

AGREEMENT FOR SERVICES

#566-PHD0207

between

THE COUNTY OF EL DORADO

and

BARTON HEALTHCARE SYSTEM

with regard to the

El Dorado County Safety Net Technology Project/ACCESS El Dorado

THIS AGREEMENT ("Agreement") made and entered into by and between the County of El Dorado, a political subdivision of the State of California on behalf of the El Dorado County Public Health Department (hereinafter referred to as "County"), and Barton HealthCare System, a California nonprofit public benefit corporation (hereinafter referred to as "Contractor"), whose principal place of business is 2170 South Avenue, South Lake Tahoe, CA 96150;

WITNESSETH:

WHEREAS, the County Public Health Department ("PHD") and Contractor are part of the El Dorado County Safety Net Provider Network ("Network") which is a network of County agencies, schools, hospitals, community clinics and community -based organizations that are responsible for the provision of, or access to, health care services for low-income families, children, and seniors (safety net population); and

WHEREAS, Marshall Medical Center ("Marshall") and PHD successfully collaborated in applying for and receiving a U.S. Department of Health and Human Services Agency for Healthcare Research and Quality ("AHRQ") *Exploratory Grant* entitled, "El Dorado County Safety Net Technology Project/ACCESS El Dorado" ("Grant") for which Marshall is named as Fiscal Agent; and

WHEREAS, County has contracted with Marshall for PHD to provide services to assist in meeting the objectives and scope of work of the Grant; and

WHEREAS, PHD, in turn, desires to engage Contractor to provide necessary services to assist Marshall in meeting the objectives and scope of work of the Grant; and

WHEREAS, Contractor has agreed to participate in the development and implementation of a health information technology system;

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

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

AGREEMENT

ARTICLE I – SCOPE OF SERVICES

In conjunction with, and at the direction of, PHD and its designated consultants, Contractor will assist PHD to achieve technology enabled solutions for ACCEL, the Care Pathways program (i.e. Case management) and a county-wide health information exchange (HIE), which shall include the following Grant Objectives:

1. Implement a networked Care Pathways Program to provide a medical home and improved health services to low income and/or publicly insured El Dorado County residents. A workflow and task management application will be purchased and implemented to support the countywide health teams providing these services and to capture outcomes.
2. Purchase and implement a countywide Master Patient Identifier (MPI), necessary infrastructure that will be used along with connectivity application to provide sharing of 'patient authorized' clinical information. The MPI should decrease time of registration for patients and providers.
3. Develop the necessary interfaces to those applications used by providers of medical services in the eastern half of El Dorado County (Barton Hospital, Barton Community Clinic, Public Health Department, Mental Health Department) and extend the basic HIE to all interested providers.

Contractor agrees to assist PHD in meeting the Objectives and scope of work of the Grant and as described herein by performing the following:

A. Contractor responsibilities:

1. In coordination with PHD and/or its designated consultants, purchase technology (e.g., software, hardware, licenses, etc.) that support the goals of the Grant as identified by Network, e.g., case management and enterprise master patient identifier (EMPI).
2. Purchase infrastructure equipment and space necessary to host the technology.
3. Host the technology.
4. Handle technology system initial set up.
5. Handle ongoing configuration management.
6. Support new releases, updates and patches.
7. Work collaboratively with Network to implement the technology.
8. Provide technology staff to support technology application configuration, interfaces with Contractor technology, report creation (data mining), technical help desk, and participate in vendor technical/super user training.
9. Become a user of the technology.
10. Work with Network to reconcile EMPI duplicates.

11. Provide assistance on technology work, if requested, to PHD in completing reporting requirements of the Grant.
12. Provide supportive documentation, if requested, to PHD for Grant match requirement.
13. Co-supervise the ACCEL technical business analyst.
14. Provide knowledgeable staff to attend meetings with regard to the Grant at County's request.
15. Submit monthly invoices for services and technology purchase.

The parties acknowledge that the implementation of the Grant will require further collaboration, planning and agreement among the parties and other Network participants, and that the Grant will not be implemented fully within the term of this Agreement, unless the term is extended. This Section A sets forth the matters on which Contractor will provide assistance in connection with the Grant, not performance or deliverable requirements.

B. County responsibilities:

1. Act as the principal liaison with Grantor and Grant Fiscal Agent.
2. Develop / coordinate and submit any amended Grant documents (as requested by the Grantor) and Grant -required progress and or status reports.
3. Develop non-competing continuation proposal submittals and Grant funding roll-over requests.
4. Develop and oversee Network case management operations.
5. Develop the technology work plan and coordinate the Network implementation.
6. Develop the Network business rules definition, requirements, and prompts necessary for technology configuration.
7. Participate in vendor technical/super user training.
8. Oversee end user technology training and periodic Q&A.
9. Work with Network to reconcile EMPI duplicates.
10. Develop and oversee multi-year evaluation plan.
11. Convene the Network leaders to develop the business case / financial model.
12. Provide knowledgeable staff to attend meetings with regard to the Grant and as requested by Contractor.
13. Provide Contractor with copies of all Grant documents and submitted reports.
14. Inform Contractor in a timely manner of any and all audit requirements to which Contractor is responsible to comply.

ARTICLE II – TERM

This Agreement is effective upon the signature of the parties and shall continue through September 29, 2008, consistent with the continuation of the funding for the Grant, unless cancelled by either party per the stipulations of Article V herein, or unless County is unable to successfully continue the funding for the Grant (which must be renewed annually), as provided in Article VII herein.

ARTICLE III – COMPENSATION

A. Grant-related Services. For services provided by Contractor herein under Article I. A. items 3-15, County agrees to pay Contractor at the rate of \$100.00 per hour, inclusive of all labor, overhead, travel, and administrative expenses, in the performance of this Agreement up to, but not to exceed, the following amounts during the Periods defined below:

- \$168,600.00 from the date of execution of this Agreement to September 29, 2007
- \$131,000.00 during the period of September 30, 2007 to September 29, 2008.

Payment by County to Contractor for services will be made in arrears within 30 days following receipt and approval of itemized invoices detailing period being billed, services performed and its relationship to the Grant Objectives and Article I. A. herein, staff hours used (by position and person), compensation due for each service, and total compensation due for all services.

B. Grant-related Technology. For the procurement of technology (e.g., software, licenses and equipment) specifically intended for use in, or otherwise related to, Grant activities and Objectives, referred herein under Article I. A. items 1-2, County agrees to reimburse Contractor in full. The total amount of all reimbursements shall not exceed the following during the periods defined below:

- \$237,500.00 from the date of execution of this Agreement to September 29, 2007. Of that amount, \$163,000.00 may be used for capital expenses (e.g., software, hardware, servers, computer and other infrastructure equipment) and \$74,500.00 for ASP (application service provider) expenses (e.g., Care Pathways application, connectivity, licenses, support services, application hosting, etc.).
- \$130,000.00 for ASP expenses during the period of September 30, 2007 to September 29, 2008.

Contractor shall submit invoices detailing items purchased. County reserves the right to refuse payment for any item purchased that PHD does not believe supports the goals of the Grant or purpose of this Agreement directly or indirectly. Payment shall be made within 30 days following receipt and approval of detailed, itemized invoices defining each purchase as a capital or ASP expense and in accordance with Article I of this Agreement. Contractor shall retain ownership of all capital purchased under this Agreement.

C. Compensation Totals. Total amount of this Agreement for Grant-Related Services, Technology, and Legal Support shall not exceed \$667,100.00 for the term.

D. Audits. As a recipient of federal funds, Contractor shall be subject to annual audit requirements as determined by, and at the discretion of, County.

E. Modifications. At the discretion of the Contract Administrator, per Article XII below, compensation described herein may be modified by mutual agreement, in writing, but not to exceed the total amount of this Agreement. Such modification(s) shall be executed by Contractor and the Contract Administrator and shall not require the Agreement to be amended.

ARTICLE IV – AMENDMENT

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.

ARTICLE V – TERMINATION, AND CANCELLATION

A. Termination for Cause. Either party may terminate this Agreement on thirty (30) days written notice to the other party if the party to whom such notice is given is in material breach of this Agreement. The party claiming the right to terminate shall set forth in the notice of intended termination the facts underlying its claim that the other party is in breach of this Agreement. Remedy of such breach within twenty (20) days of the receipt of such notice shall revive the Agreement in effect for the remaining term.

B. Termination without Cause. Either party may terminate this Agreement for any reason upon written notice (“Notice of Termination”) thirty (30)-days prior to its effect. If termination is effected by either party, County shall pay for satisfactory services rendered by Contractor and expenditures made or committed by Contractor prior to the effective date as set forth in the Notice of Termination, and for such other services, which parties 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 by County, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice of Termination directs otherwise.

C. Effects of Termination. Upon expiration or termination of this Agreement, neither party shall have any further obligation hereunder except for obligations occurring prior to the date of termination and obligations, promises or covenants contained herein which expressly extend beyond the term of this Agreement, except that County reserves the right to take over and complete or reassign the work by Contractor under this Agreement, including the assignment of the software license(s).

ARTICLE VI - INDEPENDENT LIABILITY

Contractor is, and shall be at all times, deemed an independent contractor of County, and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Each party 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.

Each party 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 in the performance of the services and obligations under this Agreement. Each party shall have no right of control over the manner in which work is to be done by the other party, and shall, therefore, not be charged with responsibility of preventing risk to the other party or its employees.

ARTICLE VII – 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, Contractor shall give notice of cancellation of this Agreement in the event of adoption of a proposed federal budget or change in Grant funding from the AHRQ or Blue Shield of California Foundation 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 federal budget or statement from ARHQ or Blue Shield of California Foundation 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 (except for payment of services performed by Contractor and expenditures made or committed by Contractor prior to the date of termination).

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 County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed and expenditures made or committed by Contractor prior to the date of termination.

ARTICLE VIII - 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 in duplicate and addressed as follows:

EL DORADO COUNTY PUBLIC HEALTH DEPARTMENT
 931 SPRING STREET
 PLACERVILLE, CA 95667
 ATTN: GAYLE ERBE-HAMLIN, DIRECTOR

or to such other location as County directs.

Notices to Contractor shall be in duplicate and addressed as follows:

BARTON HEALTHCARE SYSTEM
 2170 SOUTH AVENUE
 SOUTH LAKE TAHOE, CA 96150
 ATTN: JOHN WILLIAMS, CEO

or to such other location as Contractor directs.

ARTICLE IX – TAXPAYER IDENTIFICATION / FORM W9

All individuals/sole proprietors, corporations, partnerships, associations, organizations or public entities providing services to County shall provide a fully executed Department of the Treasury Internal Revenue Service Form W-9, "Request for Taxpayer Identification Number and Certification".

ARTICLE X – INDEMNITY

Contractor shall indemnify and hold harmless County, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions including payment of reasonable attorney's fees, arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of Contractor, its officers, agents, employees, subcontractors, or anyone directly or indirectly employed by any of them.

County shall indemnify and hold harmless Contractor, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions including payment of reasonable attorney's fees, arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of County, its officers, agents, employees, subcontractors, or anyone directly or indirectly employed by any of them.

ARTICLE XI – INSURANCE

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

- A. Full Worker's Compensation and Employers' 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.
- 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. *(For the purposes of this Agreement, proof of Auto Insurance is not needed.)*
- D. Professional liability (for example, malpractice insurance) 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 El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk

Management Division.

- 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 the Risk Management Division 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 thirty (30) days prior written notice to County, and;
 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies.
- 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 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. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with the Risk Management Division, as essential for protection of the County.

ARTICLE XII – ADMINISTRATOR

The County Officer or employee with responsibility for administering this Agreement is Gayle Erbe-Hamlin, Director of Public Health, or successor.

ARTICLE XIII – 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 XIV – HIPAA

Under this Agreement, Contractor will provide services to County, and in conjunction with the provision of such services, certain Protected Health Information ("PHI") may be made available to Contractor for the purposes of carrying out its obligations. Contractor agrees to comply with all the terms and conditions of Exhibit A, HIPAA Business Associate Agreement, attached hereto and made by reference a part hereof, regarding the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

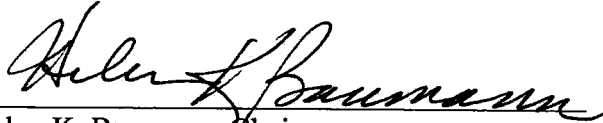
ARTICLE XV – MISCELLANEOUS PROVISIONS

- A. 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.
- B. 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.
- C. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California. No provision of this Agreement shall be interpreted for or against either party because that party's legal representative drafted such provision.
- D. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.
- E. The failure of a party to insist upon strict adherence to or performance of any provision of this Agreement on any occasion shall not be considered a waiver nor shall it deprive that party of the right thereafter to enforce performance of or adherence to that provision or any other provision of this Agreement.
- F. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under the Agreement or other interruption of service or employment deemed resulting, directly

or indirectly, from: Acts of God; acts of civil or military authority; acts of public enemy; acts of terrorism, bioterrorism or public enemy; bomb threats; computer virus; epidemic; power outage; acts of war; accidents; fires; explosions; earthquakes; floods; failure of transportation, machinery or supplies; vandalism; strikes or other work interruptions by Contractor's or County's employees; or any similar or dissimilar cause beyond the reasonable control of either party. Both parties shall, however, make good faith efforts to perform under this Agreement in the event of any such circumstance.

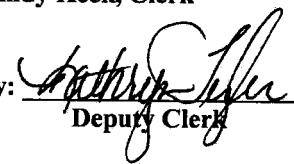
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

COUNTY OF EL DORADO

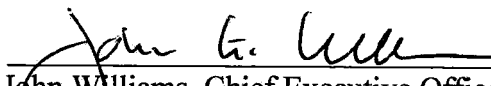
By: 
Helen K. Baumann, Chair
El Dorado County Board of Supervisors

Date: 4/17/07

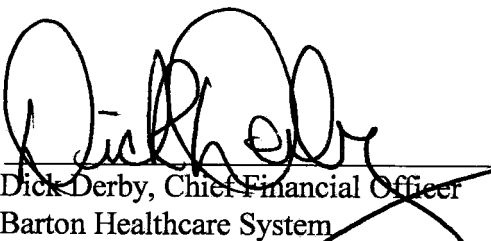
ATTEST:
Cindy Keck, Clerk

By:  Date: 4/17/07
Deputy Clerk

BARTON HEALTHCARE SYSTEM

By: 
John Williams, Chief Executive Officer
Barton Healthcare System

Date: 4/4/07

By: 
Dick Derby, Chief Financial Officer
Barton Healthcare System

Date: _____