

AGREEMENT

THIS PROFESSIONAL SERVICE CONTRACT, made and entered into by and between the **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, by and through its **DEPARTMENT OF PUBLIC HEALTH AND WELLNESS** and the **LOUISVILLE METRO BOARD OF HEALTH** herein referred to as “**METRO GOVERNMENT**”, and the **UNIVERSITY OF LOUISVILLE** on behalf of its **SCHOOL OF MEDICINE, DEPARTMENT OF MEDICINE, DIVISION OF INFECTIOUS DISEASES** (“**UNIVERSITY**”), 323 East Chestnut Street, Suite 208, Louisville, KY 40202.

WITNESSETH:

WHEREAS, the Metro Government desires to employ a Laboratory Director (“Director”); and

WHEREAS, pursuant to K.R.S. 45A.380 the Metro Government has determined that competition is not feasible and that this Agreement is for the services of a professional; and

WHEREAS, Dr. Leslie Wolf is employed by the University pursuant to an employment contract (the “Employment Contract”) and has the requisite qualifications and experience; and

WHEREAS, University possesses the requisite experience and qualifications to provide the unique nature of the services desired by the Metro Government;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

I. SCOPE OF PROFESSIONAL SERVICES

A. The parties agree that Dr. Leslie Wolf shall be appointed as Director as of the effective date of this Agreement.

B. University agrees as follows:

1. Director’s responsibilities and duties, as Director of the LMPHW Laboratory, shall be decided by the LMPHW Health Director and shall include but not be limited items listed in Attachment A.

C. ACCOUNTABILITY OF THE DIRECTOR

1. Director shall be a University employee assigned to the LMPHW; and

education and experience, and receive the appropriate training for the type and complexity of services offered, and have demonstrated that they can perform all testing operations reliably to provide and report accurate results.

- Ensure that lab personnel are performing the test methods as required for accurate and reliable results.
- Ensure that policies and procedures are established for monitoring individuals who conduct pre-analytical, analytical and post-analytical phases of testing to verify that they maintain competency.
- Ensure that the lab is enrolled in a proficiency testing (PT) program.
- Ensure that PT results are returned on time to the PT program.
- Ensure that PT samples are tested in the same manner as patient samples.
- Ensure that quality control and quality assurance programs are established and maintained to identify failures in quality as they occur.
- Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system.
- Ensure that remedial actions are taken and documented whenever any deviations from the lab's established performance characteristics are identified and patient test results are correctly reported.

2. With regard to Director's responsibilities to University, Director will be accountable to the appropriate University Administrator.

II. FEES AND COMPENSATION

A. The Metro Government shall contribute to University one half of the Director's compensation (a sum of **FORTY FIVE THOUSAND FOUR HUNDRED FIVE DOLLARS AND FIFTY CENTS (\$45,405.50)**), and shall provide payment to University on a monthly basis after receipt of a detailed invoice from University. The parties agree that the Director's annual compensation shall be **NINETY THOUSAND EIGHT HUNDRED ELEVEN DOLLARS (\$90,811.00)**, which may be adjusted in accordance with UofL policies and applicable laws, and which shall be paid by U of L.

University shall generate a University paycheck to Director. University further agrees that Director shall receive all usual and ordinary faculty benefits including fringe benefits through University.

In the event that the Metro Government terminates this Agreement, the Metro Government shall not be responsible for any further contribution to University for the University employee and the employee shall no longer hold the Director position. University shall then solely determine the employee's wage and duties.

In the event that University terminates Director, University shall not be responsible for any further compensation of the employee; provided, however, the Metro Government shall then have the opportunity to hire the terminated University employee. The Metro Government shall then solely determine the employee's wage and duties.

In the event a Director terminates her employment with University for any reason or if Metro Government is unable to directly hire a Director that has been terminated by University (as outlined above), the parties will work together to identify, recruit and hire

a replacement Director that is satisfactory to both parties (provided that no payments shall be due under this Agreement from Metro Government during the period when the Director position is vacant).

In the event that University were to increase its portion of the Director's salary, that will in no way increase the obligation of Metro Government.

The Metro Government shall contribute to University upon receipt of an invoice for same **TWELVE THOUSAND NINE HUNDRED FORTY DOLLARS AND FIFTY SEVEN CENTS (\$12,940.57)** toward payment of Director's fringe benefits.

Total annual payments to University by Louisville Metro under this Agreement shall not exceed **FIFTY EIGHT THOUSAND THREE HUNDRED FORTY SIX DOLLARS AND SIXTEEN CENTS (\$58,346.16)**, which amount reflects Louisville Metro's obligation to pay one half of the Director's salary and its contribution toward payments of Director's fringe benefits provided by University.

B. The Metro Government shall reimburse out-of-pocket expenses if they are reasonable in amount and necessary to accomplish the scope of services of this Agreement. The Metro Government will not reimburse first class air fare, personal phone calls, short-term parking expenses, or other premium type expenses. The Metro Government reserves the right to reduce or disallow expenses considered excessive or unnecessary under this contract.

C. University agrees that all outstanding invoices at the end of the fiscal year (June 30) must reach the Metro Government no later than July 15 of the following fiscal year. University agrees that original invoices that are not in Metro Government

possession by this time will not be paid and University agrees to waive its right to payment for services billed under such invoices.

III. DURATION

A. This Agreement shall begin October 1, 2022 and shall continue through and including September 30, 2023.

B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of the intent to terminate. This Agreement may also be terminated by any party, without notice to the non-terminating party, because of fraud, misappropriation, embezzlement or malfeasance or a party's failure to perform the duties required under this Agreement. A waiver by either party of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

C. In the event of termination, payment for services complete up to and including date of termination shall be based upon work completed at the rates identified in this Agreement. In the event that, during the term of this Agreement, the Metro Council fails to appropriate funds for the payment of the Metro Government's obligations under this Agreement, the Metro Government's rights and obligations herein shall terminate on the last day for which an appropriation has been made. The Metro Government shall deliver notice to University of any such non-appropriation not later than 30 days after the Metro Government has knowledge that the appropriation has not been made.

IV. EMPLOYER/EMPLOYEE RELATIONSHIP

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause University to be an officer or official of the Metro Government. By executing this Agreement, the parties hereto certify that its performance will not constitute or establish a violation of any statutory or common law principle

pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

V. RECORDS-AUDIT

University shall maintain during the course of the work, and retain not less than five years from the date of final payment on the contract, complete and accurate records of all of University's costs which are chargeable to the Metro Government under this Agreement.

VI. DEFENSE AND INDEMNITY

If a claim for money damages is brought against the Director, the Metro Government agrees to defend and indemnify her as if she were a Metro employee covered by KRS 65.200-.2006 and Louisville Metro Codified Ordinances Sections 35.180-35.183.

VII. REPORTING OF INCOME

The compensation payable under this Agreement may be subject to federal, state and local taxation. Regulations of the Internal Revenue Service require the Metro Government to report all amounts in excess of \$600.00 paid to non-corporate contractors. University agrees to furnish the Metro Government with its taxpayer identification number (TIN) prior to the effective date of this Agreement. University further agrees to provide such other information to the Metro Government as may be required by the IRS or the State Department of Revenue.

VIII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be Franklin Circuit Court, Frankfort,

Kentucky. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

IX. AUTHORITY

The University, by execution of this Agreement, does hereby certify and represent that it is qualified to do business in the State of Kentucky, has full right, power and authority to enter into this Agreement.

X. CONFLICTS OF INTEREST

Pursuant to KRS 45A.455:

(1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) He, or any member of his immediate family has a financial interest therein; or

(b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or

(c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of

any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.

(5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

XI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any

and all prior and contemporaneous oral or written agreements or understandings between the parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Agreement. This Agreement cannot be amended, modified, or supplemented in any respect except by a subsequent written agreement duly executed by all of the parties hereto.

XII. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

XIII. SEVERABILITY

If any court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision hereunder.

XIV. COUNTERPARTS

This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original and all executed counterparts shall constitute one and the same instrument.

XVI. CALCULATION OF TIME Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, University is directed

to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

XVII. CAPTIONS The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement.

XVIII. MISCELLANEOUS University agrees that, in the event it receives from the Metro Government any protected health information, it will not disclose any of that information to any third party unless the disclosure complies with the rules and regulations of the Health Insurance Portability and Accountability Act ("HIPAA"), codified in 42 U.S.C. § 1320d and 45 C.F.R. 160-164. University shall hold in strictest confidence all documentation, information, and observations gathered in the performance of this Agreement, and University agrees to negotiate and execute a mutually acceptable Health Department Business Associate Agreement, if applicable for the project. University further agrees to require any of its subcontractors to both abide by the aforementioned HIPAA prohibitions against the unauthorized disclosure of confidential and protected health information and to sign an approved Metro Government's Business Associate Agreement that contains substantially the same terms as the Metro Government's Business Associate Agreement.

The Metro Government and University agree to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et. seq.*) and all implementing regulations and executive orders, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701) and the Kentucky Equal Employment Act of 1978 (K.R.S. § 45.550 to 45.640) and the Americans with Disabilities Act (42 U.S.C. § 12101 *et. seq.*). No person shall be excluded from participation in, be denied the benefits of, or be subject to discrimination in relation

to activities carried out under this Agreement on the basis of race, color, age, religion, sex, disability or national origin. This includes provision of language assistance services to individuals of limited English proficiency seeking and/or eligible for services under this Agreement.

University nor any of its employees or personnel shall speak on behalf of or as a representative of the Metro Government or the Department of Public Health and Wellness without the express authorization of the Director of that Department or his designee.

The University shall reveal any final determination of a violation by the University or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the University or subcontractor. The University shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the University or subcontractor for the duration of the contract.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

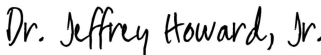
**APPROVED AS TO FORM AND
LEGALITY CONTINGENT UPON
METRO COUNCIL APPROVAL
OF THE APPROPRIATION FOR
THIS AGREEMENT:**

DocuSigned by:

MICHAEL J. O'CONNELL
JEFFERSON COUNTY ATTORNEY

Date: 9/16/2022

**LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT**

DocuSigned by:

DR. JEFFREY HOWARD, M.D.
DIRECTOR, DEPARTMENT FOR PUBLIC
HEALTH AND WELLNESS

Date: 10/5/2022

UNIVERSITY OF LOUISVILLE

DocuSigned by:

Toni Ganzel

Title: VP for Academic Medical Affairs
VP for Academic Medical Affairs

Date: 10/4/2022

Health Department - PSC with U of L for Payment of the Salary of the LMPHW Lab Director FY23 091222.docx
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ATTACHMENT A

Exhibit A - Lab Director Scope of Work

- Carry out the responsibilities established by the Clinical Laboratory Improvement Amendments (CLIA) that can only be assumed by a qualified laboratory director.
- Represent the LMPHW with other agencies and programs such as the Kentucky State Laboratory, Region 6 Emergency Response District, and the Louisville Metro Medical Subgroup Emergency Response subcommittee.
- Function as the Laboratory Director for the Specialty Clinic and other small clinic laboratories that operate under a separate CUA certificate from the 430 East Gray Laboratory.
- Ensure the proper operation of the laboratory; including the development and implementation of a sustainable business plan. Be accessible to the lab to provide onsite, telephone or electronic consultation as needed.
- Ensure that the physical plant and environmental conditions are appropriate for the testing performed.
- Ensure the environment for employees is safe from physical, chemical, and biological hazards and that safety and biohazard requirements are followed.
- Establish and participate on a performance improvement committee and a safety committee which meet monthly, at a minimum.
- Ensure testing systems provide quality lab services for pre-analytic, analytic, and post-analytic phases of testing.
- Establish a performance improvement program to include employee health and safety, pre-post analytical evaluations, quality control practices, proficiency evaluations, corrective actions, environmental assessments and other monitors consistent with CUA.
- Ensure test methods selected have the capability of providing quality results.
- Ensure verification procedures used are adequate to determine accurate precision, and other pertinent performance characteristics of the method.
- Ensure that reports of test results include pertinent information required for interpretation.
- Ensure that consultation is available to the lab's clients on matters relating to the quality of the test results reported and their interpretation concerning specific tests.
- Ensure that an appropriate procedure manual is available and routinely updated to reflect procedures based on best practice and changes in the field.
- Ensure that prior to testing patients' specimens, all personnel have the appropriate