

AGREEMENT FOR SERVICES #085-S1511

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and The Permanente Medical Group, Inc., a California corporation, duly qualified to conduct business in the State of California, whose principal place of business is 1950 Franklin Street, Oakland, CA 94612, (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Contractor to provide occupational health services, in the areas of pre-employment (post-offer) physical evaluations, immunizations, reasonable suspicion testing, and fitness-for-duty examinations for the Human Resources Department, Risk Management Division; and

WHEREAS, Contractor has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

WHEREAS, County has determined that the provision of these services provided by Contractor is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

NOW, THEREFORE, County and Contractor mutually agree as follows:

ARTICLE I

Scope of Services: Contractor agrees to furnish the personnel and equipment necessary to provide occupational health consulting services for the Human Resources Department Risk Management Division. Services shall be in accordance with Exhibit "A," marked "TPMG Services," incorporated herein and made by reference a part hereof.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall cover the period of July 1, 2014 through June 30, 2016.

ARTICLE III

Compensation for Services: For services provided herein, County agrees to pay Contractor monthly in arrears and within thirty (30) days following the County's receipt and approval of itemized invoice(s) identifying services rendered. For the purposes of this Agreement, the billing rate shall be in accordance with Exhibit "A."

Total amount of this Agreement shall not exceed \$237,600.00.

ARTICLE IV

Taxes: Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE V

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE VI

Contractor to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.

ARTICLE VII

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE VIII

Independent Contractor/Liability: Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subContractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

ARTICLE IX

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE X

Audit by California State Auditor: Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the

contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XI

Default, Termination, and Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. **Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

ARTICLE XII

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
Risk Management Department
330 Fair Lane
Placerville, CA 95667
ATTN: Kimberly Kerr, Assistant CAO

or to such other location as the County directs.

with a carbon copy to

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
360 Fair Lane
Placerville, CA 95667
ATTN: Terri Daly, Purchasing Agent

Notices to Contractor shall be addressed as follows:

THE PERMANENTE MEDICAL GROUP, INC.
1545 River Park Drive #411
Sacramento, CA 95815
ATTN: Roman Kownacki, M.D.

or to such other location as the Contractor directs.

ARTICLE XIII

Change of Address: In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties". Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XIV

Indemnity: Contractor shall indemnify, hold harmless, release and defend County, its officer, directors, agents, volunteers, and employees from and against any and all actions, claims, damages, disabilities, liabilities, and expenses, including reasonable attorney's and expert fees and witness and litigation costs that may be asserted by any person or entity, including Contractor, its officers, agents, employees, and/or subContractors, arising out of negligent acts or willful misconduct of Contractor in connection with this Agreement, but excluding: (1) liabilities due to the sole negligence or willful misconduct of County and/or (2) any liability arising as a result of an employment-related dispute (including but not limited to a lawsuit by an applicant/employee of

County for employment discrimination based on results of Contractor's services, a lawsuit by an applicant/employee of County alleging breach of an employment statute or regulation, etc.).

ARTICLE XV

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
 1. The insurer will not cancel the insured's coverage without prior written notice to County, and;

2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

ARTICLE XVI

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XVII

Interest of Contractor: Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other

contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

ARTICLE XVIII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".

ARTICLE XIX

California Residency (Form 590): If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XX

Nonresident Withholding: If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

ARTICLE XXI

Taxpayer Identification Number (Form W-9): All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE XXII

County Business License: It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXIII

Administrator: The County Officer or employee with responsibility for administering this Agreement is Kimberly Kerr, Assistant CAO, or successor.

ARTICLE XXIV

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XXV

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXVI

Venue: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XXVII

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

ARTICLE XXVIII

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

Requesting Contract Administrator Concurrence:

By: _____
Kimberly Kerr
Assistant CAO

Dated: _____

Requesting Department Head Concurrence:

By: _____
Terri Daley
Chief Administrative Officer

Dated: _____

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DRAFT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: _____

By: _____

Chair
Board of Supervisors
"County"

ATTEST:
James S. Mitrison
Clerk of the Board of Supervisors

By: _____

Deputy Clerk

Dated: _____

-- CONTRACTOR --

THE PERMANENTE MEDICAL GROUP, INC.
A CALIFORNIA CORPORATION

By: _____

Name
Title
"Contractor"

Dated: _____

By: _____

Corporate Secretary

Dated: _____

Exhibit "A" – TPMG Services

The Permanente Medical Group, Inc. ("TPMG"), through its Occupational Health Centers collectively known as Kaiser On-the-Job, will provide occupational health and safety services, as requested by the County of El Dorado ("County"). This letter does not obligate County to utilize TPMG services, but it does set forth applicable prices and conditions of such services when elected by County.

What TPMG Will Do For County

TPMG physicians and other practitioners will provide services for County's current or prospective workers as requested by County. The prices for such services are listed in Schedule A, attached to this letter. TPMG will complete appropriate documentation of those services. If further tests or other services are required, TPMG will notify County. TPMG shall submit a monthly invoice to County for services rendered during the previous month.

County's Obligations

If and when County determines to send prospective employees or employees to TPMG for services, County will specify the services to be performed by TPMG. County agrees to pay TPMG for services rendered within thirty days after receipt of the invoice.

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Schedule A

OCCUPATIONAL HEALTH AND SAFETY SERVICES TO BE PROVIDED TO COUNTY

Services will be provided to County as follows:

Billing Code	Description of Services	Cost of Services
PREPLACEMENT EXAM (PP_)		
300388	Preplacement Physical Exam	\$65.00
PREPLACEMENT EXAM (POSTPP)		
300399	POST Physical Exam	\$95.00
92552	Audiogram, screening	\$30.00
94150	Spirometry	\$35.00
93000	EKG, resting	\$50.00
93015	Cardiac Stress Test with Treadmill	\$230.00
86580	PPD, one placement and one reading (<i>no charge to current KP HP members</i>)	\$20.00
85025	CBC with automated differential	\$15.00
80053	Chem Comprehensive Panel	\$35.00
86708	Titer: Hepatitis A	\$40.00
86706	Titer: Hepatitis B	\$31.00
86803	Titer: Hepatitis C	\$45.00
36415	Venipuncture	\$15.00
As Clinically Indicated:		
86735	Titer: Mumps antibody screen	\$35.00
86762	Titer: Rubella antibody screen	\$35.00
86765	Titer: Rubeola antibody screen	\$35.00
86787	Titer: Varicella antibody screen	\$35.00
86706	Titer: Hepatitis B Surface Antibody, HBsAb	\$31.00
90746	Vaccine: Hepatitis B (<i>series of 3 injections</i>)(<i>no charge to current KP HP members</i>)	\$65.00/injection
90632	Vaccine: Hepatitis A (series of 2 injections)	\$72.00/injection
90707	Vaccine: MMR injection (series of 2 injections, if indicated)	\$59.00/injection
90716	Vaccine: Varivax (chickenpox)(series of 2 injections if indicated)	\$80.00/injection
90715	Vaccine: Tdap	\$40.00
81001	Urinalysis with microscopic (if abnormal UA dipstick)	\$15.00
71020	Chest X-Ray, 2 views (for +PPD)	\$65.00

90658	Vaccine: Influenza; flu (when seasonally available) <i>(no charge to current KP HP members)</i>	\$20.00
81001	Urinalysis with microscopic (if abnormal UA dipstick)	\$15.00
HAZARDOUS MATERIALS-HAZMAT PREPLACEMENT OR BASELINE (HAZ1)		
300393	Hazardous Waste/Emergency Worker Physical Exam	\$85.00
80053	Chem Comprehensive Panel	\$35.00
85025	CBC with automated differential	\$15.00
36415	Venipuncture	\$15.00
92552	Audiogram, screening	\$30.00
94150	Spirometry	\$35.00
As Clinically Indicated:		
71020	Chest X-Ray, 2 views	\$65.00
93015	Cardiac Stress Test with Treadmill	\$230.00
300408	Physician Consultation; each 15 minutes	\$60.00
HAZARDOUS MATERIALS- HAZMAT ANNUAL OR PERIODIC (HAZ2)		
300393	Hazardous Waste/Emergency Worker Physical Exam	\$85.00
92552	Audiogram, screening	\$30.00
As Clinically Indicated:		
94150	Spirometry	\$35.00
71020	Chest X-Ray, 2 views	\$65.00
93015	Cardiac Stress Test with Treadmill	\$230.00
300408	Physician Consultation; each 15 minutes	\$60.00
80053	Chem-Comprehensive Panel	\$35.00
85025	CBC with automated differential	\$15.00
36415	Venipuncture	\$15.00
FITNESS FOR DUTY/RETURN TO WORK (FFD/RTW)		
300397	Fitness for Duty Physical Exam, initial	\$95.00
As Clinically Indicated:		
300408	Physician Consultation; each additional 15 minutes	\$60.00
DRUG SCREEN (DRUG)		
PREFERRED ALLIANCE		
300411	Collection for Drug Screen-Preferred Alliance	Billed by Preferred Alliance
82075	Breathalyzer, alcohol screen	Billed by Preferred Alliance
As Clinically Indicated:		

300421	Breathalyzer, alcohol confirmatory test (positive screen test)	Billed by Preferred Alliance
ANNUAL PPD, PLACEMENT AND READING Only		
86580	PPD, one placement and one reading (<i>no charge to current KP HP members</i>)	\$20.00
As Clinically Indicated:		
71020	Chest X-Ray, 2 views	\$65.00
VACCINATION ONLY		
90746	Vaccine: Hepatitis B (<i>series of 3 injections</i>) (<i>no charge to current KP HP members</i>)	\$65.00/injection
As Clinically Indicated:		
86706	Titer: Hepatitis B Surface Antibody, HBsAb	\$31.00

If County is requesting a health screening/physical examination of a job applicant/employee, County will provide to TPMG detailed information concerning the physical requirements for performing the job at issue. This information should include a written job description, including physical and mental requirements and environmental conditions. The examination and any medical conclusions will be based on the information furnished by County and the physician's general understanding of the requirements of the jobs of similar nature. TPMG conducts such examinations with County's assurances that the examination and County's medical inquiries are job-related and consistent with the business needs of County, and otherwise comply with all applicable legal obligations.

Based on its health screening/physical examination of a job applicant/employee, TPMG will advise County of the following: a) the applicant/employee's physical limitations, if any, and the specific job tasks that cannot be performed and/or environmental conditions, if any, that are related to any risk to health and safety, and b) changes that may be made to permit the job tasks to be performed and/or eliminate/reduce the risk. TPMG will make no determination of whether job tasks are essential to the position in question. Any changes that are recommended are advisory only, based on the physician's general understanding of the job and environment in question, and are not intended to supplant the right of County to determine what modifications are available and reasonable.

To the extent that other conditions are identified, TPMG will also: a) notify the employee/applicant of any medical condition, identified during the limited medical evaluation that County requested, that TPMG believes requires further attention, and recommend that the employee/applicant seek care from his or her personal provider, thereby encouraging health and wellness, leading to a more productive workforce, and b) upon authorization of the employee/applicant, TPMG will inform his or her personal medical provider by transmitting copies of the medical records created during the visit.

TPMG will maintain a medical record, for each individual that will contain records of employer requested services, in addition to past, present and future services requested by the employee/applicant.