



**MEMORANDUM OF UNDERSTANDING
BETWEEN
ALTA BATES SUMMIT MEDICAL CENTER
AND
MT. DIABLO UNIFIED SCHOOL DISTRICT**

This Memorandum of Understanding (“Agreement”) is made by and between Mt. Diablo Unified School District (“District”) with its principal place of business being 1936 Carlotta Drive, Concord, CA 94519 and Sutter East Bay Hospitals, a California nonprofit public benefit corporation, doing business as Alta Bates Summit Medical Center (“ABSMC”) with an address 3012 Summit St, Oakland, CA 94609 (collectively hereinafter “the Parties”).

1. PURPOSE

- 1.1. This Agreement formalizes a relationship between the District and ABSMC. The purpose, payments, and scope of services are further described in Appendix A.
- 1.2. The District and ABSMC are working in concert to support local youth in preparation for healthcare careers and in teaching tools for success therewith.
- 1.3. The District recognizes ABSMC as an established nonprofit agency with a strong background and history providing services for healthcare career pathways.
- 1.4. This Agreement provides for ABSMC personnel and staff to provide instruction and services at ABSMC facilities and events for the benefit of youth in the community.

2. ROLES AND RESPONSIBILITIES

- 2.1. ABSMC agrees to provide experienced and trained staff to provide services to students at ABSMC facilities and events.
- 2.2. In the course of performing services under this Agreement, ABSMC may come in contact with or become familiar with information which the District, its employees, and affiliates may consider confidential or is confidential as provided by law, particularly the California Education Code. This information may include, but is not limited to, information pertaining to District personnel, students, or third-parties. ABSMC agrees to maintain the confidentiality of all such information received in the course of performing

services pursuant to this Agreement. [As a licensed professional, ABSMC will maintain such information in accordance with the rules and regulations applicable to said license.] This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

3. **TERM** This Agreement will commence upon approval by the District's Board of Education ("Board") during the 2016-2017 school year, and will remain in force until the end of the 201~~6~~-201~~7~~ school year. Prior to the conclusion of the 201~~6~~-201~~7~~ school year, the Parties will evaluate the outcomes of the Agreement. Should the Parties desire to extend or continue this Agreement beyond the Term, they will execute a new agreement upon the expiration of the Term set forth herein.

4. **COMPENSATION** Payments will be required from the District to ABSMC or to interns of ABSMC under this Agreement as reflected in Appendix A. Any additional remuneration for services must be arranged independently of this Agreement and approved by the Board.

5. **CRIMINAL RECORDS CHECK/TUBERCULOSIS TESTING**

5.1. ABSMC and District staff shall comply with the provisions of Education Code 45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the agency and/or its employees.

5.2. ABSMC shall not permit any employee to have any contact with District students until such time as ABSMC has verified that each employee has not been convicted of a felony, as defined in Education Code 45125.1.

5.3. Each ABSMC staff member, supervisor, or volunteer must show evidence of a negative tuberculosis (TB) test within the past six (6) months before having contact with District students or families.

5.4. ABSMC is responsible for costs related to fingerprinting and TB testing of ABSMC staff and volunteers.

5.5. The District is responsible for costs related to fingerprinting and TB testing of District staff.

6. **RELATIONSHIP OF THE PARTIES**

6.1. ABSMC and the District enter into this Agreement as, and shall continue to be, independent agencies.

6.2. Under no circumstances shall the staff or volunteers of either party be considered an employee of the other within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall the staff, supervisor, or

volunteers of one party look to the other party as an employer.

6.3. ABSMC's staff or volunteers shall not displace District employees in any function or capacity.

6.4. District staff shall not displace ABSMC employees in any function or capacity.

7. **ATTORNEYS' FEES** If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit as awarded by a court of competent jurisdiction, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.

8. **WAIVER** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, condition, or any subsequent breach of this Agreement.

9. **TERMINATION** This Agreement will terminate upon the completion of the services or upon the natural expiration of the Term as set forth in Section III, above. However, either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination for default or breach shall be effective immediately on receipt of said notice.

10. **INDEMNIFICATION**

10.1. ABSMC shall hold harmless, defend and indemnify the District and its officers, elected and appointed officials, employees and volunteers from and against all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the agency's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of ABSMC.

10.2. The District shall hold harmless, defend and indemnify ABSMC and its officers, elected and appointed officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the agency's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the District.

11. **INSURANCE** ABSMC and the District shall each procure, and maintain for the duration

of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of this Agreement and the results of that work by each party, their agents, representatives, employees or subcontractors. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the other party.

- 11.1. **Coverage shall be at least as broad as:** Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 11.2. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
- 11.3. **Additional Insured:** Each party's insurance shall include additional insured status for the other party on their Commercial General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the other party including materials, parts or equipment furnished in connection with such work or operations, to the extent available. Each party's insurance coverage shall be primary insurance to its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by its officers, officials, employees, or volunteers shall be in excess of the other party's insurance and shall not contribute with it.
- 11.4. **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled for the term of this Agreement.

12. CONFIDENTIALITY.

- 12.1. Each party will hold the following "Confidential Information" in strict confidence and not disclose the same to any other person or entity except as provided herein: each other's proprietary and confidential records and information, including but not limited to all information, pricing and terms relating to or contained in this Agreement; the content of all negotiations and other discussions regarding contract terms, conditions and pricing; all service and product data, trade secrets, financial data, pricing, business plans and any other information or technology received from District in implementing this Agreement; the confidential information of vendors and other third parties disclosed to the receiving party as part of the provision of Services under this Agreement; all personally identifiable information of a party's employees, agents, patients and customers; and all information derived from the foregoing.
- 12.2. Notwithstanding the above:
 - 12.2.1. A party may disclose Confidential Information to the personnel within its

organization, its physicians who may use the services or products (or other services, products or technology of District) and its legal and accounting advisors who require the Confidential Information in connection with the party's internal business processes and its rights and obligations under this Agreement, provided that such disclosing party uses commercially reasonable efforts to require any such recipient to use the information solely for these purposes and to keep it strictly confidential, except as required by law and subject to the requirements of this Section.

12.2.2. A party may disclose Confidential Information as required by law, provided that such disclosing party provides reasonable prior notice to the other party to enable the other party to attempt to prevent or limit the disclosure and the disclosing party assists the other party upon request in seeking relief from or limiting the disclosure.

12.2.3. In addition, ABSMC will have the right to disclose contract terms, conditions and pricing terms, as well as other Confidential Information, including vendor and other third party confidential information, to those parties and/or Consultants not already mentioned above that ABSMC has or will contract with or retain in the course of managing its business, provided those parties/Consultants agree in writing that they will not use or divulge such Confidential Information to any third party except as necessary for the discharge of their obligations to ABSMC or as required by law .

12.2.4. A party may disclose Confidential Information with the prior written consent of District.

12.2.5. District further agrees to comply, and to ensure that its employees and agents comply, with all applicable federal and California privacy laws relating to personally identifiable information, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and its attendant regulations, as amended from time to time ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH"), the California Medical Information Act (CMIA), the Fair Credit Reporting Act (FCRA), and regulations promulgated under these laws. District also agrees to execute a separate HIPAA/HITECH Business Associate Agreement if ABSMC deems that one is appropriate.

12.2.6. Neither party will be obligated to hold the following information in confidence (and such information will not be deemed to be Confidential Information): information that is or becomes publicly available through no fault of the recipient, information developed by a party without using any Confidential Information, information lawfully possessed by a party before receipt from the disclosing party, and information lawfully disclosed to a party on a non-confidential basis from a person or entity that is not bound by a duty of confidentiality.

13. CALIFORNIA LAW This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Alameda County, California.

14. **RULES AND REGULATIONS** All rules and regulations of the District and ABSMC, all federal, state, and local laws, ordinances and regulations are to be observed strictly by the Parties pursuant to this Agreement
15. **AFFIRMATIVE ACTION/NON-DISCRIMINATION** ABSMC and the District shall provide services under this Agreement that do not restrict the participation nor otherwise discriminate among participants and staff with regard to race, color, religion, age, sex, sexual orientation, ancestry or national origin.
16. **PUBLICITY**. District will not publicize or disclose the terms or existence of this Agreement, nor shall District use the name(s), trademark(s), or tradename(s) of ABSMC, its subsidiaries or affiliates, except with the prior written consent of ABSMC.
17. **ADMINISTRATIVE RESPONSIBILITY**. ABSMC will maintain administrative responsibility for its operations consistent with Title 22 of the California Code of Regulations.
18. **OIG LIST OF EXCLUDED ENTITIES**. District certifies that it is not currently named as an excluded entity or individual on the "List of Excluded Individuals/Entities" of the Department of Health and Human Services Office of the Inspector General ("OIG List"). District will immediately notify ABSMC if at any point during the Term District is named as an excluded entity or individual on the OIG List.
19. **NO THIRD PARTY RIGHTS**. Unless otherwise expressly provided in this Agreement, nothing contained herein is intended nor will be construed to create rights running to the benefit of any person or entity not a party to this Agreement.
20. **NOTICE** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required. Notice shall be given to the following individuals:

For the District:

Heather Fontanilla, Program Specialist
Mt. Diablo U.S.D.
1936 Caroltta Drive
Concord, CA 95419

For ABSMC:

Youth Bridge Program Director

21. **ENTIRE AGREEMENT OF PARTIES** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument by both Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed by dates and signatures affixed.

Mt. Diablo Unified School District

Name and Title: Chris Holleran, Assistant Superintendent

Signature: Chris Holleran

Date: 1/30/17

Superintendent

Signature: _____

Date: _____

Sutter East Bay Hospitals, a California nonprofit public benefit corporation, doing business as Alta Bates Summit Medical Center

Name and Title: Charles Prosper, CEO

Signature: Charles Prosper

Date: 1/24/17

Appendix A

ABSMC agrees to provide a class concerning healthcare careers to District students which includes placement, mentorship, and supervision of the students for the term and a weekend retreat to Marin Headlands.

The District agrees to pay ABSMC \$2500 for the semester to covers some of ABSMC's costs to operate the program.

Once students are placed in internships, the District will pay \$1400 to the student. The District agrees to be responsible for all tax requirements related to such payments.