

## **AGREEMENT**

**THIS PROFESSIONAL SERVICE AGREEMENT**, made and entered into by and between the **LOUISVILLE / JEFFERSON COUNTY METRO GOVERNMENT**, by and through its **LOUISVILLE METRO EMERGENCY MEDICAL SERVICE**, herein referred to as "**LMEMS**", and **SPALDING UNIVERSITY**, herein referred to as "**Consultant**";

### **WITNESSETH:**

**WHEREAS**, LMEMS is seeking methods to provide better care for patients who may not require emergency transport and treatment if given early access to medical care; and

**WHEREAS**, LMEMS is initiating a medical outreach program for two groups of potential patients; those who reside in low-income senior housing facilities, and those who frequent the community's homeless shelters which will be operated by Family Health Center Centers, Inc.; and

**WHEREAS**, LMEMS is seeking an academic institution to conduct research on patient needs in regards to access to medical and associated types of care; and prepare analyses about the program's effectiveness and appropriateness for furthering its stated goals; and

**WHEREAS**, Spalding University has been determined by the Metro Government to have the necessary experience, expertise and qualifications to provide those services,

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

**I. SCOPE OF PROFESSIONAL SERVICES**

**A.** Consultant shall, at the request of the Metro Government, provide services under the terms of this professional Agreement. The Consultant's work product may be

reviewed from time to time by the Metro Government for purposes of determining that the services provided are within the scope of this Agreement.

**B.** Consultant, while performing the services rendered pursuant to this Agreement, may incidental thereto utilize agents or employees of such Consultant.

**C.** If from time to time Consultant needs to utilize the records or personnel of the Metro Government relative to performing the services required of this Agreement, then Consultant shall notify the proper agent of the Metro Government of this need and arrangements may be made for that contingency. However, at no time shall the Metro Government make available its resources without the full consent and understandings of both parties.

**D.** The services and work product or deliverables of Consultant shall include but not be limited to the following:

(1) Spalding University School of Nursing

(a) Conduct research based on the impact and effectiveness of medical outreach clinics held at locations to be pre-determined by LMEMS and provide support and equipment as needed. Consultant shall:

1. Provide an opportunity for students to obtain clinical hours while working in the medical outreach clinics under the supervision of licensed nurse practitioners to be provided by Family Health Center.
2. Record patient care data in a data collection system to be selected by LMEMS.
3. Prepare reports based on data collected through the project to assess its effectiveness and the effectiveness of individual

initiatives implemented during the project in providing quality primary care to participating patients and reducing utilization of the 911 emergency medical system by patients located in the selected facilities. These analyses shall include, but not be limited to, an assessment of the project's performance; cost-effectiveness; impact on emergency medical response and hospital emergency department resources; accuracy and specificity in identifying and appropriately triaging patient calls; patient satisfaction with the program; overall strengths and weaknesses; and sustainability for the future. Data elements to be analyzed and the sources from which they are derived will be agreed upon by both LMEMS and Consultant before the data collection process begins. As the project progresses, either may suggest the implementation of new data elements or the deletion of existing data elements, but any such changes must be agreed to by both parties prior to implementation.

4. Purchase and stock all medical equipment and supplies necessary for the successful operation of the clinics, which should include but not be limited to those items listed in Attachment A to this document.
5. Prepare a training document and/or session(s) for employees of the selected clinic locations on how to address selected medical issues in their facility and the appropriate use of the 911 system for medical emergencies.

6. Engage the services of students and/or faculty from other academic departments within the university (e.g. Department of Social Work, Department of Occupational Therapy, Department of Psychology, etc.) whenever necessary for the purposes of participating in the clinical environment or assisting with data analysis and research.
7. Perform additional tasks related to the analysis of the clinics' impact and effectiveness as agreed to by the Consultant and LMEMS.

## **II. FEES AND COMPENSATION**

A. The Metro Government shall pay Consultant no more than **NINETY-NINE THOUSAND TWO HUNDRED AND FIFTY-THREE DOLLARS (\$99,253.00)** to support its students, personnel and research activities. Payment will be made as follows:

- (1) An initial payment of \$49,632.00 will be paid upon execution of this Agreement for program start-up costs including data collection technology, support resources, operational needs and contract personnel.
- (2) An additional \$49,621.00 will be paid in eleven (11) monthly payments of \$4,511.00 each for continuing operation of the program. Payment shall be rendered upon receipt of an invoice from Consultant.

## **III. DURATION**

A. This is a professional service contract which shall begin June 1, 2014 and shall continue through and including May 31, 2015.

B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such 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.

#### **IV. EMPLOYER/EMPLOYEE RELATIONSHIP**

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause Consultant 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. HOLD HARMLESS AND INDEMNIFICATION CLAUSE**

Consultant agrees to indemnify, hold harmless, and defend the Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Consultant's (or Consultant's subcontractors if any) performance or breach of the contract or error or omission provided that such claim, damage, loss, or expense is (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or from negligent acts, errors or omissions and (2) not caused by the negligent act or omission of the

Louisville/Jefferson County Metro Government or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

**VI. 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. Consultant agrees to furnish the Metro Government with its taxpayer identification number (TIN) prior to the effective date of this Agreement. Consultant further agrees to provide such other information to the Metro Government as may be required by the IRS or the State Department of Revenue.

**VII. 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 the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. 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.

### **VIII. AUTHORITY**

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

### **IX. 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.

#### **X. 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.

**XI. SUCCESSORS**

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

**XII. 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.

**XII. 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.

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

**XV. 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.

**XVI. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS**

The Consultant shall reveal any final determination of a violation by the Consultant 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 Consultant or subcontractor. The Consultant shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Consultant or subcontractor for the duration of the contract.

**XVII. HIPAA COMPLIANCE**

Consultant 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 and, in that regard, Consultant agrees to comply 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. Consultant shall hold in strictest confidence all documentation, information, and observations gathered in the performance of this Agreement, and Consultant agrees to sign the EMS Business Associate Agreement. Consultant 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 the Metro Government's Business Associate Agreement, attached hereto and fully incorporated herein as Attachment B.

**XVIII. INSURANCE REQUIREMENTS**

Consultant shall comply with the insurance requirements attached hereto and fully incorporated herein as Attachment C.

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

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
MICHAEL J. O'CONNELL  
JEFFERSON COUNTY ATTORNEY

Date: \_\_\_\_\_

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT

  
\_\_\_\_\_  
DR. NEAL J. RICHMOND, M.D.  
CEO/MEDICAL DIRECTOR  
LOUISVILLE METRO EMERGENCY  
MEDICAL SERVICES

Date: 10/13/14

SPALDING UNIVERSITY

By: Tori Mendenhall

Title: Tori M. McClure President

Date: 9/22/14

## ATTACHMENT A

### CLINIC EQUIPMENT LIST

- Rolling equipment cases
- Blood pressure cuffs
- Reflex hammers
- Stethoscopes
- Otoscopes/ophthalmoscopes
- First aid supplies
  - Gauze
  - Bandages/band-aids
  - Alcohol wipes
  - Tape
  - 4x4s
  - Antibiotic ointment
  - Saline wash
  - Ice packs
- Thermometers
- Hand sanitizer
- Pulse oximeters
- Gloves
- Glucometer and test strips
- Hemoglobin machine and slides
- Urine dipsticks, specimen cups and wipes
- Strep screens
- Personal hygiene/comfort supplies (hand lotion, lip balm)
- Basic over-the-counter medications (Advil, Tylenol)

## ATTACHMENT B

### BUSINESS ASSOCIATE AGREEMENT

This agreement ("Agreement") is entered into this June 1, 2014 by and between Louisville/Jefferson County Metro Government ("Covered Entity") and Spalding University. ("Business Associate").

#### Recitals

Whereas, Business Associate, for purposes of conducting research will receive recorded information some of which may constitute Protected Health Information ("PHI").

Whereas, Covered Entity and Business Associate are required to reasonably and appropriately protect the confidentiality, inappropriate use and disclosure of Protected Health Information and electronic Protected Health Information under the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") OF 1996 and the Health Information Technology for Economic Clinical Health Act ("HITECH") and the corresponding Privacy Rule and Security Rule (45 CFR §§160, 162, and 164 ("HIPAA Rules"): and

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the Parties agree as follows:

#### Section 1 Definitions

(Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Security and Privacy Rule and HITECH)

- a. Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Spalding University.
- b. Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the Louisville/Jefferson County Metro Government, acting by and through its Emergency Medical Services.
- c. HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160, 162 and 164
- d. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary,

Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

- e. Electronic Protected Health Information (E-PHI). "E-PHI" shall have the same meaning as the term, "Protected Health Information" in 45 CFR §160.103, limited to information transmitted by, or maintained in, electronic media received by Business Associate from, or on behalf of, Covered Entity.
- f. HITECH. "HITECH" shall mean the Health Information for Economic and Clinical Health Act, Subtitle D-Privacy (§§13400-13424) enacted as part of the America Recovery and Reinvestment Act of 2009.
- g. Individual. "Individual" shall have the same meaning as the term "Individual" in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- h. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts §160 and §164, subparts A and E and includes relevant portions of HITECH.
- i. Security Rule. "Security Rule" shall mean the standards for security of Individually Identifiable Health Information at Subpart C of 45 CFR 164.

## **Section 2**

### **Obligations and Activities of Business Associate**

- 2.1 **Not to Use or Disclose PHI unless Permitted.** Business Associate agrees to not use or disclose Protected Health Information ("PHI") other than as permitted or required by this Agreement or as required or allowed by law.
- 2.2 **Safeguards/Security Rule.**
  - a. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement or as otherwise required or allowed by law. Business Associate agrees to comply with the Privacy Rule including the implementation of administrative, physical, and technical safeguards that reasonably protect the confidentiality, integrity, and availability of Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on behalf of the Covered Entity. Business Associate shall comply with Subpart C of 45 CFR 164.
- 2.3 **Mitigation of Harmful Effects.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- 2.4 **Report Certain Disclosure of PHI.**

- a. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement or by law, including breaches of unsecured protected health information as required by 45 CFR 164.410, and any security incident of which it becomes aware. For any such use or disclosure, Business Associate agrees that it shall be responsible for the breach notification requirements contained in 45 CFR 164. An attempted unauthorized access, for purposes of reporting to the Covered Entity, means any attempted unauthorized access that prompts Business Associate to investigate the attempt, or review or change its current security measures. The parties acknowledge that the foregoing does not require Business Associate to report attempted unauthorized access that results in Business Associate: (i) investigating but merely reviewing and/or noting the attempt, but rather requires notification only when such attempted unauthorized access results in Business Associate conducting a material and full-scale investigation (a "Material Attempt"); and (ii) continuously reviewing, updating and modifying its security measures to guard against unauthorized access to its systems, but rather requires notification only when a Material Attempt results in significant modifications to Business Associate's security measures in order to prevent such Material Attempt in the future.
  - b. Business Associate agrees to notify Covered Entity of any breach by Business Associate (as "breach" is defined by HITECH) pertaining to unsecured protected health information without unreasonable delay and in no case later than 60 days after discovery of such breach by Business Associate.
- 2.5 **Compliance of Agents.** In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information
- 2.6 **Access.** To the extent the Business Associate maintains the Designated Record Set, Business Associate agrees to provide access to Protected Health Information in the original Designated Record Set, during normal business hours but only to the extent required by 45 CFR §164.524.
- 2.7 **Amendments.** Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual.
- 2.8 **Disclosure of Practices, Books, and Records.** Unless otherwise protected from discovery or disclosure by law or unless otherwise prohibited from discovery or disclosure by law, Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity or to the Secretary, for purposes of the Secretary determining compliance with the Privacy Rule, the Security Rule,

and HITECH, but only to the extent such access is related to the use and disclosure of Protected Health Information received from the Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall have a reasonable time within which to comply with such requests.

## **2.9 Accounting.**

- a. Business Associate agrees to maintain sufficient documentation to allow it to provide to Covered Entity a list of any disclosures of Protected Health Information by the Business Associate or its agents so as to allow the Covered Entity (or when appropriate for the Business Associate) to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- b. To the extent applicable, if Business Associate makes a disclosure of PHI through an electronic health record for payment, treatment, or health care operations, Business Associate will include such disclosure on an accounting in addition to maintaining an accounting of those other disclosures required by the Privacy Rule to be listed on the accounting under 45 CFR §164.528. To the extent applicable and required by the Privacy Rule and HITECH, Business Associate will provide an accounting of disclosures made through an electronic health record for payment, treatment, or health care operations.

**2.10 Release of Documentation of Certain Disclosures.** Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner information collected in accordance with Section 2.9 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528 and HITECH.

**2.11 Security and Privacy Requirements of HITECH.** In addition to the commitments made herein expressly, Business Associate will strive to comply with any other additional security or privacy requirements of HITECH applicable to Business Associate.

## **Section 3**

### **Permitted Uses and Disclosures by Business Associate**

**3.1 Use of PHI for Specified Purposes.** Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information only for purposes related to providing health care services provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. Business Associate is not permitted to use the protected health information it receives to de-identify that information.



- 3.2 **Use of PHI for Business Associate's Management and Administration.** Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 3.3 **Disclosure Required by Law or With Reasonable Assurances.** Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information ("PHI") for the proper management and administration of the Business Associate and to carry out the services described in 3.1 and its related responsibilities, provided that disclosures are required by law or allowed by law, or provided that Business Associate obtains the following reasonable assurances from the person or entity to whom the Protected Health Information is disclosed: 1) the PHI will remain confidential; 2) the PHI will be used or further disclosed only as required or allowed by law or for the purposes for which it was disclosed; and, 3) the person or entity will notify the Business Associate of any instances of which the person or entity is aware in which the confidentiality of the information has been breached.
- 3.4 **Data Aggregation Services.** Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR §164.504(e)(2)(i)(B).
- 3.5 **Reporting Violations of the Law.** Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 §CFR164.502(j)(1).
- 3.6 **Minimum Necessary.** Absent an applicable exception to the minimum necessary rule as set forth in the Privacy Rule, as amended by HITECH, Business Associate shall limit use, disclosure, and requests of PHI to the minimum necessary (as defined by HIPAA and HITECH) to the accomplish intended purpose of the use or disclosure.

#### **Section 4** **Impermissible Requests by Covered Entity**

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule or Security Rule if done by Covered Entity, except that despite this Section 4, Business Associate may use or disclose Protected Health Information for data aggregation or management and administrative activities of Business Associate as is otherwise permitted by this Agreement.

**Section 5**  
**Term and Termination**

- 5.1 **Term.** The Term of this Agreement shall be effective as of the signing of this agreement, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is not feasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- 5.2 **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate of this Agreement, Covered Entity shall either:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
  2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
  3. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- 5.3 **Effect of Termination.** Except as provided in paragraph 5.2 of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

**Section 6**  
**Miscellaneous Provisions**

- 6.1 **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule, Security Rule, or HITECH means the section as in effect or as amended, and for which compliance is required.
- 6.2 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the Privacy Rule, Security Rule, or HITECH and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- 6.3 **Survival.** The respective rights and obligations of Business Associate under this Agreement shall survive the termination of this Agreement

6.4 **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules.

6.5 **Identity Theft Protection.** To the extent that Business Associate obtains access to patient information or other information constituting a "covered account" of Covered Entity within the meaning of the Identity Theft Red Flag Rules ("Red Flag Rules," 16 CFR 681.2), then Business Associate shall develop and implement an Identity Theft Prevention Program ("Program") that is designed to detect, prevent and mitigate identity theft in connection with such covered accounts. The Program shall be implemented and maintained in a manner such that if the covered accounts of Covered Entity were covered accounts of Business Associate, Business Associate would be in compliance with the requirements of the Red Flag Rules. Business Associate shall indemnify Covered Entity from all costs, fines and penalties associated with Business Associate's failure to fulfill the obligations of this Section 6.5. In addition, within five (5) days of receipt of a written request from Covered Entity for a copy of the Program and supporting documentation, Business Associate shall provide such documentation to Covered Entity evidencing its compliance with the obligations of this Section 6.5. Business Associate's performance of this Section 6.5 is a material term of the Agreement.

6.6 **Indemnification.**

Business Associate shall indemnify, hold harmless, and defend the Covered Entity, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Business Associate's (or Business Associate's Subcontractors, if any) performance or breach of the contract provided that such claim, damage, loss, or expense is: (1) attributable to breach of contract, and (2) not caused by the negligent act or omission or willful misconduct of the Louisville/Jefferson County Metro Government or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

IN WITNESS WHEREOF, each of the undersigned Parties has caused this Agreement to be executed in its name and on its behalf as of the Effective Date.

Business Associate:

Spalding University

By: Tori M. McIlwain

Printed Name: Tori M. McIlwain

Title: President

Date: 9/22/14

Covered Entity:

Louisville/Jefferson County  
Metro Government

By: [Signature]

Printed Name: Neal J. Richmond, M.D.

Title: CEO

Date: 10/13/14

## ATTACHMENT C

### INSURANCE REQUIREMENTS

#### SPALDING UNIVERSITY

##### I. INSURANCE REQUIREMENTS

Prior to commencing work, Contractor shall obtain at its own cost and expense the following types of insurance through insurance companies licensed in the State of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). The Contractor shall not commence work under this Contract until all insurance required under the Contract Document has been obtained and until copies of policies or certificates thereof are submitted to LMEMS and approved by the Louisville/Jefferson County Metro Government's Risk Management Division. The Contractor shall not allow any subcontractor to commence work until the insurance required of such subcontractor has been obtained and copies of Certificates of Insurance retained by Contractor evidencing proof of coverages.

Without limiting Contractor's indemnification requirements, it is agreed that Contractor shall maintain in force at all times during the performance of this agreement the following policy or policies of insurance covering its operations, and require subcontractors, if subcontracting is authorized, to procure and maintain these same policies until final acceptance of the work by the Louisville/Jefferson County Metro Government (Metro). Metro may require Contractor to supply proof of subcontractor's insurance via Certificates of Insurance, or at Metro's option, actual copies of policies.

A. **The following clause shall be added to the Contractor's (and approved subcontractors) Commercial General Liability Policies:**

1. **"The Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to the contract."**

B. **The insurance to be procured and maintained and minimum Limits of Liability shall be as follows, unless different limits are specified by addendum to the contract (and such minimum limits shall not limit access to the full amount of insurance available (whether through primary, excess or umbrella policies) on the contractors or subcontractors policy(ies), if that/those policy(ies) provide for Limits above the minimum):**

1. **COMMERCIAL GENERAL LIABILITY, via the Occurrence Form, with a \$1,000,000 Combined Single Limit for any one Occurrence and \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, and Products/Completed Operations, including:**

- a. Premises - Operations Coverage
- b. Products and Completed Operations

- c. Contractual Liability
- d. Broad Form Property Damage
- e. Independent Contractors Protective Liability
- f. Personal Injury

2. **PROFESSIONAL LIABILITY (Errors and Omissions Liability)** insurance policy, which includes a **minimum** limit of liability of **\$2,000,000/Occurrence, \$5,000,000/Aggregate**. In the event that the Contractor's policy is written on a "Claims Made" Form, the Contractor shall, after work has been completed, furnish evidence that the liability coverage has been maintained for at least one year after completion of work, either by submitting renewal policies with a Retroactive Date of not later than the date work commenced under this contract, or by evidence that the Contractor has purchased an Extended Reporting Period Endorsement that will apply to any and all claims arising from work performed under this contract.

**II. ACCEPTABILITY OF INSURERS**

Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "A-VI", unless proper financial information relating to the Company is submitted to and approved by Metro's Risk Management Division.

**III. MISCELLANEOUS**

A. The Contractor shall procure and maintain insurance policies as described herein and for which (name of agency) shall be furnished Certificates of Insurance upon the execution of the Contract. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the completion of the Contract, renewal Certificates of Insurance shall be furnished to Metro at least fifteen (15) days prior to the expiration of any policy(s).

B. **Upon execution of the contract, Certificates of Insurance as required above shall be furnished to:**

Louisville/Jefferson County Metro Government  
 Louisville Metro Emergency Medical Service  
 Attn: Kristen Miller  
 514 West Liberty Street, 4<sup>th</sup> Floor  
 Louisville, KY 40202

AND

C. **Upon Renewal of insurance coverage (s), Certificates of Insurance evidencing renewal shall be furnished to:**

Louisville/Jefferson County Metro Government  
 Office of Management and Budget  
 Risk Management Division  
 611 West Jefferson Street  
 Louisville, Kentucky 40202

D. **CANCELLATION OR MATERIAL CHANGE OF COVERAGE: Contractor shall notify Metro's Risk Management Division of any policy cancellation within two (2) business days of its receipt of same. Upon any material change (changes that reduce/restrict limit or**

terms and conditions to your insurance coverage) in coverage as required above, Contractor shall notify Metro's Risk Management Division within fifteen (15) business days. If Contractor fails to notify Metro as required by this Agreement, Contractor agrees that such failure shall be a breach of this Agreement. Metro reserves the right to require the insurance policy(s) required above to be specifically endorsed to provide notice of cancellation and/or material change of coverage in accordance with policy provisions. When requested by the Metro Government, a copy of the policy endorsement shall be provided to Metro's Risk Management Division.

- E. Approval of the insurance by Metro shall not in any way relieve or decrease the liability of the Contractor hereunder. It is expressly understood that Metro does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of the Contractor.

CONTRACT DATA SHEET

PSC Type (check one): \_\_\_ New  Addendum Sole Source:  Yes \_\_\_ No

**Contractor Information**

1. Legal Name of Contractor: Spalding University

2. Address: 845 South 4th Street

3. City, State, & Zip: Louisville, KY 40214

4. Contact Person Name & Telephone Number: Dr. Pam King 502-585-9911

5. LeAP Supplier #: \_\_\_\_\_

6. Revenue Commission Taxpayer ID#: \_\_\_\_\_

7. Federal Tax ID # (SSN if sole proprietor): \_\_\_\_\_

**Department Information**

8. Requesting Department: Louisville Metro EMS

9. Contact Person Name & Telephone: Kristen Miller 502-574-1580

**Contract Information**

10. Not to exceed amount: \$ 99,253.00

11. Are expenses reimbursed? No

12. If yes list allowable expenses and maximum amount reimbursable: \_\_\_\_\_

13. Beginning and ending date of the contract: 6/1/2013 to 5/31/2015

14. Coding: 2901 - 362 - 2255 - 225501 - 521301

15. Funding Source Bloomberg Grant Federal Funds yes no

16. Scope & Purpose of the contract:  
 PSC- Non-emergency patient triage. System known as PSIAM, assist with operations, conduct research, prepare analysis.

Attach all justification documentation to this form, along with signed Written Findings Form.

**Authorizations**

Department Director: [Signature] Date: 9/15/14

Department certifies:

- Funds are available
- Contractor is registered and in good standing with the Revenue Commission
- Human Relations Commission registration requirements have been met
- Contractor's status regarding Federal Debarment has been verified per Metro Procurement Policy Section VII - Federally Funded Contracts & Agreements

MS Purchasing: Approval of Sole Source Designation Date: 9/15/14

[Signature] Risk Management: Certifies Insurance requirements satisfied. Date: \_\_\_\_\_

[Signature] County Attorney: Date: 9/18/14

The County Attorney has written the attached Professional Service Contract or Sole Source Contract and has approved that document as to the legality of the instrument itself only and as to its form.



**WRITTEN FINDINGS**

**EXPLAINING NECESSITY FOR USING NONCOMPETITIVE NEGOTIATION FOR PSC**

This document constitutes written request and findings, as required by KRS 45A.380 stating the need to purchase through noncompetitive negotiation. By the signatures listed below, the Requesting Department has determined, and the Chief Financial Officer concurs, that competition is not feasible because:

\_\_\_\_\_ A. An emergency exists which will cause public harm as a result of the delay in competitive procedures. **\*\* Mayors Approval required for emergency purchases exceeding \$10,000.**

\_\_\_\_\_ B. There is a single source within a reasonable geographic area of the supply or service to be procured or leased (attach sole source determination from the Purchasing Department).

X \_\_\_\_\_ C. The contract is for the services typically provided by a licensed professional, such as an attorney, architect, engineer, physician, certified public accountant, registered nurse, or educational specialist; a technician such as a plumber, electrician, carpenter, or mechanic; an artist such as a sculptor, aesthetic painter, or musician; or a non-licensed professional such as a consultant, public relations consultant, advertising consultant, developer, employment department, construction manager, investment advisor, or marketing expert and the like.

\_\_\_\_\_ D. The contract is for the purchase of perishable items purchased on a weekly basis, such as fresh fruits, vegetables, fish, or meat.

\_\_\_\_\_ E. The contract is for replacement parts where the need cannot reasonably be anticipated and stockpiling is not feasible.

\_\_\_\_\_ F. The contract is for proprietary items for resale.

\_\_\_\_\_ G. The contract or purchase is for expenditures made on authorized trips outside the boundaries of the city.

\_\_\_\_\_ H. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids.

\_\_\_\_\_ I. The contract is for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, or unemployment liability insurance.

\_\_\_\_\_ J. The contract is for a sale of supplies at reduced prices that will afford a purchase at savings to the Metro Government.

\_\_\_\_\_ K. The contract was solicited by competitive sealed bidding and no bids were received from a responsive and responsible bidder.

\_\_\_\_\_ L. Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder.

Kristy M... 9/15/14  
Requesting Department Director Date

\_\_\_\_\_  
\*\*Mayor Date  
**\*\*Signature is required only for Written Finding A**

Marian Sal... 9/15/14  
OMB/Purchasing Approval Date




LOUISVILLE METRO EMERGENCY MEDICAL SERVICES  
LOUISVILLE, KENTUCKY

GREG FISCHER  
MAYOR

NEAL J. RICHMOND, M.D.  
CHIEF EXECUTIVE OFFICER

TO: Purchasing

FROM: Neal J. Richmond, M.D.   
CEO/Medical Director  
Louisville Metro EMS

DATE: September 12, 2014

RE: Spalding University Agreement

Spalding University (Spalding) is a local academic institution with a Masters of Science in Nursing (MSN) program. Spalding has long-standing clinical relationships with our other program partners and these relationships allow Spalding nurse practitioner students to train and earn required clinical hours as a part of this project.

Spalding students, under the direction of a licensed Nurse Practitioner who must be employed by both the educational institution and the Family Health Center, conduct health education, assessments, screenings and data collection on-site at the Wayside Emergency Shelter as a part of this project. Spalding's students and administrators are already familiar with the residents, staff and volunteers at Wayside, Wayside's executive leadership, LMEMS' alternative care goals and program (including the PSIAM non-emergent call triage program.) Finally, Spalding is unique in its ability to meet the need of this pilot, which will be paid with Bloomberg grant funds issued for this purpose.

Spalding's MSN program partnered with Louisville Metro Emergency Medical Services (LMEMS) in the initial days of the PSIAM project. The MSN program director was part of that planning team and has been consulted in the planning of this initiative as well. Spalding nursing students were trained on the use of the PSIAM system and were co-located in the 9-1-1 dispatch center where they triaged non-emergent 9-1-1 calls by phone. We anticipate that this experience with non-emergent call assessment will be used to work with patients, provide referrals and collect patient data during the terms of this contract, and the program director's familiarity with the software will be instrumental.

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514 WEST LIBERTY STREET, 4<sup>TH</sup> FLOOR LOUISVILLE, KENTUCKY 40202 502.574.4260 FAX: 502.574.4372