

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Director



AGENDA _____ July 21, 2009

July 06, 2009

AGENCY ADMIN. & FINANCE
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577
Tel: (510) 618-3452
Fax: (510) 351-1367

The Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

Dear Board Members:

SUBJECT: Approval of Standard Services Agreement for Children's Infectious Disease Medical Group, Inc. with County of Alameda, Public Health Department

RECOMMENDATIONS:

Approve and authorize the President of the Board to sign in original signature six (6) copies of the Standard Services Agreement between Children's Infectious Disease Medical Group, Inc. (Principal: Parvin H. Azimi, President; Location: Oakland, CA, Procurement Contract #4136) and Alameda County Public Health Department in the amount of \$40,000 for service period July 1, 2009 through June 30, 2010 to provide medical services to all pediatric tuberculosis (TB) cases, suspects and their contacts that require medical evaluation and treatment.

SUMMARY/DISCUSSION/FINDINGS:

The Alameda County Public Health Department, Tuberculosis Control Program (TB) is entering into an agreement with Children's Infectious Disease Medical Group, Inc. in the amount of \$40,000 for the period July 1, 2009 through June 30, 2010. The purpose of this contract is to provide continuing pharmaceutical services and medical services to all pediatric tuberculosis cases, suspects and their contacts that require medical evaluation and treatment.

To be eligible for the Tuberculosis Enhanced Medical Care Access Program, an eligible client must:

- Reside in Alameda County;
- Have no private or other applicable medical insurance coverage for their TB related Services;
- Be identified by Public Health Department Staff;
- Have been screened for financial eligibility; and
- Be diagnosed with active TB disease, or suspected of having active TB disease

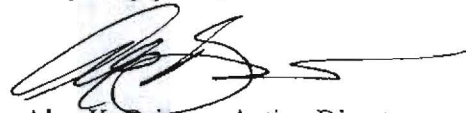
SELECTION CRITERIA/PROCESS:

Kaiser Permanente, Alta Bates Medical Center and Children's Infectious Disease Group, Inc. was contacted for this contract. Kaiser Permanente and Alta Bates Medical Center declined as they do not handle patients and children with TB and also do not handle patients with no insurance. Children's Infectious Disease Group, Inc. was selected because not only do they provide all the necessary specialized medical services to TB cases/suspects and their contacts that require medical evaluation and treatment, they also provide services to uninsured people and pediatric patients under 18 years of age. Request for issuance of Small Local Emerging Business (SLEB) waiver has been submitted to the office of Acquisition Policy on July 1, 2009.

FINANCING:

Funding for this contract is included in FY 2009-10 adopted budget. There is no impact on net County cost.

Very truly yours,



Alex K. Briscoe, Acting Director
Health Care Services Agency

AKB:ss

cc: Auditor-Controller
County Counsel



409

GSA-OAP
JUL 02 2009
RECEIVED

OFFICE OF ACQUISITION POLICY (OAP)
Request for Authorization to Use Non-SLEB Contractor/Supplier

DIRECTIONS

For Requests over \$3,000 to \$25,000: EITHER complete 1-8 below and submit, with supporting documentation, for approval to GSA Purchasing Procurement Specialist, QIC 26026

OR e-mail justification, with supporting documentation, for approval to the appropriate GSA Purchasing Procurement Specialist. Upon approval, the Specialist will process the procurement(s).

For Requests over \$25,000: Complete 1-10 below and submit with signatures and supporting documentation, for approval to GSA-OAP Business Outreach Officer, QIC 26021 AND email soft copy (PDF or WORD) to nakia.neal@acgov.org. Upon approval, a SLEB Waiver Number will be issued. (This number is now a mandatory field in order to enter a Procurement contract into ALCOLINK.) OAP will email signed Request approvals (with Waiver Number) and denials to Requesting Departments and GSA Purchasing.

1. Please check appropriate box and complete department/contact information below.

Requesting Department GSA Purchasing managing the competitive process

Department: Public Health-TB Control Program Contact: Rosita Foley Email: Rosita.Foley@acgov.org
Telephone #: (510) 268-2583

2. Recommended Vendor (Name): Children's Infectious Disease Medical Group, Inc.

(Street Address): 747 52nd Street (City, State & Zip): Oakland, CA 94609

3. Total Contract (or PO/BPO) Value: \$40,000.00 Contract (or PO/BPO) Term: 1 yr or One-Time Purchase

4. Date Goods/Services Needed: July 1, 2009

5. Brief explanation of why goods/services are required: Retain contractor to provide Tuberculosis Enhanced Medical Care Services.

6. What are the consequences if the date goods/services needed (in #4 above) is not met? Children who are active or suspect of TB who have no other source of care would not be treated and their contacts would not be evaluated.

7. Explain what attempts were made to locate a SLEB prime or subcontractor(s), including: Please see attached.

- a. Detailed statement of efforts made to contact and negotiate with certified businesses, including list of certified businesses contacted with names of individuals, addresses, phone numbers and dates contacted.
- b. List of items or selected portions of work proposed to be performed by certified business in order to increase the likelihood of achieving the stated goal.
- c. Reasons for contractor's conclusion that a certified subcontractor is not qualified to perform.
- d. Description of information provided to certified contractors/subcontractors regarding the plans, specifications and anticipated time schedule for portions of the work to be performed.

8. Department Certification for requests over \$3,000 to \$25,000: I certify to the accuracy of the preceding statements,

Signature of Agency/Department Head or Designee _____ Print Name _____ Date _____

9. If the contract is over \$100,000, is the recommended vendor able to comply with the First Source Program? N/A

Yes: No: If No, explain: _____

10. Department Certification for requests over \$25,000: I certify to the accuracy of the preceding statements,

Anita Siegel _____ Anita Siegel 6/29/09 _____
Signature of Agency/Department Head or Designee Print Name Date
or GSA Purchasing Manager (if GSA Purchasing managed the process)

OAP to complete below, for purchases over \$25,000:

A. Request Approved: Waiver Valid Through 06/30/10 SLEB Waiver Number: 409

Reason: Medical wal's services; limited opp'ty to sub contract.

B. Request Denied:

Reason: _____

Ainda Moore _____ 7/6/09 _____
Approved by GSA-Office of Acquisition Policy Date

Approved by Pedro Valencia, Deputy Director, GSA Date

**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of _____, 2009, is by and between the County of Alameda, hereinafter referred to as the "County", and **Children's Infectious Disease Medical Group, Inc.**, hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain **Tuberculosis Enhanced Medical Care** services which are more fully described in Exhibit A hereto ("**Tuberculosis Enhanced Medical Care Access Services**"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide **Medical Services**, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A Definition of Services
- Exhibit B Payment Terms
- Exhibit C Insurance Requirements
- Exhibit D Debarment and Suspension Certification
- Exhibit E Business Associate Provisions (HIPAA)

The term of this Agreement shall be from **July 1, 2009** through **June 30, 2010**

The compensation payable to Contractor hereunder shall not exceed (**Forty Thousand Dollars**) (**\$40,000.00**) for the term of this Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

CONTRACTOR/COMPANY NAME

By: _____
Signature

By: Parvin H. Azimi
Signature

Name: _____
(Printed)

Name: PARVIN H. AZIMI
(Printed)

Title: President of the Board of Supervisors

Title: MD president, CEO

Date: 6, 16/09

Approved as to Form:

By: [Signature]
County Counsel Signature

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and

further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

6. CONFORMITY WITH LAW AND SAFETY:

- a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
- b. Accidents: If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
- c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

7. DEBARMENT AND SUSPENSION CERTIFICATION: (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

- a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

- b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's

services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. **Certified Mail:** When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. **Telex or facsimile transmission:** When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: **COUNTY OF ALAMEDA
Public Health Department
1000 Broadway, Suite 500
Attn: Rosita Foley**

To Contractor: **Children's Infectious Disease Group, Inc.
747 52nd Street
Oakland, CA 94609
Attn: Dr. Parvin Azimi**

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.

15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
 - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
 - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.

16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812,

including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement

17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.

19. TIME OF ESSENCE: Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. TERMINATION: The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its **Medical Services** shall not exceed **\$40,000.00** payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
21. SMALL LOCAL AND EMERGING BUSINESS PARTICIPATION: Contractor shall subcontract with *company name (street address, city, state,; Principal, name)*, for services to be provided under this Agreement in an amount of at least twenty percent (20%) (*or adjust percentage if more than or less than*) of the contract value of this Agreement in accordance with County's Small and Emerging Local Business provision.

Participation of a small and/or emerging local business must be maintained for the term of this contract. Contractor shall not substitute the small and/or emerging local business(s) listed in this agreement without prior written approval from the County. County will be under no obligation to pay contractor for the percent committed to a small and/or local business if the work is not performed or not performed by the listed small and/or emerging local business. Said requests to substitute a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance Officer.

Contractor shall provide SLEB utilization reports when invoicing the County utilizing the Alameda County Compliance System. Contractor and Contractor's small and/or emerging local businesses participating as subcontractors on the awarded contract are required to use the County web-based compliance system as described in Exhibit E (Contract Compliance Reporting Requirements) to report and validate payments made by Prime Contractors to the certified small and/or emerging local businesses. It is the Contractor's responsibility to ensure that they

and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System.

Contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org if you have any other questions regarding utilization of the Alameda County Contract Compliance System.

22. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.
23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.

28. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
29. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
 - c. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
31. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software (“Contractor Products”) provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, “Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
 - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
 - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
35. **EXTENSION:** This agreement may be extended for two additional one year terms by mutual agreement of the County and the Contractor

36. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

Exhibit A

DESCRIPTION OF SERVICES

TUBERCULOSIS ENHANCED MEDICAL CARE ACCESS PROGRAM

July 1, 2009 – June 30, 2010

I. PROGRAM DESCRIPTION

A. Medical Component

1. Effective July 1, 2009, the TB Enhanced Medical Care Access Program (TBEMCAP), will ensure access and payment of all outpatient Tuberculosis (TB) related medical services to all pediatric tuberculosis cases/suspects and their contacts that require medical evaluation and treatment.
2. The program allows for provision of the essential diagnostic and treatment services on an outpatient basis for pediatric tuberculosis clients (active TB cases/suspects and contacts to active pediatric cases/suspects) whose families are unable to pay for their services as well as in specific individual situations where there are access issues involved in the provision of required TB evaluation and follow-up.
3. These services will be provided through the Eastmont Ambulatory Care Clinic known as Eastmont Wellness Center and Winton Ambulatory Care Clinic known as Winton Wellness Center with a minimum of one clinic per week at each site. Pediatric patients not covered by the TBEMCAP will also be seen at both sites.
4. Telephone consultation to other pediatric providers and chest radiograph review will be provided on an as needed basis.

II. ELIGIBILITY FOR TBEMCAP

A. An eligible client must:

1. Reside in Alameda County (excluding the City of Berkeley);
2. Have no private or other applicable medical insurance coverage for their TB related services;
3. Be identified by Public Health Department Staff;
4. Have been screened for financial eligibility; and
5. Be diagnosed with active TB disease, suspected of having active TB disease, and identified contact to a person who has been diagnosed with active TB disease or is suspected of having an active TB disease.

III. PROVIDER REQUIREMENTS

A. Provider shall provide to Public Health Nursing (PHN) Case Manager access to patient's medical records on a monthly basis, or as needed for review.

B. Provider shall be reimbursed as delineated in Exhibit B of this agreement as payment in full for services provided.

C. Provider shall provide treatment based on the following:

1. American Thoracic Society Centers for Disease Control and Prevention's (ATS/CDCP) accepted practices for Tuberculosis Control and Treatment.
2. California Department of Health Services/California Tuberculosis Controller's

Association (CDHS/CTCA) Joint Guidelines for Tuberculosis Treatment and Control in California; and,

3. ATS/CDC,CDHS/CTCA Guidelines for treatment of Latent TB.

- E. Provider shall consult with the TB Medical Director on an as needed basis.
- F. Provider shall consult with the PHN case manager monthly or more frequently if indicated.
- G. Provider shall comply with Health and Safety Code 121361 et. seq. California Health and Safety Code (Gotch Bill, Attachment 2) which includes, but is not limited to:
 - 1. Notifying PHN case manager of any change in treatment regimen within one working day.
 - 2. Reporting any lapse in treatment or medical follow-up to the PHN case manager within two working days of lapse.
 - 3. Reporting any change in provider within two working days.
 - 4. The provider must consider Directly Observed Therapy (DOT) for all children \leq 18 years of age (Pulmonary and Extra Pulmonary).
- H. Office telephone and clerical support will be the responsibility of the provider.
- I. Provider will arrange for coverage for vacation or other non-emergency leaves.

IV. MEDICATIONS

- A. The Provider will FAX the Pharmacy Request form to the Alameda County Tuberculosis Control Program Contract Pharmacy. Submittal forms must identify the name of the assigned Public Health Nurse as the requester in addition to the name of the provider. The medical provider and the patient will not be billed for these pharmacy services for patients who are eligible for the TBEMCAP.

V. DEFINITIONS

- A. "Medically Necessary" means services or supplies which, under the provisions of this agreement are determined to be:
 - 1. Appropriate and necessary for the symptoms, diagnosis or treatment of the medical conditions; and,
 - 2. Provided for the diagnosis or direct care and treatment of the medical condition; and,
 - 3. Within standards of good medical practice consistent with the American Thoracic Society/Centers for Disease Control and Prevention (ATS/CDC) accepted practices of tuberculosis control and treatment and the California Department of Health Services/California Tuberculosis Controller Association (CADHS/CTCA) Joint Guidelines for Tuberculosis Treatment and Control in California; and,
 - 4. Not primarily for the convenience of the patient, the patient's Provider, or another Provider; and,
 - 5. The most appropriate supply or level of service, which can be safely be rendered in the Provider's office.

**EXHIBIT B
PAYMENT TERMS**

COMMUNICABLE DISEASE PHARMACEUTICAL CONTRACT

I. REIMBURSEMENT

- A. The aggregate total of this contract is **\$40,000.00**. The aggregate total in payments made to Provider will not exceed **\$40,000.00** for the term of this contract.
- B. Provider will be paid at the rate of **\$75.00** an hour for a nine-hour weekly clinic at each site and for each hour of TB consultation on pediatric clients.
- C. Provider will provide pediatric infectious disease attendees to staff mentioned clinics. Agency shall reimburse Provider within forty-five days from receipt of a completed invoice with all necessary billing components completed. Section I. B will be invoiced separately from Section I. A and Section II. A, B and C.

II. BILLING

- A. Provider will submit an invoice for services provided under this contract monthly.
- B. The invoice must contain the following **numbers of**:
 - 1. Patients cared for at the Eastmont and Winton Wellness Center.
 - 2. Number of pediatric telephone consultations and/or pediatric case reviews done.

III. GRIEVANCES

- A. Grievances are to be handled in the following manner:
 - 1. **First**, the TB Controller of Alameda County and the Provider after which, if grievance unresolved;
 - 2. **Second** level of grievance resolution shall be the Alameda County Public Health Department Director and the Provider after which, if grievance unresolved;
 - 3. **Third** level of grievance resolution shall be Alameda County Health Care Services Agency Director and the Provider.

EXHIBIT C
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability; Abuse, Molestation, Sexual Actions, and Assault and Battery	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
D	Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the County	\$1,000,000 per occurrence \$2,000,000 project aggregate
E	<p>Endorsements and Conditions:</p> <ol style="list-style-type: none"> 1. ADDITIONAL INSURED: All insurance required above with the exception of Professional Liability, Personal Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives. 2. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. 3. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. 4. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a minimum A.M. Best Rating of A- or better, with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. 5. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. 6. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods: <ul style="list-style-type: none"> - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies. - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured. 7. CANCELLATION OF INSURANCE: All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation. 8. CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent to: <ul style="list-style-type: none"> - Department/Agency issuing the contract - With a copy to Risk Management Unit (125 - 12th Street, 3rd Floor, Oakland, CA 94607) 	



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/25/2009

PRODUCER Nourse Insurance Brokers, Inc. 590 Lennon Lane, Suite 160 Walnut Creek, CA 94598 925-935-0545 0508345 www.nourseinsurance.com	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Children's Infectious Disease Medical Group 747 53rd Street Oakland CA 94609	INSURER A. Sequoia Insurance Co.	21072
	INSURER B. Tower Select Insurance Co.	12262
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADDL LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY	SBP212883-1	11/24/2008	11/24/2009	EACH OCCURRENCE	\$ 2,000,000	
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREM SES (Ea occurrence)	\$ 300,000	
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000	
	<input checked="" type="checkbox"/> Business Liability				PERSONAL & ADV INJURY	\$ Included	
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$ 4,000,000	
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG	\$ 4,000,000	
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$	
	<input type="checkbox"/> ANY AUTO				BCDILY NJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS				BCDILY NJURY (Per accident)	\$	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
	<input type="checkbox"/> HIRED AUTOS						
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$	
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY - EA ACC	\$	
					AGG	\$	
	EXCESS / UMBRELLA LIABILITY				EACH OCCURRENCE	\$	
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$	
	<input type="checkbox"/> DEDUCTIBLE					\$	
	<input type="checkbox"/> RETENTION \$					\$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	TSIWD7080101800	1/8/2008	1/8/2009	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E L EACH ACCIDENT	\$ 1,000,000	
	<input type="checkbox"/> Yes, describe under SPECIAL PROVISIONS below				E L DISEASE - EA EMPLOYEE	\$ 1,000,000	
					E L DISEASE - POLICY LIMIT	\$ 1,000,000	
OTHER							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Evidence of Coverage

CERTIFICATE HOLDER

Alameda County Public Health Dept.
 Contracts Unit
 Attn: Rosita
 1000 Broadway, Suite 500
 Oakland CA 94607

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. * 10 Days for Non-Payment of Premium.

AUTHORIZED REPRESENTATIVE

Karen Brekas

ACORD 25 (2009/01)

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CERT NO.: 5206513 CLIENT CODE: 2007-09-26 15:29:52 673 Karen Brekas 6/25/2009 8:05:14 AM Page 1 of 2

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD 25 (2009/01)

CRKT NO.: 5206513 CLIENT CODE: 2037-09-26 15:29:52 673 Karen Brekko 6/25/2009 8:05:14 AM Page 2 of 2

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EXHIBIT D

COUNTY OF ALAMEDA

DEBARMENT AND SUSPENSION CERTIFICATION

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: Children's Infectious Disease Medical Group, Inc.

PRINCIPAL: PARYIN H. AZIMI TITLE: MD, president, CEO

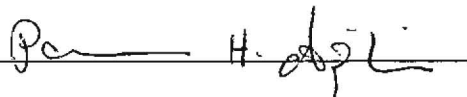
SIGNATURE:  DATE: 6/16/09

Exhibit E
Business Associate Provisions
(HIPAA)

Definitions

Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in 45 Code of Federal Regulations Parts 160 and 164 (the "HIPAA Privacy Rule"). In the event of an inconsistency between the provisions of this Agreement and the mandatory provisions of the HIPAA Privacy Rule, as amended, the Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule, but are nonetheless permitted by the Privacy Rule, the provisions of this Agreement shall control. All regulatory references in this Agreement are to HIPAA Privacy Rule unless otherwise specified.

- (a) *Business Associate*. "Business Associate" shall mean the Contractor, Quest Diagnostics
- (b) *Covered Entity*. "Covered Entity" shall mean that any part of the County of Alameda Health Care Services Agency, a County of Alameda "hybrid entity", is subject to the Standards for Privacy of Individually Identifiable Health Information set forth in 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E ("County").
- (c) *Individual*. "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- (d) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- (e) *Protected Health Information*. "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 164.501 and is limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (f) *Required By Law*. "Required by law" shall have the same meaning as the term "required by law" in section 164.501.
- (g) *Secretary*. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

Obligations and Activities of Business Associate

- (a) Business Associate acknowledges and agrees that all PHI that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.
- (b) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- (c) Business Associate agrees to use appropriate administrative, physical and technical safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (d) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement. Mitigation includes, but is not limited to, the taking of reasonable steps to ensure that the actions or omissions of employees of Business Associate do not cause Business Associate to breach the terms of this Agreement.

- (e) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information, of which it becomes aware, that is not directly related to Business Associate's performance of the Scope of Work set forth in Exhibit A of this Agreement. This includes the reporting of any security incident, of which it becomes aware, affecting the electronic protected health information.
- (f) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. Business Associate shall not subcontract with respect to this agreement without the advanced consent of Covered Entity.
- (g) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (h) To the extent Business Associate is required to make PHI available to an Individual pursuant to Sections 164.524 and/or 164.526, Business Associate shall do so solely by way of coordination with Covered Entity.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section (h) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

Permitted Uses and Disclosures by Business Associate

- (k) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Exhibit A of this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (l) Business Associate may use and disclose PHI as permitted in Section 164.504.

Business Associate Obligations upon Termination or Expiration of Agreement

- (m) Covered Entity has the right to terminate this Agreement as set forth in Exhibit D (Additional provisions) and as otherwise permitted by applicable state and federal law. In

the event of termination for any reason, or upon the expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- (n) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

Miscellaneous

- (o) *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- (p) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- (q) *Survival.* In addition to the provisions with respect to survival as set forth in Exhibit D (Additional provisions), the following shall apply. The respective rights and obligations of Business Associate with respect to PHI in the event of termination, cancellation or expiration of this Agreement shall survive said termination, cancellation or expiration of this Agreement, and shall continue to bind Business Associate, its agents, employees, contractors and successors as set forth herein.
- (r) *Third Parties.* Except as expressly provided herein or expressly stated in the Privacy Rule, the parties to this Agreement do not intend to create any rights in any third parties.
- (s) *Preemption.* The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of PHI under the HIPAA Privacy Rule. The use and disclosure of individually identified health information is also covered by applicable California law. To the extent that California law is more stringent with respect to the protection of such information, applicable California law shall govern Business Associate's use and disclosure of confidential information related to the performance of this Agreement.
- (t) *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

NAME OF THE CONTRACTOR: Children's Infectious Disease Medical Group, Inc.

SIGNATURE: _____

Name:

Title:

AD president, CEO 747
City, State, ZIP Code

Tax Payer I.D# FEIN: _____

SSN: _____

52nd st. Oakland 94609
second address:
295 the uplands
Berkeley, CA 94705