

**AGREEMENT FOR SERVICES 024-S1010
AMENDMENT II**

As Needed Laboratory Services

This Amendment II to that Agreement for Services #024-S1010 (aka Agreement for Services #082-129-B-E2009), made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Marshall Medical Center, a non-profit acute care facility operating under the laws of California and duly qualified to conduct business in the State of California, whose principal place of business is 1100 Marshall Way, Placerville, CA 95667 (hereinafter referred to as "Contractor") whose Agent for Service of Process is James Whipple, 1100 Marshall Way, Placerville, CA 95667.

RECITALS

WHEREAS, Contractor has been engaged by County to provide a variety of miscellaneous services including medical, laboratory, pathology, and x-ray diagnostics on an as needed basis in accordance with Agreement for Services #024-S1010, dated June 28, 2010, and Amendment I, dated January 24, 2013, incorporated herein and made by reference a part hereof; and

WHEREAS, the parties hereto have mutually agreed to amend **Article I – Scope of Services, Article II – Term, Article III - Compensation for Services, and Article XII – Insurance**; and

WHEREAS, the parties hereto have mutually agreed to add **Article XXVII – No Third Party Beneficiaries**.

NOW THEREFORE, the parties do hereby agree that Agreement for Services #024-S1010 (aka Agreement for Services #082-129-B-E2009) shall be amended a second time as follows:

1) Article I shall be amended in its entirety to read as follows:

Article I

Scope of Services:

A. Contractor agrees to the following:

1. Contractor shall provide miscellaneous medical diagnostic services on an "as needed" basis pursuant to County's request for services through telephonic, fax and written communication.
 - a. For miscellaneous medical diagnostic services that cannot be performed by Contractor, Contractor shall outsource diagnostic, pathology, and radiologic services to a laboratory which can provide board certified / board eligible

pathologists and radiologists and other technical staff to perform the requested medical diagnostic services.

2. For services provided under this Agreement, County shall only be directly charged for services where El Dorado County Public Health or Mental Health is indicated as guarantor on the Guarantor Statement attached hereto as Exhibit A and incorporated by reference herein. Contractor shall be solely responsible for billing all other charges for diagnostic tests that have been performed but do not indicate the County as guarantor to the appropriate guarantor / insurance provider as indicated on the Guarantor Statement (i.e., private pay, Medi-Cal, Medicare, or other coverage as indicated).
 3. For the purposes of this Agreement, Contractor shall provide board certified / board eligible pathologists and radiologists and other technical staff for medical diagnostic consultations with County's health care provider staff.
 4. Contractor shall be responsible for supplying material / equipment necessary to carry out laboratory, pathology, and radiological services unless the service is not provided by Contractor and Contractor must outsource the service to a laboratory which can perform the requested service. Contractor shall prepare, package, and send those specimens to a qualified laboratory that shall perform the requested service.
- B. County agrees to the following:
1. County shall request services through telephonic, fax, and written communication.
 2. County shall submit specimens accompanied by Contractor's standard diagnostic requisition form with a completed and signed Guarantor Statement.
 3. Within thirty (30) days after receipt of Contractor's invoice detailing services provided, Contract Administrator shall review same and notify Contractor of errors and of corrective action taken including but not limited to providing updated guarantor information to Contractor to facilitate direct Contractor third party billing.

2) Article II shall be amended in its entirety to read as follows:

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall cover the period June 28, 2010 through May 31, 2015 unless earlier terminated pursuant to the provisions under the Articles titled "Fiscal Considerations" and "Default, Termination and Cancellation" herein.

3) Article III shall be amended in its entirety to read as follows:

ARTICLE III

Compensation for Services: This Article shall encompass all invoices received from Contractor since this Agreement's effective date of June 28, 2010.

A. Invoices: Contractor shall submit monthly invoices no later than thirty (30) days following the end of a "service month" except in those instances where Contractor obtains written approval from County Health and Human Services Agency Director or Director's designee

granting an extension of the time to complete billing for services or expenses. For billing purposes, a "service month" shall be defined as a calendar month during which Contractor provides services in accordance with the Article titled "Scope of Services."

B. Billing:

1. Contractor shall bill Medicare, Medi-Cal, and any other applicable State, Federal, or private sources available at the time services are performed, based on information provided by County on Exhibit A "Guarantor Statement," and shall accept payment from those sources as payment in full.
2. Contractor shall not bill Client for any services rendered under this Agreement.
3. County shall be the payer of last resort and shall only be billed for services where no other payment source is available.

C. County as Payer of Last Resort:

1. For services provided herein that are not covered by Medicare, Medi-Cal, and any other applicable State, Federal, or private sources, County agrees to pay Contractor monthly in arrears and within forty-five (45) days following the County's receipt and approval of itemized invoice(s) that shall contain the following:
2. Client name, services rendered, date of services, and Medi-Care rate for services provided;
3. Specific reference to this agreement's assigned number, (i.e., Agreement for Services #024-S1010, aka Agreement for Services #082-129-B-E2009); and
4. The specific County division (either Public Health Division or the Mental Health Division) for which services were provided.

D. Rates: Contractor shall bill County for services performed during the term of this Agreement in accordance with the Clinical Laboratory Fee Schedule (CLFS) and Medicare Physician Fee Schedule (MPFS) as established by the Federal Centers for Medicare and Medicaid ("CMS") specific to Medicare at the rates in effect for the period in which services were performed. This standardized rate provision applies to all services billed to County pursuant to this Agreement except as noted in the below items 1 and 2. Approved Medicare rates may be obtained by Contractor from the Medicare website, currently located at URL <http://www.cms.hhs.gov/FeeScheduleGenInfo/>. Any changes made by the Federal government to Medicare rates, and the effective date of those changes, shall be as defined by the Federal government and automatically become a part herein. Should CMS, at any time, provide notification that it does not have approved rates, Contractor shall continue to use the most current approved rate schedule in effect for existing and future charges until such time a new approved rate scheduled is established by CMS.

1. Contractor outsourced diagnostic, pathology, and radiologic services shall be charged at Contractor's cost pursuant to Business and Professions Code Section 655.5.
2. Outsourced non laboratory diagnostic, pathology, and radiologic services and associated charges under the MPFS shall be verified and authorized by the County Contract Administrator, or successor.

E. Invoices / Remittance shall be addressed as indicated in the table below or to such other location as County or Contractor may direct per the Article titled "Notice to Parties."

Mail invoices to:	Mail remittances to:
<p style="text-align: center;">Health and Human Services Agency Public Health Division Attn: Michael Ungeheuer, Contract Administrator 941 Spring Street, Suite 3 Placerville, CA 95667</p>	<p style="text-align: center;">Marshall Medical Center 1100 Marshall Way Placerville, CA 95667</p>

F. Not-to-Exceed: Compensation for services provided under this Agreement shall not exceed \$100,000 over the term of the Agreement.

4) Article XII shall be amended in its entirety to read as follows:

ARTICLE XII

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.
- P. 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 the 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 for breach pursuant to the provisions contained herein this Agreement under the Article titled "Default, Termination, and Cancellation."

5) Article XXXVII shall be added to read as follows:

ARTICLE XXXVIII

Access to Records: Contractor shall provide access to Federal, State, or County authorities to any books, documents, papers, and records of Contractor which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts, and

transcriptions. Contractor further acknowledges that contracts involving the expenditure of public funds in excess of \$10,000 are subject to examination and audits by the California State Auditor pursuant to Government Code Section 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three 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.

6) Article XXXVIII shall be added to read as follows

ARTICLE XXXVIII

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.

Except as herein amended, all other parts and sections of that Agreement #024-S1010 (aka Agreement for Services #082-129-B-E2009) shall remain unchanged and in full force and effect.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By: Michael Ungeheuer
Michael Ungeheuer, RN, MN, PHN
Community Public Health Nursing Manager
Health and Human Services Agency

Dated: 8/7/13

REQUESTING DEPARTMENT HEAD CONCURRENCE:


By: Don Ashton
Don Ashton, M.P.A., Interim Director
Health and Human Services Agency

Dated: Aug. 9, 2013

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to that Agreement for Services #024-S1010 (aka Agreement for Services #082-129-B-E2009) on the dates indicated below.

-- COUNTY OF EL DORADO --

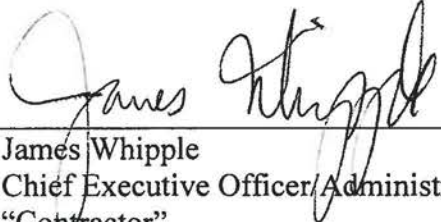
Dated: 9/10/13
By: 
Ron Briggs, Chair
Board of Supervisors
"County"

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

By:  Dated: 9/10/13
Deputy Clerk

-- CONTRACTOR --

MARSHALL MEDICAL CENTER
A CALIFORNIA CORPORATION

By:  Dated: 8/12/13
James Whipple
Chief Executive Officer/Administrator
"Contractor"

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