

**AGREEMENT
BETWEEN
SANTA BARBARA COUNTY PUBLIC HEALTH
AND
SANTA BARBARA COTTAGE HOSPITAL**

This Agreement is made this 1st day of September, 2020, by and between the Santa Barbara County Public Health, CA ("COUNTY"), and Santa Barbara Cottage Hospital, a non-profit corporation organized and existing under the laws of the State of California, located at 400 West Pueblo Street, Santa Barbara, CA 93102 ("HOSPITAL").

RECITALS:

WHEREAS, HOSPITAL is an California not-for-profit hospital which provides a large amount of health care services, in excess of 11.75 percent, to the Medicaid population in addition to supporting many community programs that benefit the indigent, uninsured, or underinsured population in the State of California;

WHEREAS, HOSPITAL desires to participate in the drug discount program established under Section 340B of the Public Health Services Act (the "340B Program");

WHEREAS, in order to participate in the 340B Program HOSPITAL must enter into an agreement with a unit of the state or local government pursuant to which HOSPITAL commits to continue to provide health care services to low income individuals who are either not eligible or not entitled to benefits under Title XVIII of the Social Security Act or eligible for assistance under the State Plan of Title XIX of the Social Security Act (42 USC § 256b(a)(4)(L));

WHEREAS, HOSPITAL desires to make such a formal commitment to COUNTY;
and

WHEREAS, COUNTY agrees to accept such commitment on behalf of the citizens of Santa Barbara County.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained therein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed by and between the parties of this Agreement, as follows:

1. The above Recitals are true and correct and incorporated herein.

2. Commitment of HOSPITAL to Provide Indigent Care.

During the term of this Memorandum, HOSPITAL shall continue its historic commitment to the provision of health care to indigent, uninsured and underinsured residents of California who are not entitled to benefits under Title XVIII of the Social Security Act or eligible for assistance under the State Plan of Title XIX of the Social Security Act. In any event, HOSPITAL will ensure that all patients will receive necessary care, as required by law, regardless of ability to pay.

3. Acceptance and Acknowledgements of the COUNTY

- a. COUNTY accepts the commitment of HOSPITAL set forth above;
- b. COUNTY hereby acknowledges that the health care services provided by HOSPITAL hereunder are in furtherance of the public interest of the COUNTY and are being provided to individuals who are either not eligible or not entitled to benefits under Title XVIII nor are they eligible for assistance under any State plan pursuant to Title XIX of the Social Security Act; and
- c. COUNTY acknowledges that HOSPITAL is providing these services at either no reimbursement or considerably less than full reimbursement from these patients.

4. Representations of HOSPITAL – HOSPITAL represents that:

- a. HOSPITAL constitutes a corporation duly organized and validly existing in good standing under the laws of the State of California with the corporate power and authority to enter into and perform its obligations under this Agreement;
- b. HOSPITAL is a tax-exempt corporation of under Section 501 (c)(3) of the Internal Revenue Code of the United States, as amended and under applicable laws of the State of California;
- c. For the most recent cost reporting period that ended before the calendar quarter involved, HOSPITAL had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act [42 USCS § 1395ww(d)(5)(F)]) greater than 11.75 percent; and
- d. HOSPITAL does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

5. Term and Termination

This Agreement shall be effective as of the date of this Agreement and shall remain in full force and effect for one (1) year thereafter and shall automatically renew for one (1) year intervals until August 31, 2025, unless otherwise agreed or terminated earlier.

Either party may give written notice to the other party of their intent not to renew, which notice not to renew must be given at least sixty (60) days before the expiration of the initial term hereof or any extension term.

Notwithstanding the above, either party has the immediate right to terminate this Agreement in the event of a threat or violation of the provisions of Section 340B of the Public Health Service Act or any event that jeopardizes licensure, accreditation, certification or reimbursement which event(s) are caused by this Agreement or if the provisions of Section 340B are materially modified or eliminated.

6. Notices.

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To County: Dana Gamble, Assistant Deputy Director
Santa Barbara County
Public Health Department
300 N. San Antonio Road
Santa Barbara, CA 93110
FAX: 805-681-5200

To Contractor: Steven Fellows, Executive Vice President & COO
Santa Barbara Cottage Hospital
400 West Pueblo Street
Santa Barbara, CA 93105

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not

be construed as meaning that either party agrees to service of process except as required by applicable law.

7. Records, Audit, And Review.

HOSPITAL shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of HOSPITAL's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during HOSPITAL's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), HOSPITAL shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). HOSPITAL shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or county audit exceptions are made relating to this Agreement, HOSPITAL shall reimburse all costs incurred by federal, state, and/or county governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, HOSPITAL shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

8. Nondiscrimination.

COUNTY hereby notifies HOSPITAL that Santa Barbara County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and HOSPITAL agrees to comply with said ordinance.

9. Nonexclusive Agreement.

HOSPITAL understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by HOSPITAL as the COUNTY desires.

10. Non-Assignment.

HOSPITAL shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

11. Section Headings.

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

12. Severability.

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

13. Remedies Not Exclusive.

No remedy herein conferred upon or reserved to either Party is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

14. No Waiver of Default.

No delay or omission of either Party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement shall be exercised from time to time and as often as may be deemed expedient.

15. Entire Agreement and Amendment.

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no

promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

16. Successors and Assigns.

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

17. Compliance with Law.

Each Party shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement.

18. California Law and Jurisdiction.

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

19. Execution of Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

20. Authority.

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, HOSPITAL hereby warrants that

it shall not have breached the terms or conditions of any other contract or agreement to which HOSPITAL is obligated, which breach would have a material effect hereon.

21. Survival.

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

22. Indemnification.

HOSPITAL agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of HOSPITAL, its officers, employees or agents. COUNTY shall promptly give HOSPITAL notice of any such claim.

(Signatures on the following pages)

Agreement between the **County of Santa Barbara** and **Santa Barbara Cottage Hospital**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective September 1, 2020.

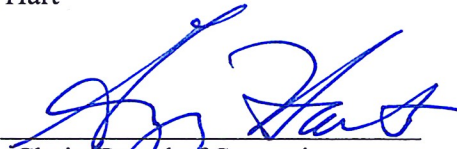
ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: 
Deputy Clerk

COUNTY OF SANTA BARBARA:


Gregg Hart

By: 
Chair, Board of Supervisors

Date: 8-18-20

RECOMMENDED FOR APPROVAL:

Van Do-Reynoso, MPH, PhD
Public Health Department

By: 
Department Head

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

By: 
Auditor-Controller

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Susan McKenzie (Aug 5, 2020 08:49 PDT)
Deputy County Counsel

APPROVED AS TO FORM:

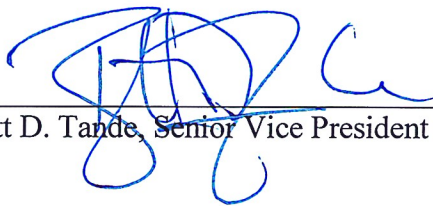
Risk Management

By: 
Risk Management

Agreement between the **County of Santa Barbara** and **Santa Barbara Cottage Hospital**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective September 1, 2020.

SANTA BARBARA COTTAGE HOSPITAL

By: 
Brett D. Tande, Senior Vice President & Chief Financial Officer

By: 
Steven A. Fellows, Executive Vice President & COO

Tax ID Number: 95-1644629