



# RESOLUTION No. 18-262

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION APPROVING EXECUTION OF THE RENEWAL PERSONAL SERVICES CONTRACT WITH KENNETH CUTLER, M.D.

WHEREAS, the Board of Supervisors of each county is required to appoint a physician that is in good standing and meets the qualifications of a county health officer as set forth in Health and Safety Code Section 101005 to serve as the County's Health Officer; and

WHEREAS, the parties wish to renew the personal services contract with Dr. Cutler to provide approximately twenty-eight (28) hours per week and to continue to serve as the Public Health Officer and Registrar for the County of Nevada.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California that the Personal Services Contract by and between the County and Kenneth Cutler, M.D. for the provision of Public Health Officer and Registrar services for the term of July 1, 2018 through June 30, 2019 in the maximum amount of \$221,450 be and is hereby approved in substantially the form attached hereto, and that the Chair of the Board of Supervisors be and is hereby authorized to execute the Contract on behalf of the County of Nevada.

Funds to be disbursed from account 1589-40101-492-1101/521520.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at special meeting of said Board, held on the 19th day of June 2018, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Hank Weston and Richard Anderson

Noes: None.

Absent: Supervisor Dan Miller

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 

  
Edward Scofield, Chair

6/19/2018 cc: PH\*  
AC\*  
Dr. Cutler

**PERSONAL SERVICES CONTRACT**

Health and Human Services Agency  
County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

**KENNETH CUTLER, M.D**

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§1) **Public Health Officer and Registrar for the County of Nevada.**

**SUMMARY OF MATERIAL TERMS**

(§2) **Maximum Contract Price:** \$ 221,450  
(§3) **Contract Beginning Date:** 07/01/2018 **Contract Termination Date:** 06/30/2019  
(§4) **Liquidated Damages:** N/A

**INSURANCE POLICIES**

Designate all required policies:

		Req'd	Not Req'd
(§6)	<b>Commercial General Liability</b> (\$1,000,000)	<u>  </u>	<u>  X  </u>
(§7)	<b>Automobile Liability</b>	<u>  X  </u>	<u>  </u>
	(\$ 300,000) Personal Auto <u>  X  </u> (\$1,000,000) Business Rated <u>  </u>		
	(\$1,000,000) Commercial Policy <u>  </u>		
(§8)	<b>Workers' Compensation</b>	<u>  </u>	<u>  X  </u>
(§9)	<b>Errors and Omissions</b> (\$1,000,000)	<u>  </u>	<u>  X  </u>

**LICENSES**

Designate all required licenses:

(§14) California Medical License

**NOTICE & IDENTIFICATION**

(§33) <b>Contractor: Kenneth Cutler, M.D.</b>	<b>County of Nevada:</b>
P.O. Box 10047	950 Maidu Avenue
Truckee, California 96162	Nevada City, California 95959
Contact Person: Kenneth Cutler, M.D.	Contact Person: Jill Blake
Phone: (530) 550-8338	Phone: (530) 265-1732
E-mail: kcutler@sbcglobal.net	E-mail: Jill.Blake@co.nevada.ca.us

**Funding:** 1589-40101-492-1101/521520

CFDA No.:   N/A    
CFDA Agreement No.:   N/A  

**Contractor is a:** (check all that apply)

Corporation:	<u>  </u> Calif.	<u>  </u> Other	<u>  </u> LLC	<u>  </u> Non-profit
Partnership:	<u>  </u> Calif.	<u>  </u> Other	<u>  </u> LLP	<u>  </u> Limited
Person:	<u>  X  </u> Indiv.	<u>  </u> Dba	<u>  </u> Ass'n	<u>  </u> Other

**EDD:** Independent Contractor Worksheet Required:   X   Yes    No

**ATTACHMENTS**

Designate all required attachments:

	Req'd	Not Req'd
<b>Exhibit A: Schedule of Services</b> (Provided by Contractor)	<u>  X  </u>	<u>  </u>
<b>Exhibit B: Schedule of Charges and Payments</b> (Paid by County)	<u>  X  </u>	<u>  </u>
<b>Exhibit C: Schedule of Changes</b> (Additions, Deletions & Amendments)	<u>  </u>	<u>  X  </u>
<b>Exhibit D: Schedule of HIPAA Provisions</b> (Protected Health Information)	<u>  </u>	<u>  X  </u>
<b>Exhibit E: Uniform Administrative Requirements</b> (CFDA-Funded)	<u>  </u>	<u>  X  </u>

*kc*

### Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

### Services

#### **1. Scope of Services:**

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

### Payment

#### **2. Charges and Payments:**

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt of said invoice unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), of this Contract. If a Catalog of Federal Domestic Assistance ("CFDA") number is designated at §33, page one (1), of this Contract, then all components of compensation billed to County shall be calculated in accordance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, Chapter II, Part 200, et al (commonly referred to as the "OMB Super Circular" or "Uniform Guidance").

### Time for Performance

#### **3. Contract Term:**

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), of this contract. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §3, page one (1), of this Contract.

#### **4. Liquidated Damages:**

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

#### **5. Time of the Essence:**

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

### Insurance

#### **6. Commercial General Liability Insurance:** (County Resolution Nos. 90-674, 02-439)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

**7. Automobile Liability Insurance:** (County Resolution No. 90-676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

**8. Workers' Compensation:** (County Resolution No. 90-674)

If §8 at page one (1) hereof shall indicate a **Workers' Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the County, its agents, officers, employees, and volunteers for losses arising from work performed by Contractor for the County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for workers' compensation liability or to undertake a program of self-insurance therefor.

**9. Errors and Omissions:**

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

**10. Miscellaneous Insurance Provisions:** (County Resolution Nos. 90-674, 90-675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then



Contractor shall carry prior acts coverage. The following additional conditions apply to "claims made" coverage: In order for the acts and omissions of Contractor and all its agents during the term of this Agreement to be "continually covered" there must be insurance coverage for the entire contract period commencing on the effective date of this Agreement and ending on the date that is three (3) years beyond the final date this Agreement is effective, including any extensions or renewals of this Agreement. Contractor acknowledges that the provision of this Section may necessitate the purchase of "tail insurance" if coverage lapses. The requirement to maintain tail insurance shall survive termination of this Agreement.

Insurance afforded by the additional insured endorsement shall apply as primary and non-contributory insurance, and neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance maintained by County, its officers, agents and/or employees. Any insurance or self-insurance maintained by County, its officers, agents and/or employees shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶2, below, as these provisions additionally apply to subcontractors.)

#### **11. Indemnity:**

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

### **Personal Services**

#### **12. Contractor as Independent:**

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County. Contractor agrees neither its agents nor employees have any rights, entitlement or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees. Contractor shall hold County harmless and indemnify County against any such claim by its agents or employees.

#### **13. Assignment and Subcontracting:**

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Unless otherwise agreed in writing by the County's Risk Manager, Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, in the same amounts and subject to the same terms as are required of Contractor under this Contract, unless otherwise provided by County's Risk Manager. Said insurance shall include all upstream parties (including the Contractor and the County) as additional insureds using a Blanket Additional Insured Endorsement (ISO form number CG 20 38 04 13) or coverage at least as broad. Contractor shall verify that all subcontractors provide a policy endorsement in compliance with this Paragraph and shall provide a copy of the same to County at least ten (10) working days prior to commencement of any work by subcontractor. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee, or to timely provide County with a copy of the required policy endorsement, shall constitute a Material Breach of this agreement, and, in addition to any

other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

**14. Licensing and Permits:**

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

**Public Contracts**

**15. Certificate of Good Standing:**

Registered corporations including those corporations that are registered non-profits shall possess a Certificate of Good Standing also known as Certificate of Existence or Certificate of Authorization from the California Secretary of State, and further warrants to shall keep its status in good standing and effect during the term of this Contract.

**16. Prevailing Wage and Apprentices:**

To the extent made applicable by law, performance of this contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§ 200 et seq., relating to apprenticeship. Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. A copy of the relevant prevailing wage as defined in Labor Code §1770 et seq. is on file with the Department of Transportation, County of Nevada, 950 Maidu Avenue, Nevada City, California 95959. Copies will be provided upon request.

**17. Accessibility** (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans with Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

**18. Nondiscriminatory Employment:**

In providing Services hereunder, Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including the provisions of the Americans with Disabilities Act of 1990, and Fair Employment and Housing Act, and shall not discriminate against any employee, or applicant for employment or client because of race, sex, sexual orientation, color, ancestry, religion or religious creed, national origin or ethnic group identification, political affiliation, mental disability, physical disability, medical condition (including cancer, HIV and AIDS), age (over 40), marital status, or use of Family and Medical Care Leave and/or Pregnancy Disability Leave in regard to any position for which the employee or applicant is qualified.

If applicable, Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

**19. Drug-Free Workplace:**

Senate Bill 1120, (Chapter 1170, Statutes of 1990), requires recipients of state grants to maintain a "drug-free workplace". Every person or organization awarded a contract for the procurement of any



property or services shall certify as required under Government Code Section 8355-8357 that it will provide a drug-free workplace.

**20. Prior Nevada County Employment (County Resolution No. 03-353):**

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

**21. Conflict of Interest:**

Contractor shall not cause, use or allow any payments, funds or proceeds derived from this Contract to be used, either directly or indirectly, for salary, wages or benefits, for any of its officers, directors, or shareholders. Contractor shall not cause, use nor allow any payments, funds or proceeds derived from this Contract to be used, either directly or indirectly, for salary, wages or benefits for any of its agents, servants, or employees, except those expressly specified in Exhibit "B".

Contractor further certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who performs any function or responsibilities in connection with this contract shall have any personal financial interest or benefit that either directly or indirectly arises from this contract. Contractor shall establish safeguards to prohibit its employees or its officers from using their position for the purpose that could result in private gain or that gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business or other ties.

**22. Political Activities:**

Contractor shall in no instance expend funds or use resources derived from this Contract on any political activities.

**23. Cost Disclosure:**

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report.

**Default and Termination**

**24. Termination:**

a. A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both **without notice**.

b. If Contractor fails to timely provide in any manner the services, materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

c. County, upon giving **seven (7) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract if the County, the Federal Government or the State of

California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

d. Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by certified mail in conformity with the notice provisions. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

e. Any notice to be provided under this section may be given by the County Executive Officer or Designee or Agency Director.

#### **25. Suspension:**

County, upon giving seven (7) calendar days written notice to Contractor, shall have the right to suspend this Contract, in whole or in part, for any time period as County deems necessary due to delays in federal, state or County appropriation of funds, lack of demand for services to be provided under this contract, or other good cause. Upon receipt of a notice of suspension from County, Contractor shall immediately suspend or stop work as directed by County and shall not resume work until and unless County gives Contractor a written notice to resume work. In the event of a suspension not the fault of the Contractor, Contractor shall be paid for services performed to the date of the notice of suspension in accordance with the terms of this Contract.

#### **Miscellaneous**

#### **26. Financial, Statistical and Contract-Related Records:**

a. **BOOKS AND RECORDS:** Contractor shall maintain statistical records and submit reports as required by County. Contractor shall also maintain accounting and administrative books and records, program procedures and documentation relating to licensure and accreditation as they pertain to this Contract. All such financial, statistical and contract-related records shall be retained for five (5) years or until program review findings and/or audit findings are resolved, whichever is later. Such records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records, including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits.

b. **INSPECTION:** Upon reasonable advance notice and during normal business hours or at such other times as may be agreed upon, Contractor shall make all of its books and records available for inspection, examination or copying, to County, or to the State Department of Health Care Services, the Federal Department of Health and Human Services, the Controller General of the United States and to all other authorized federal and state agencies, or their duly authorized representatives.

c. **AUDIT:** Contractor shall permit the aforesaid agencies or their duly authorized representatives to audit all books, accounts or records relating to this Contract, and all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. All such records shall be available for inspection by auditors designated by County or State, at reasonable times during normal business hours. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within fifteen (15) days upon delivery of written notice from County. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the Maximum Contract Price.

#### **27. Non- Profit Provisions:**

If Contractor is registered as a non-profit corporation, Contractor shall comply with the following requirements of this section:

a. **Reporting Requirements:**

Contractor shall submit a report to County no later than thirty (30) days after the aforesaid Contract Termination Date, which report shall identify the status of each service which



was provided as described in **Exhibit "A"** (Schedule of Services), and detail all amounts expended as set forth in **Exhibit "B"** (Schedule of Charges and Payments), or otherwise. This report is subject to audit by the Nevada County Auditor/Controller.

**b. Supplemental Audit Provisions:**

(i) Contractor shall provide the most recent copy of the Contractor's reviewed or audited financial statements. Said financial statements shall be verified by an independent Certified Public Accountant. These financial statements together with the Certified Public Accountant's verification are due to the County within thirty (30) days of execution of the Contract. If Contractor, however, has another County Contract currently in effect and has previously provided this information to the County within the last year, it is not necessary for Contractor to re-submit these statements and verification under this Agreement.

(ii) Non-profit Contractors whose contract with the County includes services that will be reimbursed, partially or in full, with Federal funds are also governed by the OMB Super Circular and are required to have a single or program-specific audit conducted if the Contractor has expended \$500,000 or more in Federal awards made on or before December 26, 2014, or \$750,000 or more in Federal awards made after December 26, 2014, during Contractor's fiscal year. Any Contractor who is required to complete an annual Single Audit must submit a copy of their annual audit report and audit findings to County at the address listed in "Notice & Identification" §33 on page one (1) of the executed contract within the earlier of thirty (30) days after the Contractor's receipt of the auditor's report or nine (9) months following the end of the Contractor's fiscal year.

**28. Intellectual Property:**

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefore, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

**29. Entire Agreement:**

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

**30. Jurisdiction and Venue:**

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

**31. Compliance with Applicable Laws:**

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract. If a CFDA number is designated at §33, page one (1), of this Contract then the applicable CFDA funding agreement requires that this Contract shall also be governed by and construed in accordance with all applicable laws, regulations and contractual obligations set forth in the applicable CFDA funding agreement. Contractor shall comply with all terms and conditions of the applicable CFDA funding agreement and all other applicable Federal, state and local laws, regulations, and policies governing the funding for this Contract. A full copy of the applicable CFDA funding agreement is available for review at the Health and Human Services Agency Administration Office.

**32. Confidentiality:**

Contractor, its employees, agents and or subcontractors may come in contact with documents that contain information regarding matters that must be kept confidential by the County, including personally identifiable patient or client information. Even information that might not be considered confidential for the usual reasons of protecting non-public records should be considered by Contractor to be confidential.



Contractor agrees to maintain confidentiality of information and records as required by applicable federal, state, and local laws, regulations and rules and recognized standards of professional practice.

Notwithstanding any other provision of this Agreement, the Contractor agrees to protect the confidentiality of any confidential information with which the Contractor may come into contact in the process of performing its contracted services. This information includes but is not limited to all written, oral, visual and printed patient or client information, including but not limited to: names, addresses, social security numbers, date of birth, driver's license number, case numbers, services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data.

The Contractor shall not retain, copy, use, or disclose this information in any manner for any purpose that is not specifically permitted by this agreement. Violation of the confidentiality of patient or client information may, at the option of the County, be considered a material breach of this Agreement.

**33. Notices:**

This Contract shall be managed and administered on County's behalf by the department and the person set forth at "Notice & Identification" §33 page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §33 of page one (1) of this Contract. Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

**34. Authority:**

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.


**IN WITNESS WHEREOF**, the parties have executed this Contract effective on the Beginning Date, above.

**CONTRACTOR:**

  
Kenneth Cutler, M.D.  
Physician


Dated: 5/4/18

**COUNTY OF NEVADA:**

  
Edward C. Scofield  
Chair, Board of Supervisors

Dated: 6/19/18

Attest:

  
Julie Patterson-Hunter  
Clerk of the Board of Supervisors

**EXHIBIT "A"**  
**SCHEDULE OF SERVICES**  
**KENNETH CUTLER, MD**

The Contractor shall be primarily responsible for serving as the Acting Public Health Officer and Acting Registrar. Contractor warrants that he is a Doctor of Medicine in good standing and meets the qualifications of a county health officer set forth in Health and Safety Code Section 101005. At the times when the Contractor is providing services under this contract, Contractor shall be empowered to act as the Health Officer for Nevada County.

Services provided by Contractor, estimated to be approximately 28 hours per week, may include but are not limited to:

1. Attendance at various training sessions pertinent to communicable disease control, emergency preparedness and other public health program areas.
2. Attendance at County-provided HIPAA training at least once per year.
3. Consultation to department PHNs (Public Health Nurses) and private providers regarding diagnosis, treatment, source investigation, reporting, response and management of TB and other communicable disease cases. Management of communicable disease outbreaks in the community.
4. Provision of clinical services for TB patients, consisting of new patient evaluations, development of medication schedule and treatment plans, prescription of medicines and on-going monitoring of patients as needed. The current trend is for the provision of TB clinical services to be provided by primary care or specialty care with Public Health consultation and coordination.
5. Consultation and assistance to the Emergency Preparedness Coordinator on urgent issues. Response as Acting Health Officer during a declared incident or emergency including, as appropriate, declaration of a Public Health Emergency.
6. Consultation with Truckee reproductive health clinic staff for urgent cases.
7. Answering of media disease-related questions.
8. Support and oversight to the Vital Registration Unit including answering questions regarding causes of death.
9. Consultation to the Environmental Health Department in the event of a hazardous waste spill or other environmental health threat.
10. Consultation with Animal Control regarding rabies questions and other potential zoonoses.
11. Support to the Chronic Disease prevention programs.
12. Any other activities to support the department as requested and appropriate for the Acting Health Officer position.
13. Consultation with Senior Outreach Nurses regarding complicated cases.
14. To ensure the Health Officer of Nevada County is able to address and take preventive measures that may be necessary to protect and preserve the public health during a public health emergency, the Contractor, with the approval of the Public Health Director, may increase his weekly hours of services provided. The maximum number of additional hours the Contractor shall provide will not exceed a total of 70 hours for the duration of

the Agreement. If these hours need to be increased further an amendment to the Contract will be processed.

15. County shall provide Contractor with a County-owned iPhone and laptop computer for the purposes of communicating with County staff and contractors and conducting County business. Contractor shall access Personal Health Information (PHI) which is owned, maintained or controlled by the County, only at County facilities or electronically utilizing County-provided electronic equipment, or on a personal electronic device that has been set up for remote wipe by County if the device is lost or stolen. Contractor shall report immediately to the County if a personal device which accesses County information is lost or stolen. Contractor shall ensure that such electronic equipment is password protected at all times and that access is limited to him only. Contractor shall not remove any County files containing PHI from County facilities.
16. Notwithstanding Contractor's legal status as an independent contractor, Contractor shall be deemed to be a County "workforce member" as defined by 45 CFR 160.103 strictly for purposes of HIPAA compliance and ensuring the confidentiality of PHI. Contractor shall comply with all County policies, procedures and requirements related to HIPAA compliance.

In addition to the above stated duties, the Contractor may also provide the following Program Planning and Policy Development for Medi-Cal Services for Medi-Cal Clients and Non-Medical Clients (Code 17) for the Medi-Cal Administrative Activities (MAA) Program:

- Development of strategies to assess and increase Medi-Cal system capacity and close Medi-Cal service gaps.
- Analysis of Medi-Cal data related to a specific program or specific group.
- Interagency coordination to improve delivery of Medi-Cal services.

The above MAA activities may include attending/facilitating planning meetings with community partners and other agencies which work with clients to improve the delivery of Medi-Cal services.

Contractor agrees to document the time spent on these Medi-Cal eligible activities in a monthly log, invoice, and/or calendar.

As this agreement will be funded with monies received by County pursuant to agreement(s) with the state or federal government in which county is the grantee, Contractor will comply with all the provisions of said agreements, and said provisions shall be deemed a part of this agreement, as though fully set forth herein. Upon request, County will deliver a copy of said agreement(s) to Contractor, at no cost to Contractor.



**EXHIBIT "B"**  
**SCHEDULE OF CHARGES AND PAYMENTS**  
**KENNETH CUTLER, MD**

The maximum contract obligation for services provided under this Contract shall not exceed \$221,450 for the term.

Acting Public Health Officer and Acting Registrar duties, CMEs	\$208,000
OES funded travel ( <i>with prior approval</i> )	\$ 2,500
Drug Enforcement Agency Certificate	\$ 800
Public Health Emergency Surge Funds ( <i>with prior approval</i> )	\$ 10,150
<b>Total</b>	<b>\$221,450</b>

County shall reimburse Contractor at the rate of \$145 per hour. Contractor agrees to bill in the minimum of fifteen (15) minute increments. Of the total contract maximum, up to \$5,000 may be used to reimburse the Contractor costs related to attending up to three (3) conferences a year and for CME (Continuing Medical Education) units/courses, \$800 is designated for the Drug Enforcement Agency Certificate, and \$2,500 may be used for Office of Emergency Services (OES) funded travel with prior approval by the Public Health Director. In the case of a Public Health emergency and as approved by the Public Health Director, Contractor may bill for additional hours in an amount not to exceed \$10,150 as referenced in Exhibit "A", Section #14. This \$10,150 is included in the contract maximum, but will not be encumbered by the department until such time as may become necessary.

In consideration of services provided by Contractor under this Agreement, County shall provide general liability insurance and professional liability (malpractice) insurance, for which coverage shall be specifically limited to liabilities from services provided by Contractor under this Agreement.

County and Contractor recognize and acknowledge that Contractor shall act as an Independent Contractor and sole proprietor in providing services under the terms of this agreement and, as such, shall not be covered under the County's Worker's Compensation policy. Contractor agrees to hold harmless County from any occupational injury suffered by Contractor while performing services pursuant to this agreement.

Contractor shall be reimbursed for mileage at the current IRS mileage rate per mile for trips made in Contractor's car when Contractor is required by Department to travel outside of the Grass Valley/Nevada City area in order to attend meetings and/or training sessions or provide services. Contractor shall also be reimbursed for all other travel and training expenses related to the preparation for and provision of services as described in this contract.

**CERTIFIED PUBLIC EXPENDITURE**

The Medi-Cal Administrative Activities (MAA) direct charge for Program Planning and Policy Development for Medi-Cal Services for Medi-Cal Clients and Non-Medical Clients (Code 17)

portion of this contract is funded by Public Health Realignment and Medi-Cal Administrative Activities prior year revenues.

**BILLING AND PAYMENT**

Contractor shall separately track his time spent on specific funded activities (e.g., Public Health Administration and Medi-Cal Administrative Activities) on a monthly basis. Contractor shall submit a monthly invoice at the end of each month for compensation and mileage/expenses to be reimbursed. Invoices shall include a breakdown of how many hours are spent on each activity. The invoice shall be delivered or mailed to:

Nevada County Public Health Department  
Attn: Jill Blake, Public Health Director  
500 Crown Point Circle  
Grass Valley, CA 95945