

## MEDICAL DIRECTOR AGREEMENT

THIS MEDICAL DIRECTOR AGREEMENT (the "Agreement") is entered into this first day of October, 2013 (the "Effective Date"), by and between the City of Chula Vista ("City"), and The Regents of the University of California, a California Constitutional corporation, on behalf of the University of California, San Diego, School of Medicine, Department of Emergency Medicine ("UCSD") or ("Contractor").

WHEREAS, City operates an emergency medical practice providing services to several hospitals and has the need for a physician to provide medical direction and oversight of nursing, EMT, and paramedics along with supervising programs of quality improvement, chart reviews, monitoring pharmacy and drug usage;

WHEREAS, UCSD employs physicians with training in medicine and emergency medicine, and in particular, John Serra, M.D. ("Physician") is willing to provide services of Physician to perform such medical direction;

WHEREAS, City desires to secure, and UCSD desires to provide, on a nonexclusive independent contractor basis services of Physician;

NOW, THEREFORE, it is agreed:

1. Contractor Services. Contractor shall work closely with and report to City's Division General Manager or its designee. The scope of the work to be performed under this Agreement includes, but is not limited to, the activities specified on Exhibit A (the "Services") which is attached hereto, and such other work as may be reasonably requested from time to time. Contractor acknowledges that City is relying upon Contractor's reputation and representations that it can fully perform the Services set forth in this Agreement on a timely basis. Accordingly, Contractor acknowledges and agrees that time is of the essence in the performance of its Services hereunder. "Contractor" as used in this Agreement includes Contractor's affiliates, employees, officers, directors, agents and representatives, successors and assigns.
  - 1.1 If Physician shall become permanently unavailable, for any reason, Contractor may, in its sole discretion, appoint another physician or terminate this Agreement. If Contractor elects to appoint another physician, such an appointment shall be made with the prior written consent of City and such services shall be provided pursuant to the terms of this Agreement.
  - 1.2 Conflict of Interest. City acknowledges that Contractor has executed a Medical Director Agreement (effective date April 1, 2012) with Rural/Metro Corporation ("Rural/Metro") for Physician's services. Therefore, should City require a review of ambulance transport (or medical care) services provided by Rural/Metro, Contractor agrees that Physician shall identify, and Contractor shall appoint another UCSD physician to provide an independent review for City for such Rural/Metro services.
2. Changes. At any time, City may request Contractor to make changes to the Services within the general scope of this Agreement such as, but not limited to, alterations in, additions to or

deletions from the work, or changes in the sequence of the performance of the work. Contractor shall thereafter modify the Services to be performed hereunder. Any changes involving compensation must be agreed upon by both parties in writing at the time the change is made.

3. Certifications and Licenses. Contractor is and shall continue to be properly licensed to practice medicine in the State of California at all times during the term of this Agreement. In addition, Contractor agrees to be bound by the principles of ethics of the American Medical Association, and all applicable professional societies and regulatory bodies, as well as the requirements of Applicable Law during the term of this Agreement.
4. Qualifications to Participate in Federal and State Healthcare Programs. Both parties represent and warrant that (a) neither it nor any employee, agent, or independent contractor provided under this Agreement is excluded from participation under any Federal Health Care Program for the provision of items or services for which payment may be made under a Federal Health Care Program; (b) neither it nor any employee, agent or independent contractor provided under this Agreement has been convicted of a felony relating to health care fraud as defined under 42 U.S.C. §1320a-7(a)(3); and (c) no final adverse action, as such term is defined under 42 U.S.C. §1320(a)-7(c) has occurred or is pending or threatened against either party or to its knowledge against any employee, agent or independent contractor engaged to provide items or services under this Agreement (collectively "Exclusions/Adverse Actions"). During the term of this Agreement, each party agrees to notify the other party in writing of any Exclusions/Adverse Actions within ten (10) days of learning of any such Exclusions/Adverse Actions and provide the basis of the Exclusions/Adverse Actions. Each party acknowledges that the exclusion of any employee, agent or independent contractor from participation in the Federal Health Care Programs shall result in his or her immediate removal from the performance of duties and responsibilities for the other party under the terms of this Agreement. Each party acknowledges and agrees that any Exclusions/Adverse Actions of or against it or any employee, agent or independent contractor utilized, directly or indirectly, in the performance of this Agreement may serve as the basis of an immediate termination of this Agreement by the other party. For purposes of this Agreement, a "Federal Health Care Program" shall mean any plan or program providing health care benefits, whether directly through insurance or otherwise, that is funded directly, in whole or part, by the United States Government (other than the Federal Employees Health Benefits Program), or any State health care program and shall include, by way of example, the Medicare and Medicaid programs.
5. Obligations. City shall pay Contractor for Services as more specifically described on Exhibit A within thirty (30) days from date of receipt of invoice.
6. Term and Termination. The term of this Agreement shall commence on the Effective Date and shall be for a period of two (2) years. Either party may terminate this Agreement without cause at any time by giving the other party thirty (30) days advance written notice of termination. In addition, either party may terminate this Agreement for cause for a breach of any term of this Agreement upon providing five (5) days advance written notice to the breaching party, setting forth the nature of the breach, and if, within five (5) days from receipt of such notice, breaching party does not cure the breach within the five (5) day period. The term of this Agreement may be renewed by a written amendment to this Agreement executed by the parties.

7. Audit. At reasonable times and upon reasonable prior notice, City may examine Contractor's records and operations which pertain to the Services to verify performance hereunder.
8. Use of Resources. Any equipment, materials or other items provided or paid for by City (i) shall remain the property of City, (ii) shall be used by Contractor only in performance of the Services, and (iii) returned to City upon request or at the completion of Services. If given authorization to utilize City's resources, Contractor agrees to use the same exclusively in performing Services. Any other or unauthorized use will subject Contractor to immediate termination. In the event of such termination, City shall retain and hereby does not waive any possible legal action or remedies available arising from, or out of this and/or any breach of this Agreement by Contractor.
9. Notification. Each party shall keep the other party informed of its policies, procedures (including revised copies of its standard operating procedures and standards of conduct utilized in connection with the Services) and activities relevant to its obligations under this Agreement, and shall meet with representatives of the other party, at mutually acceptable times, on a regular basis to review procedures, policies and quality of services. Each party shall update the other party with any material amendments to its policies and procedures that it makes from time to time.
10. Warranties & Representations.
  - a. Contractor warrants and represents (i) that it shall perform its/his/her services in accordance with medical industry standards; (ii) that to the best of its knowledge all goods and Services reflected in its billing have been furnished as so represented; (iii) all information supplied to and all representations made to City shall be true, accurate and complete and in the event such information or representation(s) made herein become inaccurate or incomplete, Contractor will promptly notify City in writing of such occurrence; (iv) it shall perform all its obligations and maintain all records and patient information used for the performance of services under this Agreement in compliance with Applicable Law and as a "Business Associate" as defined by the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d through d-8, as amended ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act), 45 CFR Parts 160, 162 and 164 in the Business Associate Agreement; (v) it has not been and/or is not currently suspended and/or found in violation of any Applicable Law and/or state or professional licensing group standards; and (vi) there is no pending, threatened, and/or anticipated proceeding or litigation against, relating to, or arising out of its medical license and/or medical practice.
  - b. Each party represents and warrants to the other that (i) it has the right to enter into this Agreement, to grant the rights granted in this Agreement and to perform fully all of the services and obligations contemplated by this Agreement; (ii) the consent of no other person, political body, board of directors or entity is necessary for it to enter into and fully perform this Agreement; (iii) the person entering into this Agreement is authorized to sign this Agreement on behalf of the party; and, (iv) the parties have reviewed this Agreement with their respective legal counsel to the party's satisfaction or voluntarily waived their right to do so.
11. No Patient Care & Ambulance Ride Alongs. Contractor acknowledges that Contractor's Services do not include actual patient treatment and/or care. In the event Physician desires to ride along in an ambulance, Physician shall execute the Non-Employee Voluntary

Participation in Medical & Fire Response - Assumption of Risk, Waiver Release & Indemnification Agreement, and specifically agrees and understands that patient care and/or treatment is outside the scope of this Agreement and any patient treatment or care that Physician provides is treatment or care delivered in the course of the Contractor's medical practice.

12. Contractor is Independent Contractor. In the performance of this Agreement, Contractor is acting as an independent contractor and it, or its Physician employee, will not be treated as an employee with respect to the Services provided pursuant to this Agreement for federal tax or any other purpose. Nothing in this Agreement shall be construed as creating an employment relationship, agency, partnership, or joint venture between the parties. Contractor hereby acknowledges and agrees that it shall be responsible for procuring and maintaining any and all health, workers' compensation, and any other additional insurance for its employees and to protect its assets. In addition, Contractor payment for Services rendered shall be made in the gross amount, without withholding for federal, state or local income taxes unless City is required by Applicable Law to withhold. City shall not be responsible for the payment of any F.I.C.A., F.U.T.A. or other similar charges with respect to Contractor and Contractor agrees to pay all self-employment and other taxes, including income taxes and estimates thereof, as shall be required by the Internal Revenue Code of 1986, as amended, and the Applicable Law of any other government entity having jurisdiction over Contractor. Except as expressly provided in this Agreement, City shall have no direction, supervision or control over Contractor or its employees. Each party shall control and direct the methods by which it performs its responsibilities hereunder. Except as provided herein, neither party is authorized to act on behalf of the other in any other matter whatsoever.
13. Indemnification. Each party, its officers, directors, and employees ("Indemnitor") shall indemnify and hold harmless the other, its officers, directors, and employees, ("Indemnitee") for, from and against all costs, claims, losses, liabilities, penalties, fines, citations, expenses, forfeitures or other damages, including but not limited to settlements, defense costs, judgments, court costs, expert(s) fees and reasonable fees of attorneys, incident to, and which it may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of any Applicable Law, to the extent that such damage was caused by, in whole or in part, incident to or arose out of this Agreement and the Indemnitor's: (i) breach of this Agreement; or (ii) negligent or willful act(s) or omission(s); or (iii) violation of Applicable Law; (iv) any employment, workers' compensation or other related claim by Indemnitor's employees, agents or subcontractors. Nothing in this section shall limit any right to contribution or other allocation of fault between the parties as determined by a court of competent jurisdiction and as permitted by all Applicable Law. Contractor shall have full and exclusive liability for, and shall indemnify and defend City and its affiliates, shareholders, directors, officers, employees and agents against any loss, cost, liability or claim related to any taxes and contributions for unemployment insurance, workers' compensation, retirement benefits, life insurance, and any other employment-related claim, charge and/or litigation, benefits, costs, obligations, safety requirements or duties with respect to Contractor's employees, agents or contractors but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Contractor, its officers and employees. Contractor shall maintain appropriate insurance to protect City accordingly.

14. EXCLUSION OF CERTAIN DAMAGES. IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, REGARDLESS OF THE BASIS OF THE CLAIM, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHER LEGAL OR EQUITABLE THEORY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
15. Compliance with Applicable Law. Both parties agree to be in full compliance with all Applicable Law related to this Agreement and shall immediately notify the non-breaching party in the event it has failed to comply with this Section. In such an event, the non-breaching party may immediately terminate this Agreement. "Applicable Law" shall include all federal, state and local laws, statutes, regulations, codes, ordinances, professional rules, licensing requirements or standards, and/or Executive Orders, as amended, applicable to the services and/or obligations of the parties hereunder.
16. Compliance Program and Training. Contractor acknowledges that it has received copies of City's Corporate Compliance Program ("Program"), including its Code of Ethics and Business Conduct and its Anti-Kickback Statute. Contractor shall comply with all aspects of the Program, Code of Ethics and Business Conduct, and the Anti-Kickback Statute, including any required City compliance training related to each.
17. Compliance with Anti-Kickback Statute. Each party shall comply with the Federal Health Care Programs' Anti-Kickback Statute (42 U.S.C. § 1320a-7b) and any applicable regulations promulgated thereunder. The parties further recognize that this Agreement shall be subject to the amendments of the Anti-Kickback Statute or any of its applicable regulations. In the event any applicable provisions of the Anti-Kickback Statute or its regulations invalidate, or are otherwise inconsistent with the terms of this Agreement, or would cause one or both of the parties to be in violation of the law, the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of the Statute and its applicable regulations.
18. Fair Market Value. This Agreement has been negotiated at arms length and in good faith by the parties. Nothing contained in this Agreement, including any compensation paid or payable, is intended or shall be construed: (i) to require, influence or otherwise induce or solicit either party regarding referrals of business or patients, or the recommending the ordering of any items or services of any kind whatsoever to the other party or any of its affiliates, or to any other person, or otherwise generate business between the parties to be reimbursed in whole or in part by any Federal Health Care Program, or (ii) to interfere with a patient's right to choose his or her own health care provider.
19. Regulatory Changes. City reserves the right to modify this Agreement, upon thirty (30) days notice to Contractor in the event any Applicable Law or government policy or program change is passed or adopted affecting City's rates and/or obligations.
20. Confidential Information. In addition to Protected Health Information as defined by the Health Insurance Portability and Accountability Act of 1996, as amended, during the course of performing this Agreement, each party may from time to time receive confidential information about the other including but not limited to information about the party's customers, patients,

practices, procedures, strategies, organization, financial and other related information. Neither party shall use or disclose any such confidential information for any purpose other than the limited purpose of performing its obligations under this Agreement, without the prior express written permission of the supplying party. City's copyrighted materials and procedures shall be and remain the sole property of City. If a party is served with a subpoena or other legal process concerning confidential information of the other party, that party shall immediately (not more than 48 hours after the receipt) notify the supplying party and shall cooperate with it in any lawful effort to contest the legal validity of such process the supplying party may wish to pursue. Upon the termination of the Agreement for any reason, or at any time City may so request, Contractor shall promptly deliver to City all confidential information delivered to Contractor by City, including any copies in its possession, it being agreed that such confidential information is the property of City.

21. Intentionally Omitted.

22. Ownership of Work, Materials, and Documents. All documents including, but not limited to, deliverables, manuals, programs, designs, reports, protocols, computer programs, code, software, development, systems design, specifications, and any other pertinent data, in whatever form of media, specifically prepared for, produced, and/or resulting from Contractor's performance of Services herein ("Work") are works for hire and are, or shall become the exclusive property of City. To the extent that title to any such Work may not, by operation of law, vest in City or such Work may not be considered works for hire, Consultant irrevocably assigns all rights, title and interest in Work to City. All such Work shall belong exclusively to City, except as set forth herein, with City having the right to obtain and to hold in its own name, copyrights, registrations, or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Except as provided herein, each party reserves all their respective rights, title, and ownership in their respective intellectual property including, but not limited to, rights in any materials, business processes, computer code, software, or documentation, owned or developed by or for each party respectively and independently of this Agreement, and such intellectual property shall remain the sole property of Contractor or City respectively.

23. Force Majeure. Either party shall be excused for failures and delays in performance of its respective obligations under this Agreement due to any cause beyond its control and without fault, including without limitation, any act of God, war, riot or insurrection, law or regulation, strike, flood, fire, terrorism, explosion or inability due to any of the aforementioned causes to obtain labor, materials, roadways or facilities. Nevertheless, each party shall use its best efforts to avoid or remove such causes and to continue performance whenever such causes are removed, and shall notify the other party of the problem.

24. Publicity Provision. Neither party shall use any trademarks, service marks, visual product representations, trade names, logos or other commercial or product designations of the other party, or disclose such without said party's express prior written consent. In particular, neither party shall identify or make reference to the other party in any advertising or other promotional modality regardless of its form without explicit prior written consent from said party.

25. IP Provision. Nothing in this Agreement is intended to grant a license or any rights of any nature whatsoever to City's intellectual property which may include but is not limited to its any of its patents, mask work rights, trademarks, trade names, service marks, logos, copyrights, derivatives, software or any other intellectual property rights of City.

26. Dispute Resolution. In the event of a dispute, the parties will consider the use of mediation and/or arbitration to resolve the dispute instead of litigation except for actions involving equity or injunctive relief and/or Contractor's failure to pay City any amounts due.
27. Legal Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party, reasonable attorneys' fees, costs, and expenses related to such action.
28. Notices. Any notice required or permitted to be given pursuant to any provisions of this Agreement shall be given in writing, and deposited in the United States mail, postage pre-paid, registered or certified mail, return receipt requested, or by a nationally recognized overnight courier service, properly addressed to the following addresses:

**To City:**

City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 91910  
Attn: Chris Scott

**To Contractor:**

UCSD Health Sciences  
Assistant Vice Chancellor  
9500 Gilman Dr. MC0602  
La Jolla, CA 92093-0602.

The notification addresses listed above may be changed by either party with proper notice as listed above.

- 30 Assignment. Neither party may assign this Agreement to a third party (except to an affiliate, subsidiary or by way of merger by the sale of substantially all the assets) without the prior written consent of the other party, which shall not be unreasonably withheld. City may subcontract its obligations under this Agreement without the Contractor's consent. This Agreement shall be binding upon and for the sole benefit of the parties hereto and their respective successors and permitted assigns.
- 31 Waiver. The failure by either party to insist on strict performance by the other party of any provision of this Agreement shall not be a waiver of any subsequent breach or default of any provision of this Agreement.
- 32 Severability. If any portion or portions of this Agreement shall be for any reason invalid or unenforceable, the remaining portion(s) shall be valid and enforceable and carried into effect unless to do so would clearly violate the present legal and valid intention of the parties hereto.
- 33 Survival. Any provisions of this Agreement creating obligations extending beyond the term of this Agreement shall survive the expiration or termination of this Agreement, regardless of the reason for such termination.
- 34 Headings. The headings used in this Agreement are for convenience only and do not limit the contents of this Agreement.

- 35 Variations of Pronouns. All pronouns and variations thereof will be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of a person, persons, or entity may require.
- 36 Amendments. Any amendments to this Agreement shall be effective only if in writing and signed by authorized representatives of both parties.
- 37 Governing Law and Entire Agreement. This Agreement shall be subject to and governed according to the laws of the State of California, regardless of whether either party is or may become a resident of another state. The parties agree that the venue and jurisdiction shall be exclusively in the state and federal courts located in the County of San Diego in the State of California. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any previous agreements or understandings, whether oral or written.
- 38 Authorization for Agreement. All necessary laws, resolutions, and corporate actions have duly authorized the execution and performance of this Agreement, and this Agreement constitutes the valid and enforceable obligations of the parties in accordance with its terms.
- 39 No Third Party Beneficiary. Neither party intends in any manner whatsoever to create an interest or beneficiary in a third party.
- 40 Exhibits. All Exhibits referenced herein are incorporated into this Agreement in their entirety. Agreement when used throughout this Agreement shall include all referenced Exhibits.
- 41 Agreement Controls. If there exists or is alleged any ambiguity, difference or inconsistency between the terms of this Agreement and the Exhibit(s), then notwithstanding anything to the contrary in the Exhibit(s), the terms of this Agreement shall prevail over, govern, supersede and pre-empt the terms of the Exhibit(s).
- 42 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Signature page immediately follows



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized representatives on the day and year first above written.

CITY

The City of Chula Vista

By: Cheryl Cox

Name: CHERYL COX

Title: MAYOR

Date: 12/12/13

Attest:

Donna L. Norris  
Donna Norris, City Clerk

CONTRACTOR

The Regents of the University of California

By: [Signature]

Gene Hasegawa  
Associate Dean for Administration  
UCSD Health Sciences

Date: 12/3/13

[Signature]  
C. HAWKINS  
DEPUTY CITY ATTORNEY

EXHIBIT A

Contractor Services

- 1) Medical Director oversight and consultation for patient care services provided by City.
- 2) Prior to any ride-alongs, Contractor shall execute a Non-Employee Voluntary Participation in Medical & Fire Response & Assumption of Risk, Waiver, Release & Indemnification Agreement, a form of which is attached hereto as Exhibit A-1.
- 3) As consideration for Contractor's Services, City shall pay to Contractor the sum of \$3,333.33 payable on a monthly basis. Contractor shall deliver an itemized invoice on a monthly basis no later than the tenth day of the month following Services rendered to City detailing (i) the date Services were provided, (ii) a brief description of the Services provided, (iii) the number of hours of Services provided, (iv) the dollar amount per item due to City, and (v) any pre-approved out-of-pocket costs incurred that are directly related to performing the Services. Contractor shall be reimbursed for all agreed to and pre-approved out-of-pocket costs incurred that are directly related to performing the Services under this Agreement. Contractor shall coordinate all travel and accommodations in connection with the Services with the City travel office.

Invoices shall be sent to: Chris Scott

Email: [cscott@chulavistaca.gov](mailto:cscott@chulavistaca.gov)

Payments shall be made payable: The Regents of UC  
and sent to: UCSD Emergency Medicine  
Attn: Maegan Carey  
9500 Gilman Drive, MC 8676  
La Jolla, CA 92093-8676

- 4) City and Contractor acknowledge that the amount of time required of Contractor each month likely will fluctuate and there is no minimum or maximum amount of hours per month for which Contractor is engaged. However, it is estimated that Contractor's services will be required for up to twenty (20) hours per month.
- 5) Such other duties as may be mutually agreed upon from time to time and added to this Exhibit A.

Exhibit A-1

NON-EMPLOYEE VOLUNTARY PARTICIPATION IN  
MEDICAL & FIRE RESPONSE

ASSUMPTION OF RISK,  
WAIVER, RELEASE & INDEMNIFICATION  
AGREEMENT

\_\_\_\_\_, [Insert Correct City Legal Entity] (hereinafter referred to as "City") provides medical transportation and/or fire emergency response services and activities related thereto (hereinafter referred to as "Response Services"). I, \_\_\_\_\_, [Print Name of Participant] living at \_\_\_\_\_ [Insert Full Address] desire to participate in, observe and/or otherwise take part in Response Services. I **ACKNOWLEDGE THAT MY PARTICIPATION IN THE RESPONSE SERVICES IS STRICTLY AS AN OBSERVER AND I FURTHER ACKNOWLEDGE THAT I WILL NEITHER BE PERMITTED TO NOR WILL I RENDER ANY PATIENT CARE.**

In consideration of City's consent to allow me to participate in its inherently dangerous and risky activity of Response Services, I hereby knowingly, freely and voluntarily agree as follows:

**Representations.** I represent to City that I am legally competent and age eighteen or older and my driver's license number is \_\_\_\_\_, for the State of \_\_\_\_\_ which states my birth date as \_\_\_\_\_. I acknowledge that I am not an employee or agent of City. I represent that I do not have a medical or physical condition or infectious disease which could be triggered by participating in Response Services or that could endanger the public and/or myself by participating in Response Services. I understand that if I received a small pox vaccination that I maybe contagious for up to four (4) weeks after my inoculation and I specifically represent that I have not had the small pox vaccination or it has been at least four (4) weeks from my inoculation. \_\_\_\_\_ INITIALS

**Medical Doctor (Applicable to Medical Doctors Only).** If the non-employee ride along is a Medical Doctor, I specifically agree and understand that patient care and/or treatment is outside the scope of this Agreement and any patient treatment or care that I provide is treatment or care delivered in the course of my medical practice. \_\_\_\_\_ INITIALS

**Disclaimer of Warranty.** I understand that each situation that City responds to is based on incomplete and limited information provided often under extreme and emergency conditions and which may or may not be ultimately accurate. Moreover, I understand that each situation will contain unforeseen and unknown hazards, dangers and risks to me and to City. City's Response Services are based upon whatever current information is available, at the time of the Response Services are provided so I expressly understand and agree that City makes no representation or warranty expressed or implied, written or oral regarding Response Services to me and to what I may or may not be exposed. \_\_\_\_\_ INITIALS

**Assumption of Risk.** I voluntarily and freely, with full understanding that I may be exposing myself to extreme danger, emotional trauma and other risks. I assume all risks in connection with the Response Services. I acknowledge that participating in Response Services may result in, but is not limited to bodily injury, death, emotional trauma, burns, extreme noise, extreme lights and/or

exposure to hazards and/or diseases like airborne or bloodborne pathogens, bacteria or other harmful transmissions to me. Exposure to an airborne or bloodborne pathogen may result in the transmission of AIDS, hepatitis, TB or other infectious diseases. \_\_\_\_\_ INITIALS

**Endangerment.** I AGREE TO FOLLOW ALL INSTRUCTIONS, PROCEDURES, MEASURES AND DIRECTIONS GIVEN BY CITY AND UNDERSTAND MY FAILURE TO DO SO MAY RESULT IN PROPERTY DAMAGE OR INJURY OR DEATH TO ME OR TO A THIRD PARTY. I UNDERSTAND THAT MY PARTICIPATION IN RESPONSE SERVICES MAY BE TERMINATED AT ANY TIME FOR ANY REASON BY CITY. \_\_\_\_\_ INITIALS

**Insurance.** I understand that I am completely responsible for all insurance coverage which I may wish to purchase to cover my participation in the Response Services.

**Confidentiality of Protected Health Information.** During my participation in Response Services, I acknowledge that I may be exposed to confidential information and/or Protected Health Information (*for example, patient identity, care and/or treatment information*) as defined under HIPAA (referenced below). I acknowledge that City and the activities involved in Response Services are subject to broad, extensive and comprehensive privacy and confidentiality laws and regulations protecting patient care information. I understand that I am legally obligated and personally responsible for holding this information confidentially and not disclosing it to anyone unless such disclosure is permitted under the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act of 2009, and any current and future rules and regulations promulgated thereunder, including without limitation, the federal privacy regulations as contained in 45 CFR Parts 160 and 164, the federal security regulations as contained in 45 CFR Parts 160, 162 and 164, and other federal or state privacy laws. \_\_\_\_\_ INITIALS

Information regarding a patient is strictly confidential, its disclosure to anyone not specifically permitted is strictly prohibited by law. I specifically agree to: *review City's HIPAA Policies prior to my participation in the Response Services; not to take, copy or disclose to the media or anyone any information I receive, observe, view and/or otherwise have access to arising out of, in any manner whatsoever, my participation in Response Services, unless required by law and you have provided notice to City of the request prior to disclosure; adhere to HIPAA and other federal and state privacy laws and regulations; keep all Protected Health Information as defined by HIPAA confidential; and not to disclose any Protected Health Information and/or other confidential information unless so permitted under applicable law.* \_\_\_\_\_ INITIALS

**Compliance with Applicable Law.** I agree to comply with all Applicable Law during my participation. "Applicable Law" shall include all federal, state and local laws, statutes, regulations, codes, ordinances, rules and/or Executive Orders, as amended.

#### WAIVER, INDEMNITY & RELEASE

I waive, release and discharge City, its parent, subsidiaries and affiliates, and its and their respective officers, directors, stockholders, employees, agents, representatives, insurers, successors and assigns, of and from any cost, expense, claim, demand, right or cause of action, of any kind or nature whatsoever, whether based on tort, contract, warranty, or other theory of recovery, at law or in equity, vested or contingent, that I or my spouse, family, parents, children, estate, heirs, agents, insurers, successors or assigns may at any time have as a result of the Response Services for City. In addition, I hereby agree to save, hold, defend and indemnify City, its parent, subsidiaries

and affiliates, and its and their respective officers, directors, stockholders, employees, agents, representatives, insurers, successors and assigns, of and from any cost, expense, claim, demand, right or cause of action, of any kind or nature whatsoever, whether based on tort, contract, warranty, or other theory of recovery, at law or in equity, vested or contingent, that may result, directly or indirectly, from my action or inaction, including my participation in City Response Services. \_\_\_\_\_ INITIALS

I UNDERSTAND THAT THIS WAIVER, RELEASE AND INDEMNITY IS INTENDED TO WAIVE, RELEASE, DISCHARGE AND INDEMNIFY IN ADVANCE CITY, ITS PARENT, SUBSIDIARIES AND AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, INSURERS, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS, FOR, FROM AND AGAINST ANY AND ALL LIABILITY TO ME ARISING FROM THE RESPONSE SERVICES CITY IS INVOLVED IN. THIS INCLUDES, WITHOUT LIMITATION, ANY LIABILITY (INCLUDING CONSEQUENTIAL, INDIRECT, SPECIAL OR INCIDENTAL DAMAGES) ARISING FROM INJURY OR DAMAGE THAT I SUFFER OR CAUSE DURING THE RESPONSE SERVICES, INCLUDING, WITHOUT LIMITATION, DEATH, INJURY, EMOTIONAL TRAUMA, BURNS, ILLNESS, DISABILITY, EXTREME LIGHTS, EXTREME NOISE OR OTHER DAMAGE TO MY PERSON AND/OR PROPERTY OR THIRD PARTY, AND ALL RISKS CONNECTED THERETO, WHETHER FORESEEN OR UNFORESEEN, RESULTING FROM NEGLIGENCE OR OTHERWISE. \_\_\_\_\_ INITIALS

I agree that this Waiver and Release is intended to be as broad and inclusive as permitted by the laws of the State of \_\_\_\_\_. If any provision of this Waiver and Release shall be ineffective or invalid, such provision shall be ineffective or invalid only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Waiver and Release, which shall remain in full force and effect. \_\_\_\_\_ INITIALS

Duty to Inform. So long as I participate in Response Services, in the event any representation or obligation of mine in this Agreement is no longer accurate, or true, I agree to inform City immediately in writing of such occurrence. I realize that City is relying upon my representations and agreements made in this Agreement and that my failure to adhere to this Agreement could seriously injure someone, cause their death or damage property. \_\_\_\_\_ INITIALS

I HAVE READ THIS AGREEMENT AND THE WAIVER, RELEASE AND INDEMNITY BEFORE SIGNING IT, AND FULLY UNDERSTAND AND AGREE TO ITS TERMS.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

AGREED AND ACCEPTED  
[insert R/M entity]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO. 2013-249

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA WAIVING THE BIDDING REQUIREMENT FOR PROFESSIONAL SERVICES BECAUSE OF THE SOLE SOURCE EXCEPTION AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A TWO-PARTY CONTRACT WITH THE UNIVERSITY OF CALIFORNIA, SAN DIEGO, SCHOOL OF MEDICINE, DEPARTMENT OF EMERGENCY MEDICINE ("UCSD") FOR MEDICAL DIRECTOR SERVICES FOR THE ALS PROGRAM

WHEREAS, the City of Chula Vista has traditionally provided emergency medical services in the City; and

WHEREAS, the City of Chula Vista, under direction provided by the City Council, has increased this service to First Responder Advanced Life Support (ALS); and

WHEREAS, in 2013, the City entered into an agreement with the County of San Diego, Health and Human Services Department, Emergency Medical Services Division to provide ALS; and

WHEREAS, the provision of ALS requires a level of medical expertise to establish proper policies and procedures, quality improvement, and education; and

WHEREAS, the City does not employ staff with the level of expertise in this specific area given the complexity and surrounding issues regarding implementation of ALS; and

WHEREAS, the City has considered alternatives for medical direction and come to the conclusion, for the reasons set forth below, that UCSD is uniquely qualified to fill this role; and

WHEREAS, UCSD has a unique performance capability because it is the only academic medical center in San Diego County with the resources, staffing and experience to provide medical direction and access to academic facilities in order to facilitate implementation of ALS; and

WHEREAS, there are no other academic medical centers in San Diego County with the resources and ability to provide medical director services; and

WHEREAS, UCSD is willing to have one of its doctors, Mr. John Serra, M.D., to serve as the Medical Director for the Chula Vista Fire Department provided that City is willing to compensate UCSD for his services in the amount of \$40,000 per annum for two (2) years.

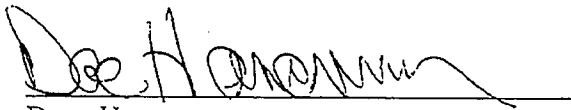
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista does hereby based on the Recitals set forth above and incorporated herein, the City Council finds the Regents of the University of California, a California constitutional corporation, on behalf of the University of California, San Diego, School of Medicine, Department of Emergency Medicine ("UCSD"), to be uniquely qualified for medical director professional services and a sole-source candidate for the same.

BE IT FURTHER RESOLVED based on this finding, to the extent applicable, the City Council waives the competitive bidding processes contained in Chula Vista Municipal Code Sections 2.56.070(A) and 2.56.110 as impractical and determines that the City's interests will be materially better served by working exclusively with UCSD to provide medical director professional services; and

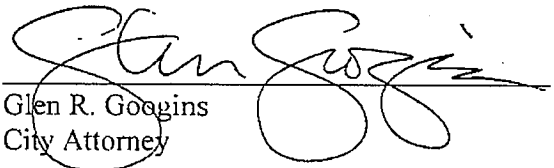
BE IT FURTHER RESOLVED the City Council approves a contract between the City of Chula Vista and the Regents of the University of California, a California constitutional corporation, on behalf of the University of California, San Diego, School of Medicine, Department of Emergency Medicine ("UCSD"), with such minor modifications as may be required or approved by the City Attorney, a final copy of which shall be kept on file with the City Clerk and hereby authorizes the City Manager to execute the same.

Presented by

Approved as to form by



Dave Hanneman  
Fire Chief



Glen R. Googins  
City Attorney

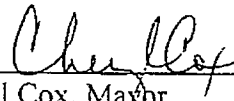


PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 10th day of December 2013 by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

  
Cheryl Cox, Mayor

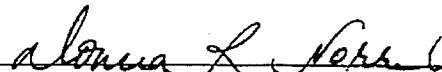
ATTEST:

  
Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO    )  
CITY OF CHULA VISTA     )

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2013-249 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 10th day of December 2013.

Executed this 10th day of December 2013.

  
Donna R. Norris, CMC, City Clerk