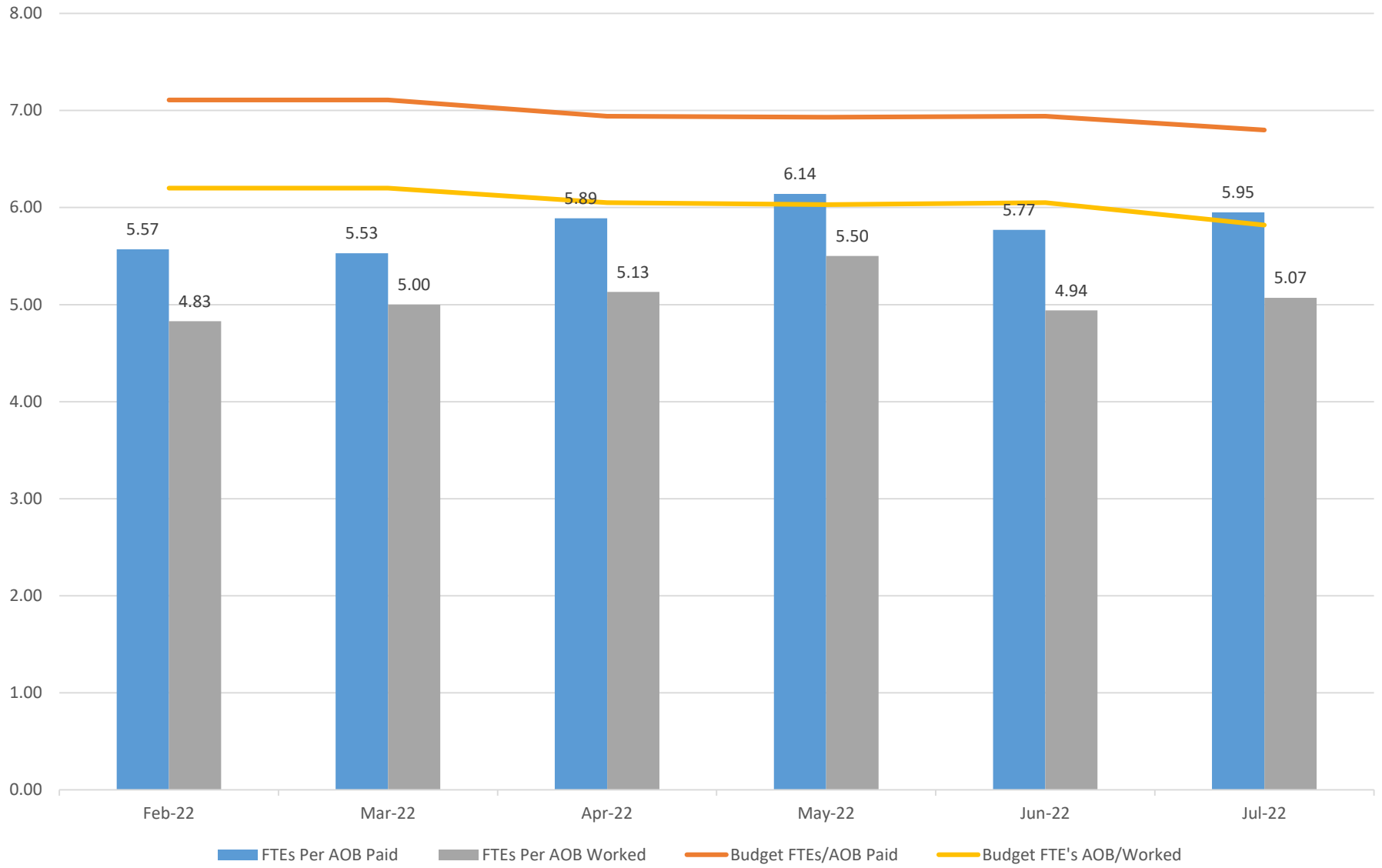
Surgical Volume



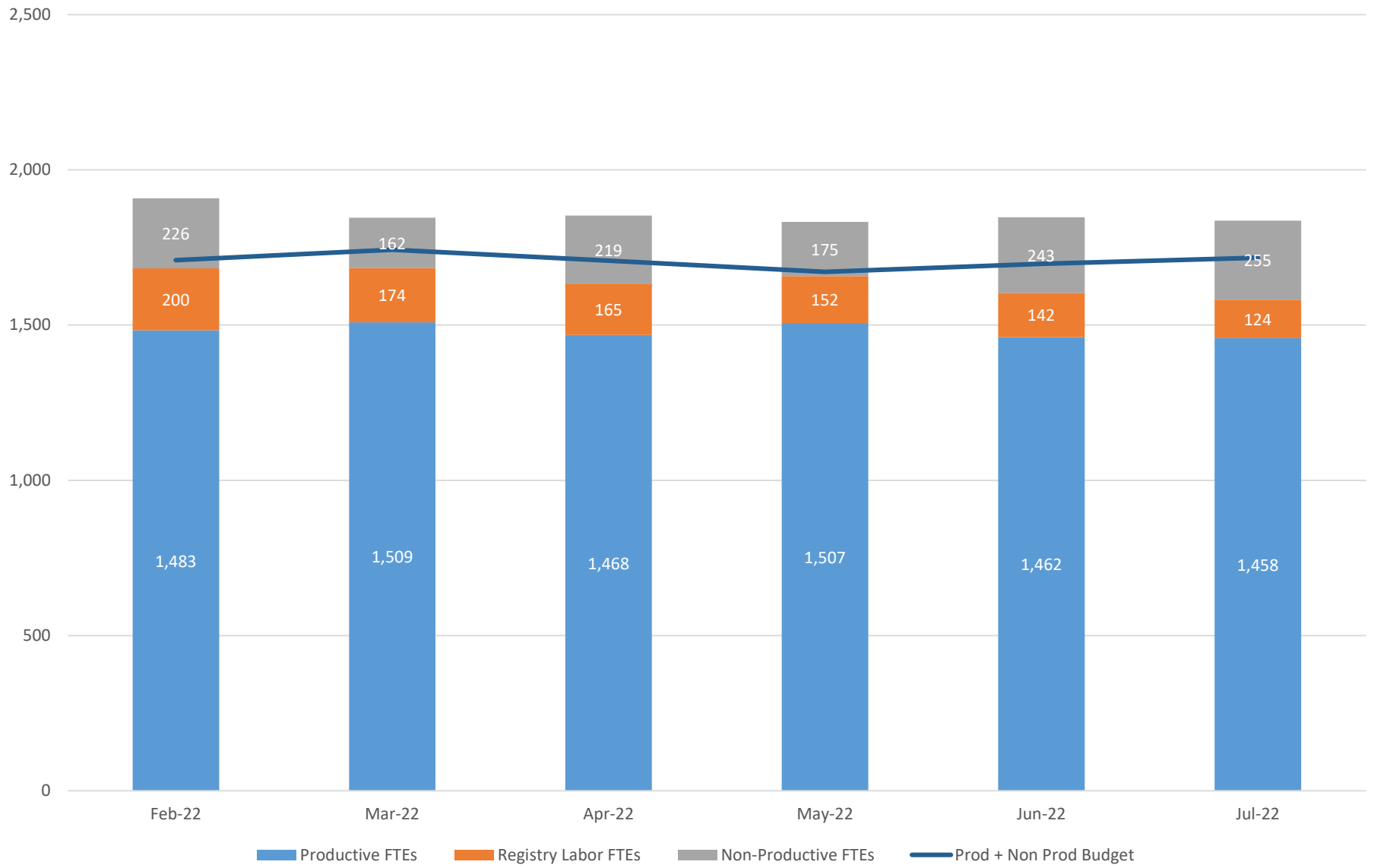
Clinic Visits



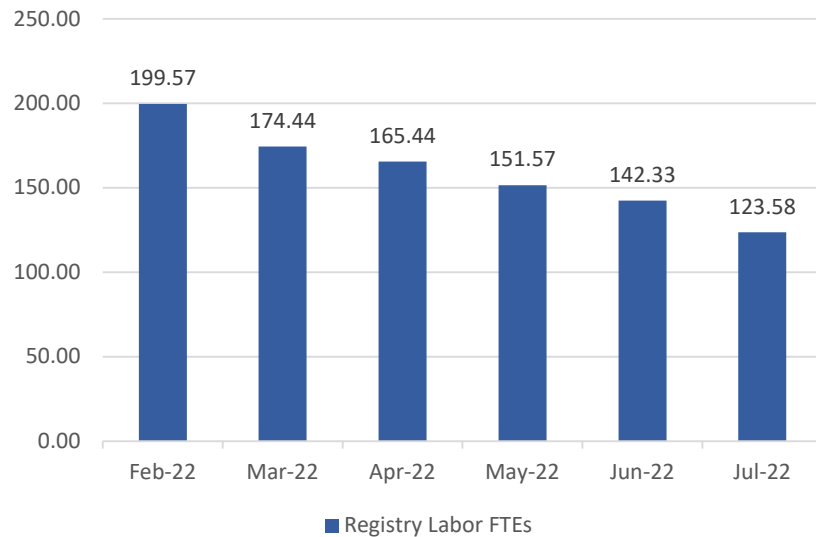
Labor Metrics



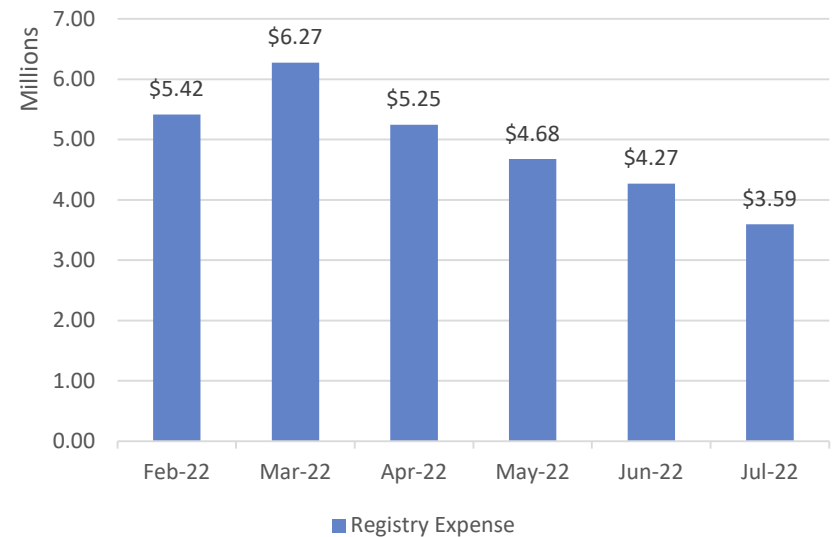
Productivity



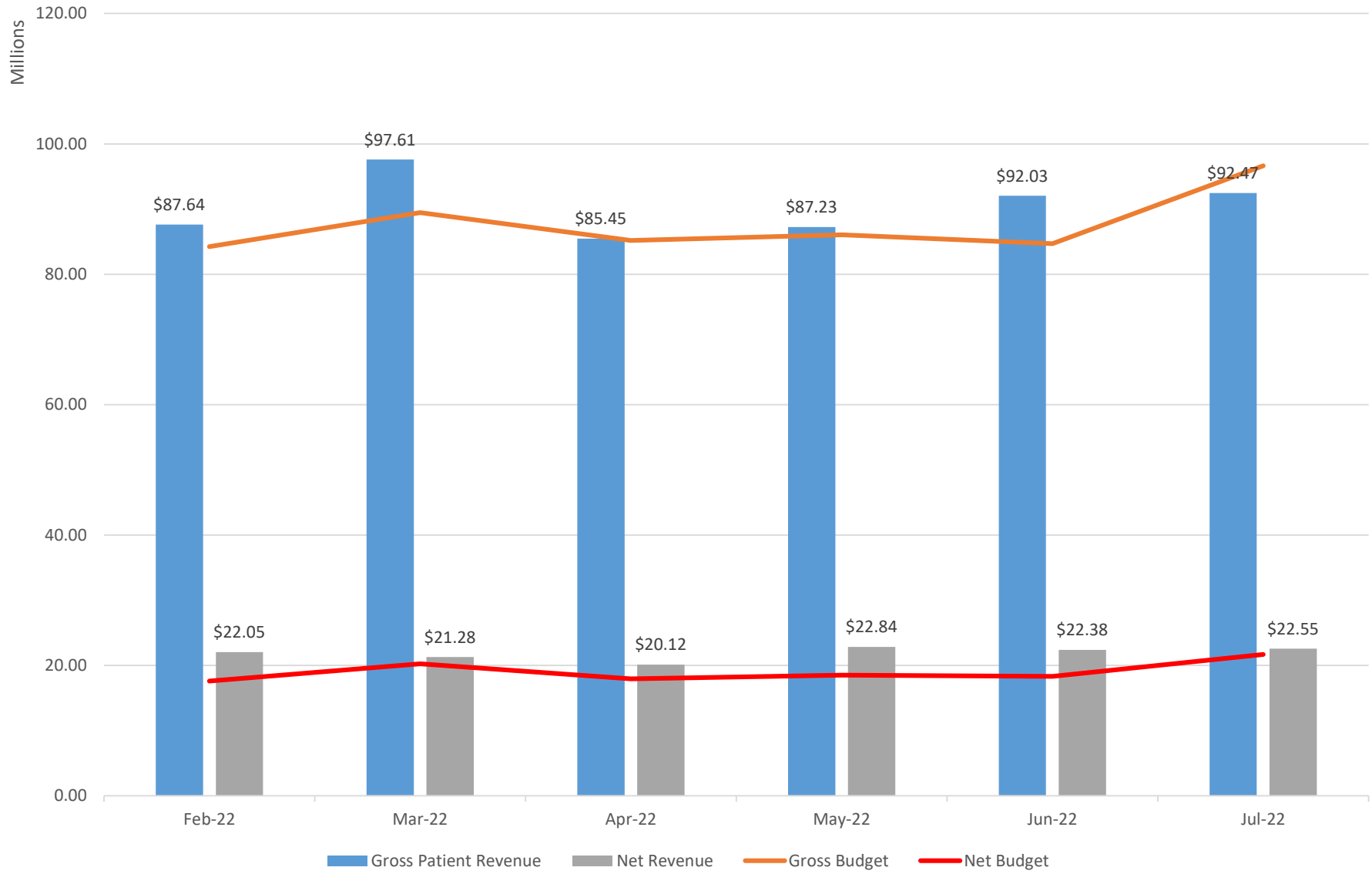
Registry FTE's



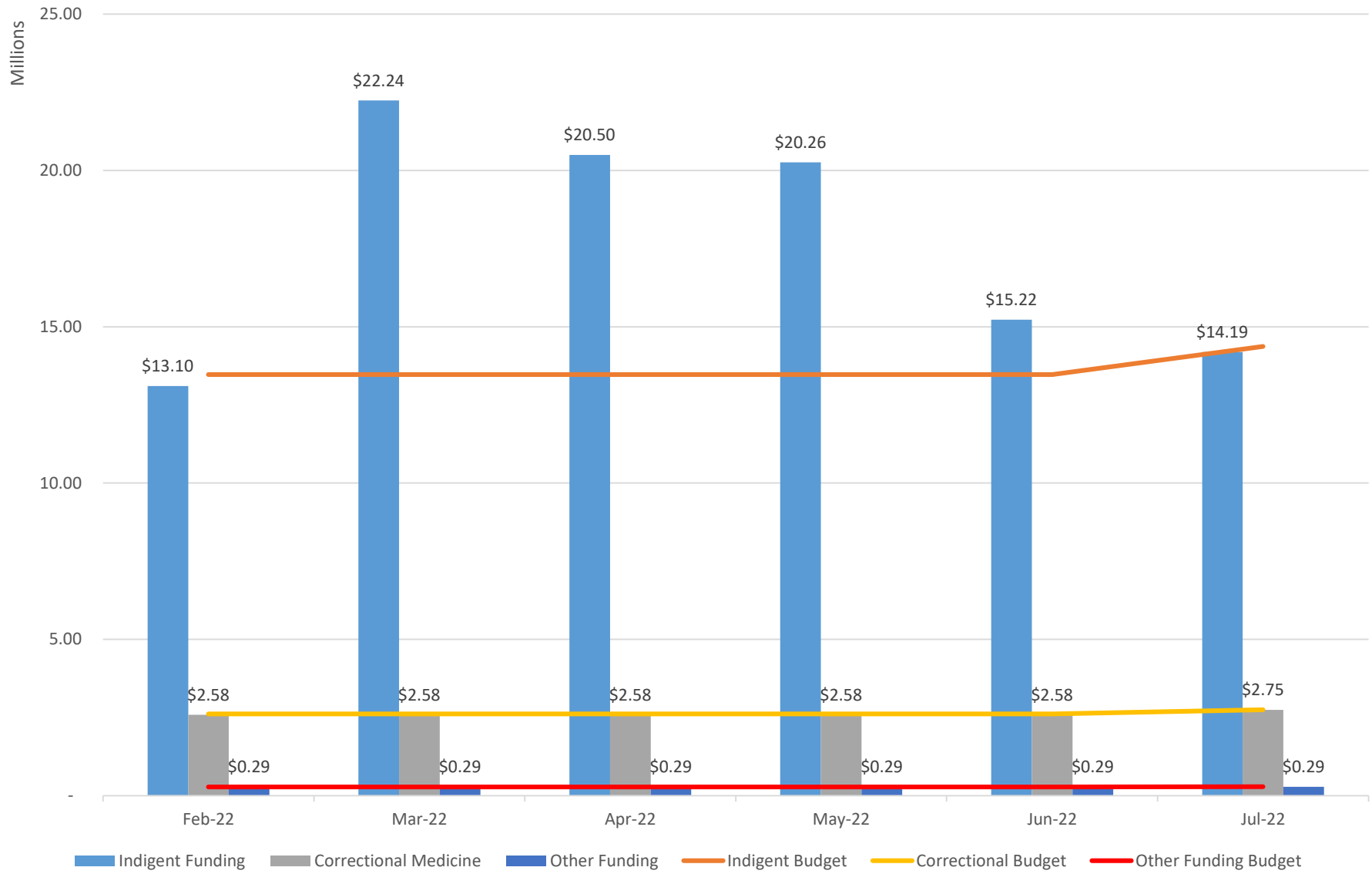
Registry Expense



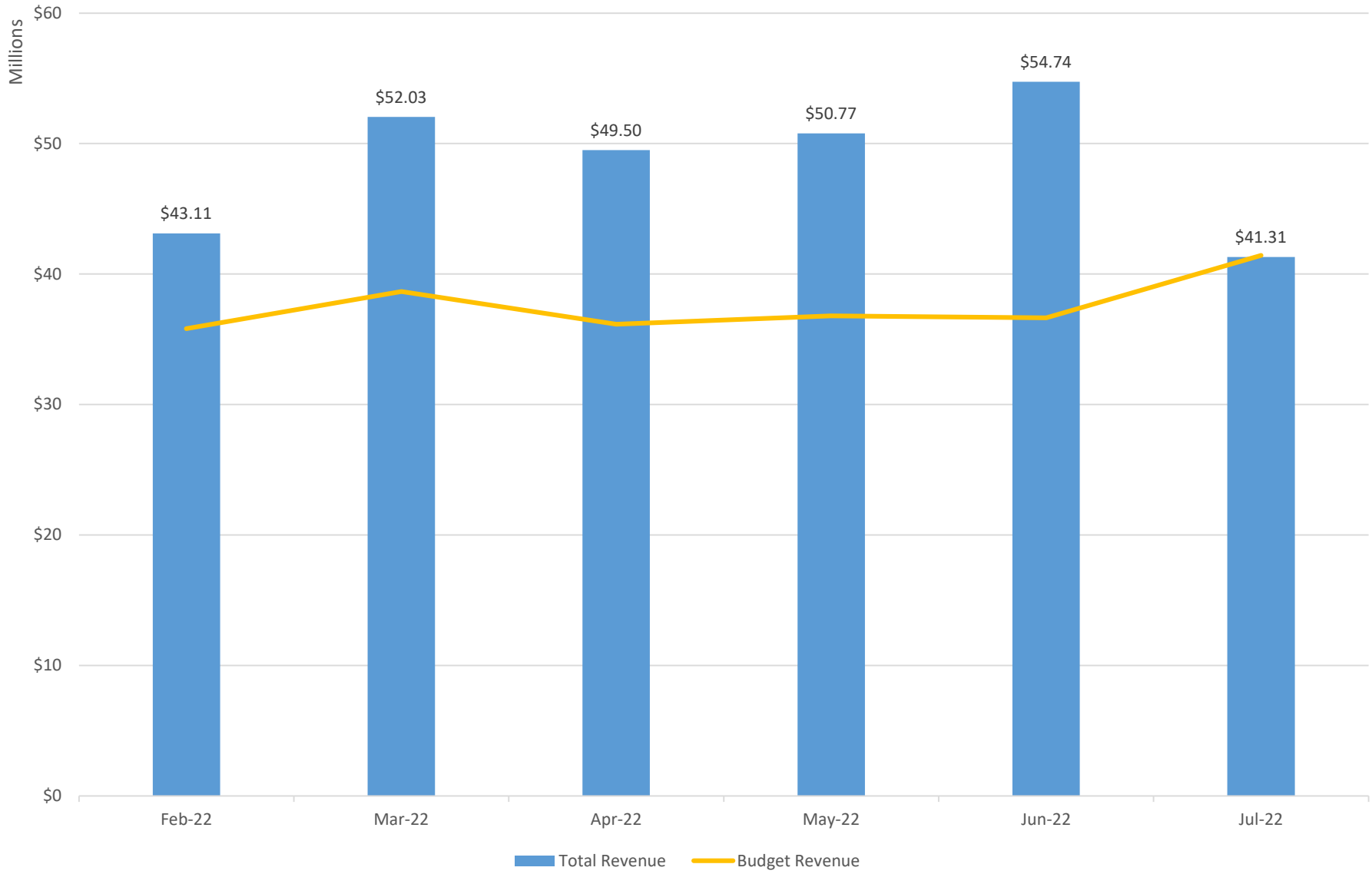
Patient Revenue



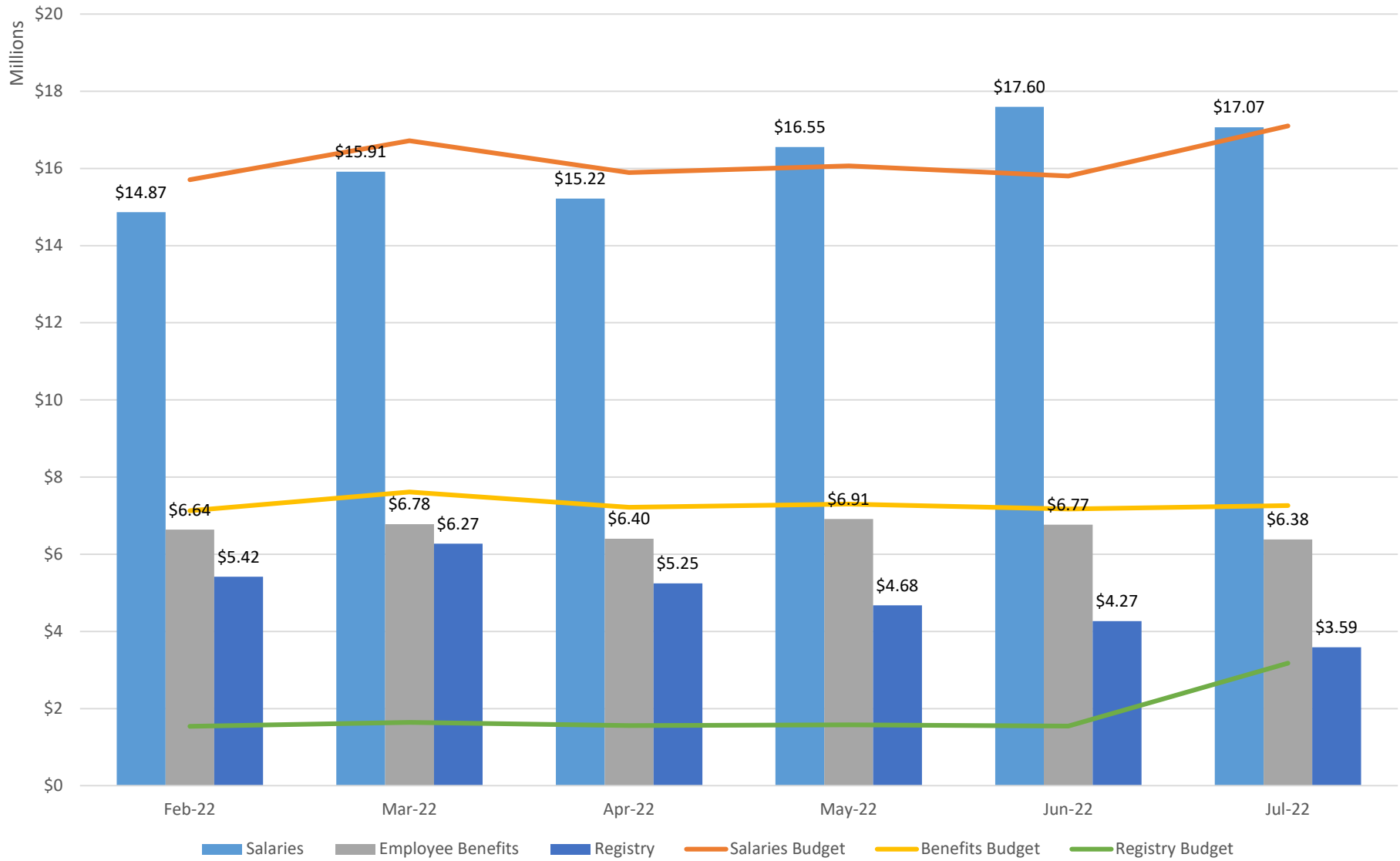
Indigent & Correctional Revenue



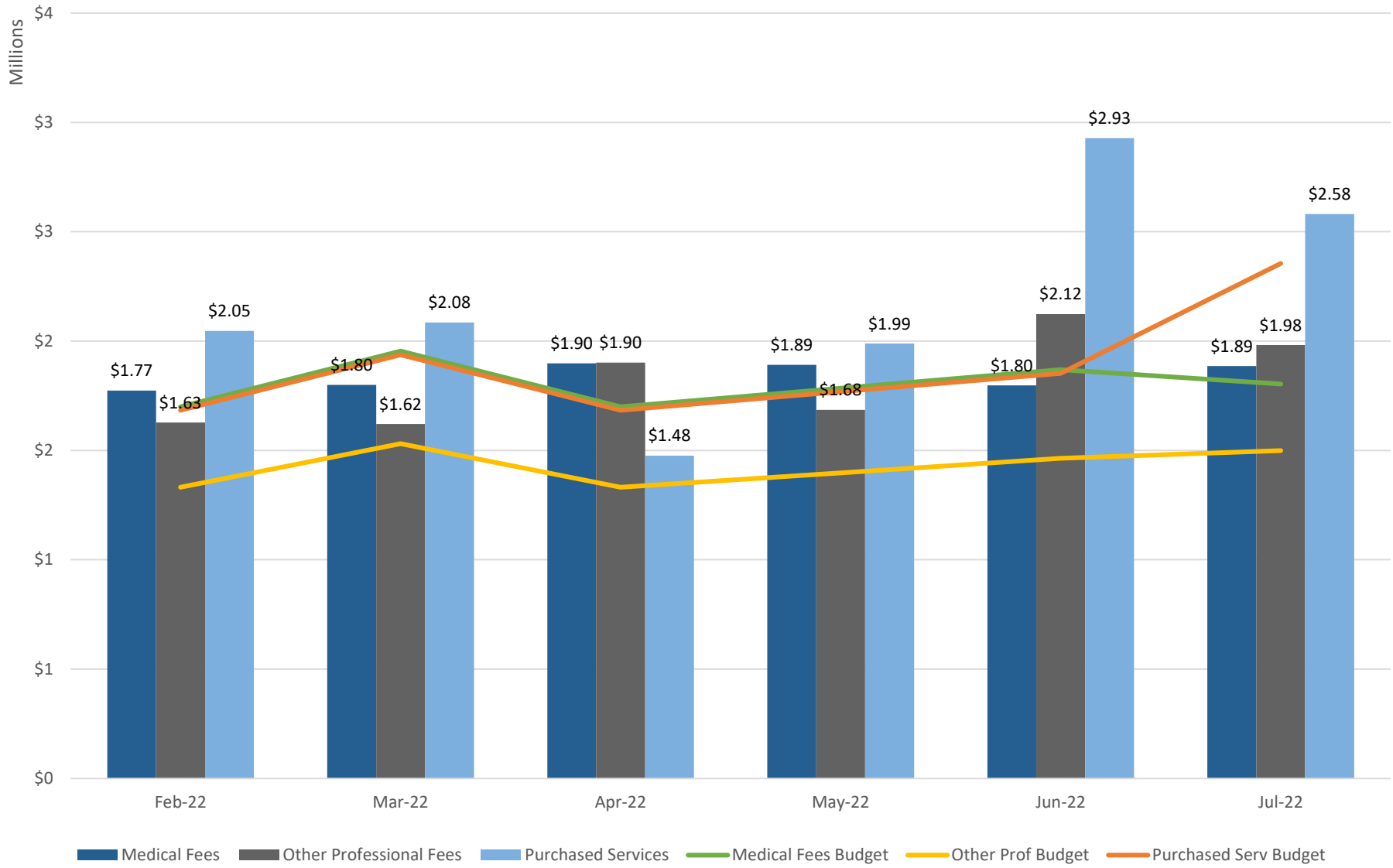
Total Revenue



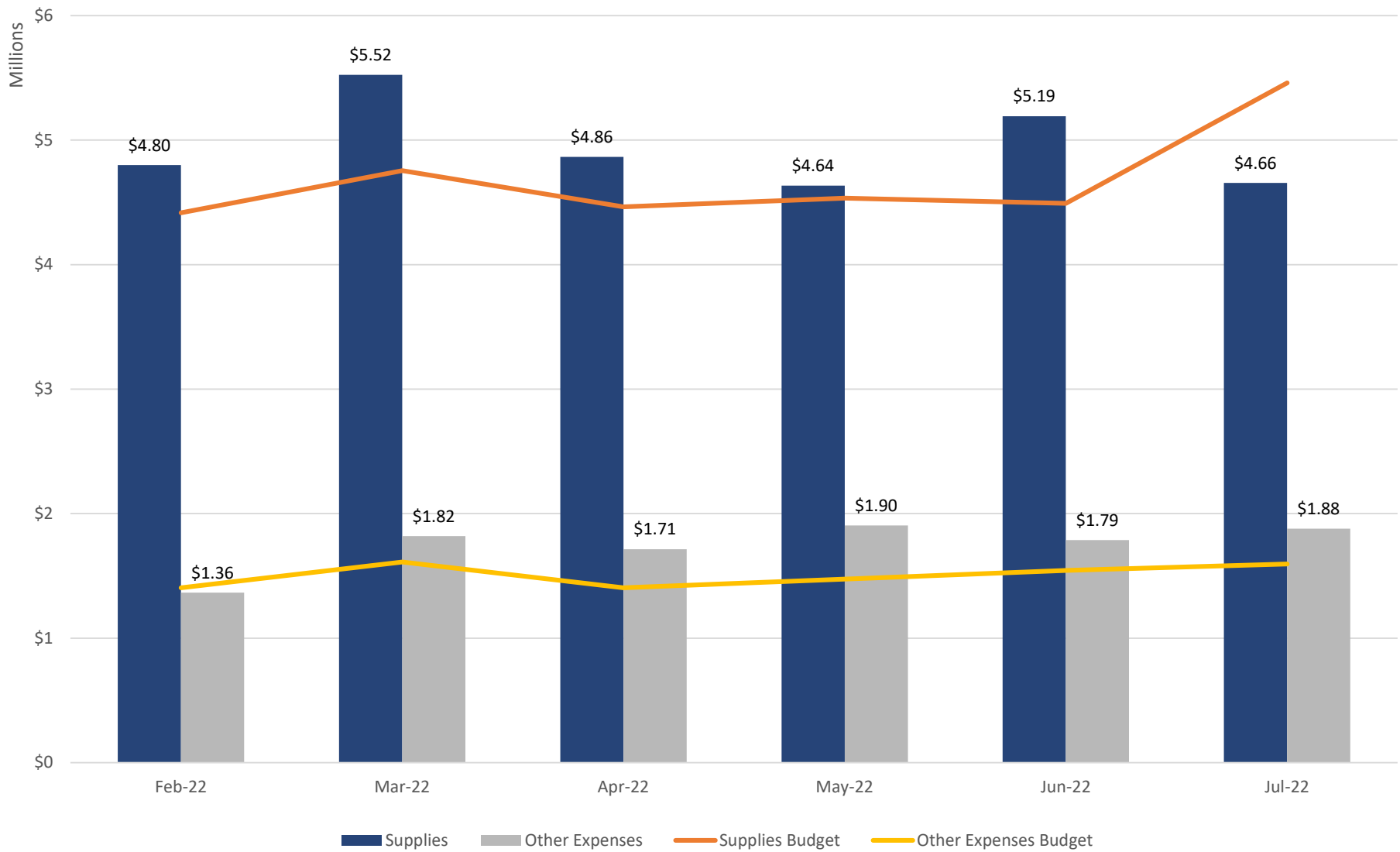
Expenses



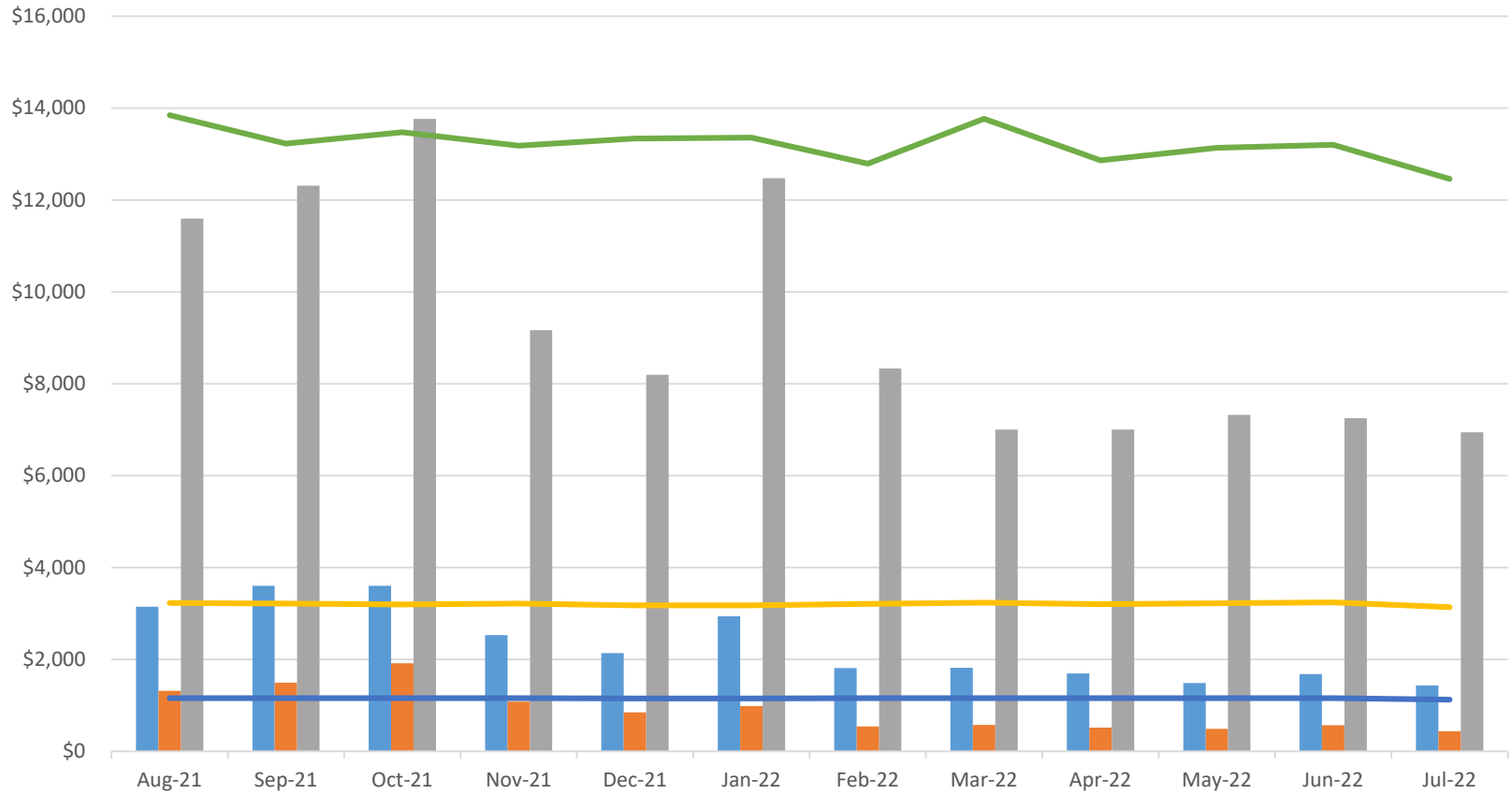
Expenses



Expenses

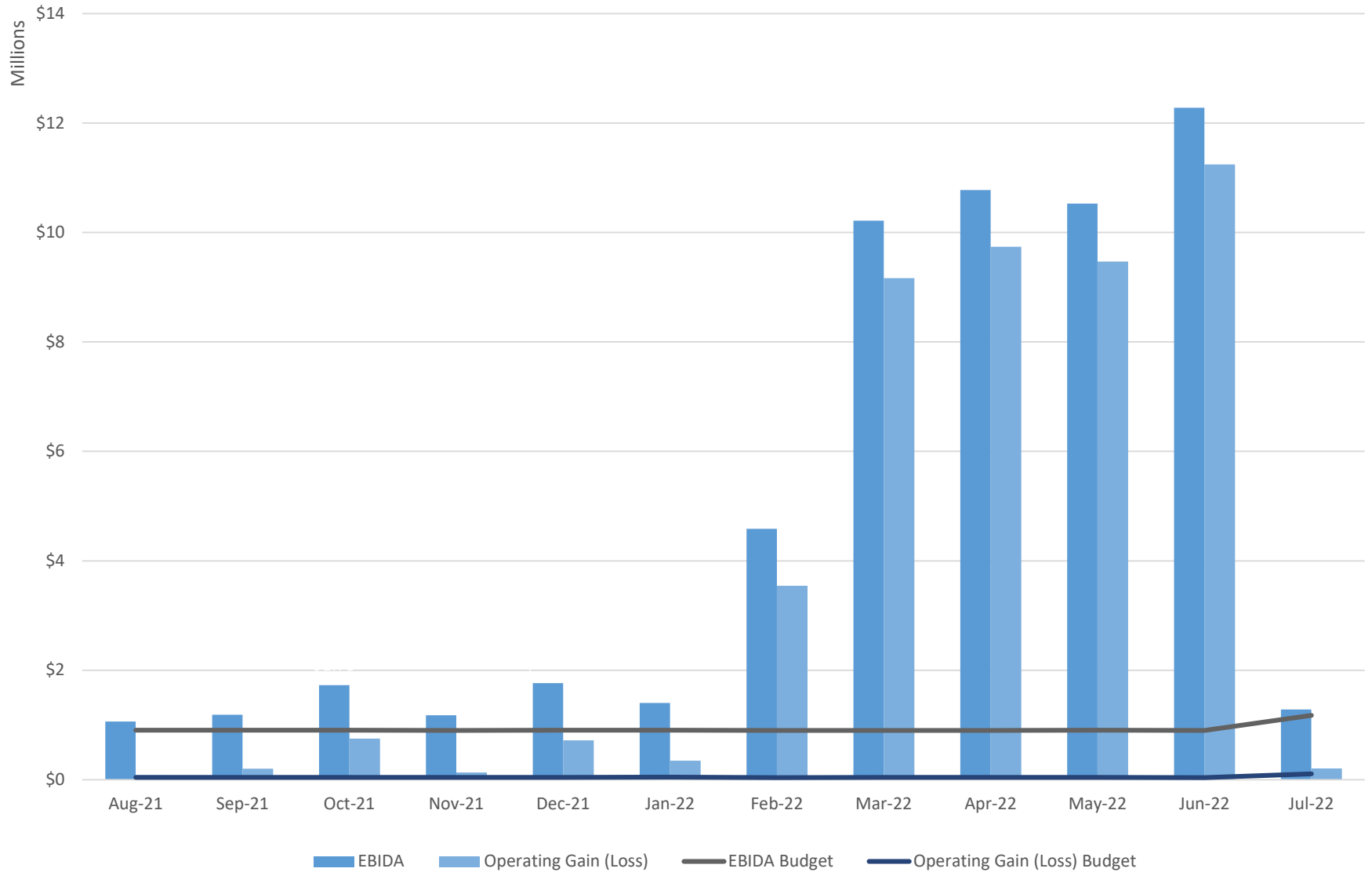


Operating Metrics

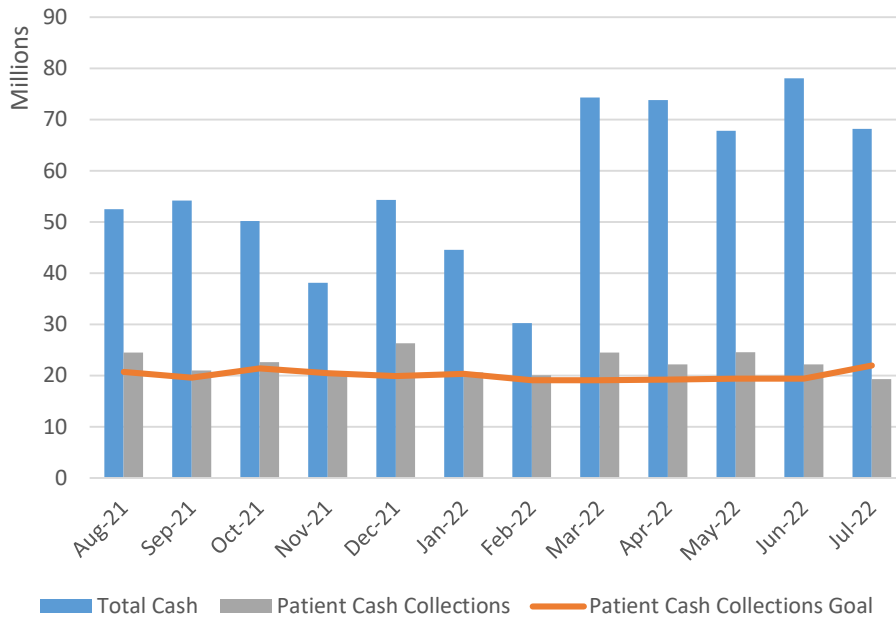


	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22
Supply Expense per AA	\$3,148	\$3,603	\$3,606	\$2,528	\$2,141	\$2,938	\$1,813	\$1,818	\$1,694	\$1,486	\$1,683	\$1,434
Pharm Cost per AA	\$1,319	\$1,492	\$1,918	\$1,081	\$846	\$982	\$538	\$575	\$514	\$491	\$570	\$434
Net Revenue Per AA	\$11,600	\$12,316	\$13,769	\$9,170	\$8,196	\$12,479	\$8,333	\$7,003	\$7,005	\$7,324	\$7,254	\$6,947
Budget Supp/AA	\$3,229	\$3,214	\$3,196	\$3,217	\$3,175	\$3,174	\$3,208	\$3,236	\$3,202	\$3,220	\$3,242	\$3,136
Budget Pharm/AA	\$1,156	\$1,155	\$1,154	\$1,156	\$1,153	\$1,153	\$1,154	\$1,156	\$1,154	\$1,156	\$1,156	\$1,126
Budget Net Rev/AA	\$13,848	\$13,228	\$13,477	\$13,187	\$13,344	\$13,359	\$12,793	\$13,771	\$12,868	\$13,141	\$13,206	\$12,461

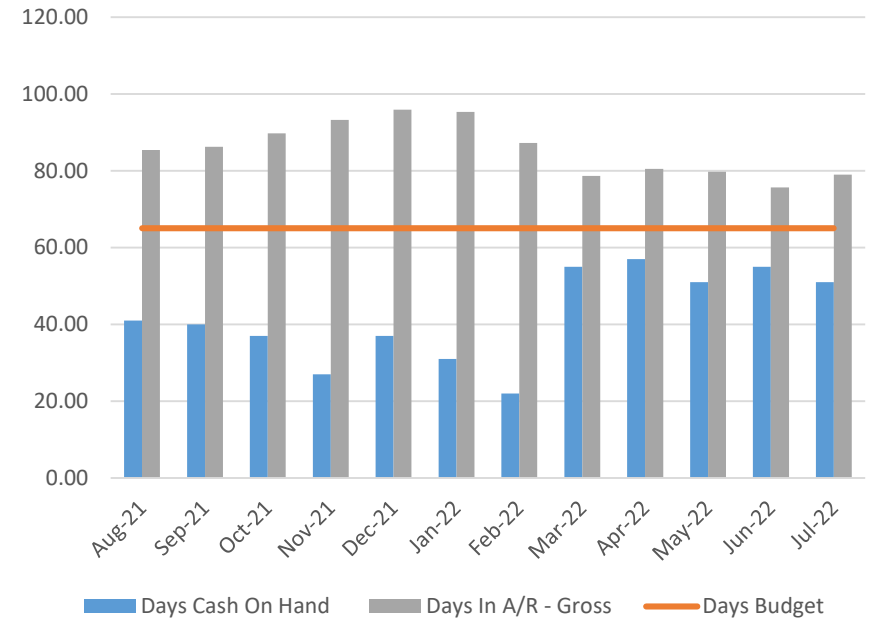
EBIDA Rolling Year



Cash Rolling Year



AR Days Rolling Year



KERN MEDICAL
3-Month Trend Analysis: Revenue & Expense
July 31, 2022

	FY 2022 MAY	FY 2022 JUNE	FY 2023 JULY	BUDGET JULY	VARIANCE POS (NEG)	PY JULY
Gross Patient Revenue	\$ 87,231,622	\$ 92,031,279	\$ 92,471,107	\$ 96,637,218	(4%)	\$ 95,767,767
Contractual Deductions	(64,394,266)	(69,654,856)	(69,920,186)	(74,943,844)	(7%)	(74,716,092)
Net Revenue	22,837,355	22,376,424	22,550,921	21,693,374	4%	21,051,675
Indigent Funding	20,256,874	15,221,199	14,191,888	14,370,622	(1%)	13,293,612
Correctional Medicine	2,583,481	2,583,481	2,746,855	2,746,855	0%	2,616,667
County Contribution	285,211	285,211	285,211	291,120	(2%)	282,894
Incentive Funding	0	0	0	0	0%	0
Net Patient Revenue	45,962,921	40,466,315	39,774,875	39,101,971	2%	37,244,847
Gain/(Loss) on Health-Related Entity	0	0	0	0	0%	0
Other Operating Revenue	2,794,024	3,121,491	1,524,826	2,273,337	(33%)	1,816,105
Other Non-Operating Revenue	2,017,642	11,150,811	11,583	49,452	(77%)	11,237
Total Revenue	50,774,587	54,738,617	41,311,284	41,424,760	(0.3%)	39,072,190
Expenses						
Salaries	16,553,564	17,595,268	17,068,626	17,097,628	(0.2%)	15,928,005
Employee Benefits	6,913,706	6,766,110	6,384,561	7,261,546	(12%)	7,708,993
Registry	4,675,337	4,266,993	3,592,259	3,177,465	13%	2,025,318
Medical Fees	1,890,822	1,796,976	1,885,530	1,804,100	5%	1,803,424
Other Professional Fees	1,684,929	2,123,112	1,981,485	1,499,386	32%	1,566,540
Supplies	4,635,192	5,192,359	4,655,496	5,458,976	(15%)	5,295,324
Purchased Services	1,988,590	2,928,155	2,580,701	2,355,395	10%	2,083,831
Other Expenses	1,904,216	1,787,762	1,878,413	1,595,229	18%	1,382,403
Operating Expenses	40,246,356	42,456,737	40,027,072	40,249,725	(1%)	37,793,838
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 10,528,232	\$ 12,281,880	\$ 1,284,212	\$ 1,175,034	9%	\$ 1,278,352
EBIDA Margin	21%	22%	3%	3%	10%	3%
Interest	84,468	84,473	110,982	86,199	29%	84,680
Depreciation	677,391	659,869	674,589	682,877	(1%)	682,784
Amortization	295,228	294,594	294,594	300,890	(2%)	224,132
Total Expenses	41,303,442	43,495,674	41,107,238	41,319,692	(1%)	38,785,434
Operating Gain (Loss)	\$ 9,471,145	\$ 11,242,943	\$ 204,047	\$ 105,068	94%	\$ 286,756
Operating Margin	18.7%	20.5%	0.5%	0.25%	95%	0.73%

KERN MEDICAL
Year to Date: Revenue & Expense
July 31, 2022

	ACTUAL FYTD	BUDGET FYTD	VARIANCE POS (NEG)	PY FYTD	PY VARIANCE POS (NEG)
Gross Patient Revenue	\$ 92,471,107	\$ 96,637,218	(4%)	\$ 95,767,767	(3%)
Contractual Deductions	(69,920,186)	(74,943,844)	(7%)	(74,716,092)	(6%)
Net Revenue	22,550,921	21,693,374	4%	21,051,675	
Indigent Funding	14,191,888	14,370,622	(1%)	13,293,612	7%
Correctional Medicine	2,746,855	2,746,855	0%	2,616,667	5%
County Contribution	285,211	291,120	(2%)	282,894	1%
Incentive Funding	0	0	0%	0	0%
Net Patient Revenue	39,774,875	39,101,971	2%	37,244,847	7%
Gain/(Loss) on Health-Related Entity	0	0	0%	0	0%
Other Operating Revenue	1,524,826	2,273,337	(33%)	1,816,105	(16%)
Other Non-Operating Revenue	11,583	49,452	(77%)	11,237	3%
Total Revenue	41,311,284	41,424,760	0%	39,072,190	6%
Expenses					
Salaries	17,068,626	17,097,628	(0%)	15,928,005	7%
Employee Benefits	6,384,561	7,261,546	(12%)	7,708,993	(17%)
Registry	3,592,259	3,177,465	13%	2,025,318	77%
Medical Fees	1,885,530	1,804,100	5%	1,803,424	5%
Other Professional Fees	1,981,485	1,499,386	32%	1,566,540	26%
Supplies	4,655,496	5,458,976	(15%)	5,295,324	(12%)
Purchased Services	2,580,701	2,355,395	10%	2,083,831	24%
Other Expenses	1,878,413	1,595,229	18%	1,382,403	36%
Operating Expenses	40,027,072	40,249,725	-1%	37,793,838	6%
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 1,284,212	\$ 1,175,034	9%	\$ 1,278,352	0%
EBIDA Margin	3%	3%	10%	3%	(5%)
Interest	110,982	86,199	29%	84,680	31%
Depreciation	674,589	682,877	(1%)	682,784	(1%)
Amortization	294,594	300,890	(2.1%)	224,132	31%
Total Expenses	41,107,238	41,319,692	(1%)	38,785,434	6%
Operating Gain (Loss)	\$ 204,047	\$ 105,068	94%	\$ 286,756	(29%)
Operating Margin	0%	0.3%	95%	1%	(33%)

**KERN MEDICAL
BALANCE SHEET**

	JULY 2022	JULY 2021
ASSETS:		
<i>Total Cash</i>	\$ 68,151,200	\$ 69,511,168
Patient Receivables Subtotal	262,471,690	263,172,655
Contractual Subtotal	(213,362,200)	(222,883,718)
<i>Net Patient Receivable</i>	49,109,490	40,288,937
Total Indigent Receivable	140,371,466	119,240,571
Total Other Receivable	12,100,010	7,907,800
Total Prepaid Expenses	4,884,457	5,286,360
Total Inventory	4,162,888	4,349,636
<i>Total Current Assets</i>	278,779,510	246,584,471
Deferred Outflows of Resources	127,290,855	87,863,462
Total Land, Equipment, Buildings and Intangibles	224,656,374	213,499,830
Total Construction in Progress	6,890,452	8,733,822
<i>Total Property, Plant & Equipment</i>	231,546,826	222,233,652
Total Accumulated Depr & Amortization	(137,639,182)	(126,289,726)
<i>Net Property, Plant, and Equipment</i>	93,907,644	95,943,925
<i>Total Long Term Assets</i>	127,290,855	87,863,462
<i>Total Assets</i>	\$ 499,978,009	\$ 430,391,858

**KERN MEDICAL
BALANCE SHEET**

	JULY 2022	JULY 2021
ASSETS:		
LIABILITIES & EQUITY:		
Total Accounts Payable	\$ 14,202,752	\$ 11,013,352
Total Accrued Compensation	31,574,148	29,656,284
Total Due Government Agencies	16,472,547	35,137,425
Total Other Accrued Liabilities	25,067,285	46,416,105
 <i>Total Current Liabilities</i>	 87,316,731	 122,223,166
 Unfunded Pension Liability	 381,152,811	 322,103,797
Other Long-Term Liabilities	61,859,422	80,914,207
<i>Total Long-Term Liabilities</i>	443,012,233	403,018,004
 <i>Total Liabilities</i>	 530,328,964	 525,241,170
 Fund Balance	 36,714,022	 36,714,022
Retained Earnings	(67,064,977)	(131,563,333)
<i>Total Fund Balance</i>	(30,350,956)	(94,849,312)
 <i>Total Liabilities and Fund Balance</i>	 \$ 499,978,009	 \$ 430,391,858



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

September 21, 2022

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.



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

September 21, 2022

Subject: Monthly report on What's Happening at Kern Medical Center

Recommended Action: Receive and File

Summary:

Each month Kern Medical will be sharing a report with your Board on "What's Happening" in and around Kern Medical.

Therefore, it is recommended that your Board receive and file the attached report on What's Happening at Kern Medical.



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

September 21, 2022

Agenda #28 – What’s Happening at Kern Medical Center, the file is unavailable as the file is too large. Please contact the Kern County Hospital Authority Board Coordinator at 661-326-2102 if you would like a printed copy of the presentation.



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, July 20, 2022

11:30 A.M.

BOARD RECONVENED

Board Members: Alsop, Berjis, Bigler, Brar, Kitchen, McLaughlin, Pelz
Roll Call: 5 Present; 2 Absent - Alsop, Brar

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

NON-AGENDA ITEM

MOTION TO CONSIDER NON-AGENDA ITEM 31: MADE FINDING THAT THE NEED TO TAKE ACTION ON A NON-AGENDA MATTER OCCURRED AFTER THE AGENDA WAS POSTED ON FRIDAY, JULY 15, 2022. ON MONDAY, JULY 18, 2022, KERN COUNTY HOSPITAL AUTHORITY RECEIVED A COURTESY COPY OF A PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF FILED IN KERN COUNTY SUPERIOR COURT BY SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 521 THAT SAME DAY, ACCORDING TO THE EMAIL RECEIVED FROM UNION COUNSEL. DUE TO THE NATURE OF THE ALLEGATIONS, IT IS NECESSARY FOR THE BOARD OF GOVERNORS TO MEET IN CLOSED SESSION WITH COUNSEL AT ITS REGULAR MEETING ON JULY 20, 2022, AS THE NEXT REGULAR MEETING OF THE BOARD OF GOVERNORS IS NOT SCHEDULED TO OCCUR UNTIL WEDNESDAY, AUGUST 17, 2022

Pelz-Berjis: 5 Ayes; 2 Absent - Alsop, Brar

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)) –

DIRECTOR BERJIS REPORTED ON THE NEW ACADEMIC YEAR THAT COMMENCED JULY 1 AND WELCOMED THE NEW COLLABORATION WITH WESTERN UNIVERSITY SCHOOL OF MEDICINE; CHAIRMAN BIGLER WISHED EVERYONE INVOLVED THE BEST

ITEMS FOR CONSIDERATION

CA

- 3) Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings –
APPROVED; ADOPTED RESOLUTION 2022-012
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 4) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on June 15, 2022 –
APPROVED
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 5) Proposed Agreement with Everardo Cobos, M.D., a contract employee, for professional medical services in the Department of Medicine from August 8, 2022 through August 7, 2025, in an amount not to exceed \$1,650,000, plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 073-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 6) Proposed retroactive Amendment No. 3 to Agreement 20119 with Juan M. Lopez, M.D., a contract employee, for professional services in the Department of Obstetrics and Gynecology, for the period July 1, 2019 through June 30, 2022, extending the term for 90 days from July 1, 2022 through September 30, 2022, and increasing the maximum payable by \$115,000, from \$1,350,000 to \$1,465,000, to cover the extended term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 074-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 7) Proposed Amendment No. 1 to Agreement 041-2021 with Jeffry L. Huffman, M.D., a contract employee, for professional services in the Department of Surgery, for the period July 31, 2021 through July 30, 2026, adding compensation for dual hospital coverage, and increasing the maximum payable by \$467,200, from \$4,088,000 to \$4,555,200, to cover the term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 075-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 8) Proposed Amendment No. 2 to Agreement 873-2015 with Jeffrey G. Nalesnik, M.D., a contract employee, for professional services in the Department of Surgery, for the period January 1, 2016 through December 31, 2025, adding compensation for dual hospital coverage, and increasing the maximum payable by \$467,200, from \$8,974,358 to \$9,441,558, to cover the term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 076-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 9) Proposed Agreement with Danny Long Huynh, M.D., a contract employee, for professional services in the Department of Surgery from August 8, 2022 through August 7, 2027, in an amount not to exceed \$4,360,000, plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 077-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 10) Proposed Amendment No. 2 to Agreement 06222 with Tri M. Ngo, M.D., an independent contractor, for professional medical services in the Department of Radiology, for the period January 3, 2022 through January 2, 2024, increasing the maximum payable by \$500,000, from \$250,000 to \$750,000, to cover the term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 078-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 11) Proposed retroactive 340B Split Billing Service Agreement and Business Associate Agreement with Verity Solutions Group, Inc., an independent contractor, containing nonstandard terms and conditions, to provide 340B split billing services and software, for a term of three years, effective June 24, 2022, in an amount not to exceed \$115,000 –
APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 079-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 12) Proposed Purchase Agreement and Service Agreement with Philips Healthcare, a division of Philips North America, LLC, an independent contractor, for the purchase of three EPIQ Elite Diagnostic Ultrasound Systems, and continued Service Agreement for a term of four years following expiration of the 12-month warranty period, in an amount not to exceed \$541,000 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 080-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 13) Proposed Affiliation Agreement with Ross University School of Medicine and American University of the Caribbean School of Medicine, independent contractors, for clinical training of third- and fourth-year medical students from August 1, 2022 through July 31, 2025 – APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 081-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

- 14) Proposed retroactive Workforce Disruption Staffing Agreement with Aya Healthcare, Inc., an independent contractor, containing nonstandard terms and conditions, to provide emergency assistance with crisis staffing in response to labor disputes, strikes or other work stoppages from July 1, 2022 through June 30, 2023, in an amount not to exceed \$15,000,000 – RIKO MENDEZ, CHIEF ELECTED OFFICER, SEIU, LOCAL 521, HEARD REGARDING THE UPCOMING STRIKE BY SEIU MEMBERS AND ONGOING UNION NEGOTIATIONS; CHIEF EXECUTIVE OFFICER SCOTT THYGERSON HEARD IN RESPONSE; APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 082-2022
Pelz-McLaughlin: 5 Ayes; 2 Absent – Alsop, Brar

CA

- 15) Proposed retroactive Amendment No. 5 to Agreement 620-2009 with Craneware, Plc., an independent contractor, for migration to Trisus Chargemaster Product (formerly Chargemaster Toolkit) and continued access to Physician Revenue and Online Reference Toolkits, for the period June 30, 2009 through June 29, 2022, extending the term five years from June 30, 2022 through June 29, 2027, and increasing the maximum payable by \$1,590,297, from \$2,605,613 to \$4,195,910, to cover the additional services and extended term – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 083-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 16) Proposed Sales Agreement with Axonics, Inc., an independent contractor, containing nonstandard terms and conditions, for the purchase of cystoscope and intraoperative urethral bulking system used for urology and urogynecology procedures, for a term of three years, effective July 20, 2022, in an amount not to exceed \$125,000 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 084-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 17) Proposed Purchase Agreement with Philips Healthcare, a division of Philips North America, LLC, an independent contractor, for the purchase of upgraded telemetry monitoring systems, effective July 20, 2022, in an amount not to exceed \$1,370,000 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 085-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 18) Proposed Attachment 1 to Agreement 180-99 with 3M Health Information Systems, Inc., an independent contractor, containing nonstandard terms and conditions, to provide pass-through third-party terms to support software for the electronic health record, for a term that is coterminous with the current Agreement, with a term expiration of August 1, 2023 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 086-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

CA

- 19) Proposed Quote 2003222207515-07 with Presidio Networked Solutions Group, LLC, an independent contractor, for the purchase of network infrastructure equipment to support core network services under the terms and conditions of Master Services Agreement 053-2018, for a term of 60 months effective July 25, 2022, in an amount not to exceed \$2,215,708 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 087-2022
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

NOTE: CHIEF FINANCIAL OFFICER ANDREW CANTU LEFT THE MEETING PRIOR TO THE DISCUSSION AND VOTE ON ITEM 20

- 20) Proposed retroactive Amendment No. 1 to Agreement 049-2019 with Cantu Management Group, Inc., an independent contractor, for Chief Financial Officer, healthcare consulting and financial management services, for the period September 1, 2019 through August 31, 2023, increasing the maximum payable by \$13,043,284, from \$7,200,000 to \$20,243,284, to cover the term, effective September 1, 2021 –
~~PUBLIC COMMENT RECEIVED FROM SYDNEE GALUSHA, SEIU, LOCAL 521, REGARDING APPROVAL OF PAYMENTS TO CANTU MANAGEMENT GROUP, CANTU MANAGEMENT GROUP RESPONSIBILITIES FOR OVERSIGHT OF HOSPITAL FINANCES AND INTERNAL CONTROLS, AND BOARD POLICY OR LIMITATIONS ON RETROACTIVE AGREEMENTS~~
CORRESPONDENCE DATED JULY 19, 2022, RECEIVED FROM SYDNEE GALUSHA CONCERNING COMMENTS AND QUESTIONS REGARDING AGENDA ITEM 20, A COPY OF WHICH MAY BE OBTAINED UPON REQUEST BY CONTACTING THE AUTHORITY BOARD COORDINATOR AT (661) 326-2000; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 088-2022
Pelz-Berjis: 5 Ayes; 2 Absent - Alsop, Brar

DIRECTOR BERJIS MADE A REFERRAL TO STAFF TO RESPOND IN WRITING TO MS. GALUSHA'S COMMENTS WITHIN 10 DAYS

Kitchen-Pelz: 5 Ayes; 2 Absent - Alsop, Brar

CORRECTION PER SUMMARY OF SEPTEMBER 21, 2022, ITEM 29

NOTE: DIRECTOR BRAR JOINED THE MEETING AFTER THE DISCUSSION AND VOTE ON ITEM 20

NOTE: CHIEF FINANCIAL OFFICER ANDREW CANTU JOINED THE MEETING AFTER THE DISCUSSION AND VOTE ON ITEM 20

- 21) Kern County Hospital Authority Chief Financial Officer report –
Pelz-McLaughlin: 6 Ayes; 1 Absent - Alsop
CHIEF FINANCIAL OFFICER ANDREW CANTU HEARD; RECEIVED AND FILED

- 22) Kern County Hospital Authority Chief Executive Officer report –
CHIEF EXECUTIVE OFFICER SCOTT THYGERSON HEARD; RECEIVED AND FILED
McLaughlin-Berjis: 6 Ayes; 1 Absent - Alsop

CA

- 23) Claims and Lawsuits Filed as of June 30, 2022 –
RECEIVED AND FILED
Kitchen-McLaughlin: 5 Ayes; 2 Absent - Alsop, Brar

ADJOURNED TO CLOSED SESSION
Pelz-McLaughlin

CLOSED SESSION

- 24) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 25) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court Case No. BCV-15-100647 – SEE RESULTS BELOW
- 26) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED 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
- 27) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Paula Torres and Martin Alejandrez Cruz v. Kern County Hospital Authority, Yasser Ratl Mrad, M.D., and DOES 1 through 250, Inclusive, Kern County Superior Court Case No. BCV-21-101001 – SEE RESULTS BELOW
- 28) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygeron, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) – SEE RESULTS BELOW
- 29) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) – SEE RESULTS BELOW
- 30) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Marcel Monji v. County of Kern, et al., United States District Court, Eastern District of California, Case No. 1:19-cv-01526-JLT-BAK (SKO) – SEE RESULTS BELOW

- 31) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/Respondents, Kern County Superior Court Case No. BCV-22-101782 – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION

Berjis-Pelz

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 24 concerning Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD; BY A UNANIMOUS VOTE OF THOSE DIRECTORS PRESENT (MOTION BY DIRECTOR BERJIS, SECOND BY DIRECTOR BRAR; 1 ABSENT - ALSOP), THE BOARD APPROVED ALL PRACTITIONERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, RELEASE OF PROCTORING; VOLUNTARY RESIGNATION OF PRIVILEGES; AND AUTOMATIC TERMINATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 25 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court Case No. BCV-15-100647 – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 26 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED 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. 27 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Paula Torres and Martin Alejandro Cruz v. Kern County Hospital Authority, Yasser Ratl Mrad, M.D., and DOES 1 through 250, Inclusive, Kern County Superior Court Case No. BCV-21-101001 – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 28 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 29 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 30 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Marcel Monji v. County of Kern, et al., United States District Court, Eastern District of California, Case No. 1:19-cv-01526-JLT-BAK (SKO) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 31 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/Respondents, Kern County Superior Court Case No. BCV-22-101782 – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, AUGUST 17, 2022 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

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

(Government Code Section 54957.7)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on September 21, 2022, 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 54957.7)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on September 21, 2022, to discharge its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The closed session involves:

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

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

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on September 21, 2022, 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 – FORMALLY INITIATED LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Patricia Smith v. Kern
Medical Center, and DOES 1 through 10, Kern County Superior Court Case No.
BCV-18-101315 –

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

(Government Code Section 54957.7)

The Board of Governors will hold a closed session on September 21, 2022, to consider:

 X CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) –

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

Government Code Section 54957.7

The Board of Governors will hold a closed session on September 21, 2022, to consider:

- X CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Financial Officer (Government Code Section 54957.6) –

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

Government Code Section 54957.7

The Board of Governors will hold a closed session on September 21, 2022, to consider:

 X CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Vice President & General Counsel Karen S. Barnes, and designated staff - Unrepresented Employee: Chief Executive Officer (Government Code Section 54957.6) –