[ms-0398.022.008.004]

FACTS OF THIS DISCUSSION

1. Sandra P. Daley, M.D. is an employee of UCSD.

2. Dr. Daley is assigned by UCSD to Comprehensive Health Center.

3. Since 1978 UCSD and Comprehensive Health Center (CHC) have had a contract to provide Physicians to CHC. This is an annual contract with a 30-day termination notice, thereby "guarding" both entities. On a monthly basis UCSD invoices Comprehensive Health Center for the salaries of Dr. Sandra Daley and Dr. Jeff Morgan (a Pediatric Physician).

4. For the calendar year 1989 Dr. Daley served as both Administrator and Medical Director. As Administrator she reports directly to the Board of Directors. The annual total cost of both positions to Comprehensive Health Center being $72,369 for salary and fringe benefits.

5. On December 12, 1989, Primary Care Services issued a letter to Comprehensive Health Center stating that Dr. Daley had a conflict of interest in any position of "authority", specifically in the position of Administrator.

6. Dr. Daley, as Administrator was responsible for the total operations of Comprehensive Health Center.

7. Dr. Daley, as Medical Director was responsible for recruiting and hiring medical service providers.

8. Realizing that a possible conflict of interest could occur between UCSD and Comprehensive Health Center, in February 1989 the Board of Directors gave specific responsibility to Mr. Ben Wiggins for negotiations with UCSD. This was further reinforced during the December 1989 meeting of the Board of Directors.

9. All contracts with outside entities, such as UCSD, are required to be reviewed by the Board of Directors before approval.

10. The "conflicting" parties are the State of California (UCSD) and Comprehensive Health Center, a local, state and federally funded non-profit agency. Dr. Daley has no way of having a "personal" conflict of interest.

11. The "conflicting" parties, UCSD and Comprehensive Health Center, both have administrative procedures and reviews to protect their interests and the interests of any public funds.

QUESTION TO BE ADDRESSED BY COUNTY COUNSEL:

Can paragraph 11 (b) of the County's Contract be intrepreted to mean that a "contractual" employee must be removed when no personal conflict of interest is involved, and when adequate administrative protections are in place ?

ACCOMPLISHMENTS IN ONE YEAR AS ADMINISTRATOR

1. Comprehensive Health Center has increased its annual patient visits by 31.7%.

2. We are rapidly expanding our second site in Encanto. Patient visits increased by 883% during 1989.

3. Comprehensive Health Center has expanded its community Dental services program, and has doubled its staffing and service hours.

4. We have commenced programs to provide direct services to O'Farrell Community School students, clients of San Diego Youth and Community Services, Gateway Senior Services, Children Having Children and have just been awarded United Way funding so that we can review additional ways of increasing agency efficiency and assist our Board and staff in development of a strategic plan.

5. Beginning 1989 Comprehensive Health Center was insolvent--it had a negative cash flow and could not pay its bills. As of December 31, 1989, the agency has money in both checking and savings accounts, and has a net worth in excess of $400,000.

6. In 1988 our Certified Public Account would not even give an opinion on our financial position. During 1989 he issued an audit report reflecting a healthy financial position and a clean management letter.

ATTACHMENTS

1. Copy of letter to Dr. Sandra Daley stating award of current Primary Care contract.

2. Copy of Exhibit A of contract which lists requirements of agreement, and includes the paragraph in question, 11-b on page A-5.

3. Copy of December 12, 1989 letter informing Comprehensive Health Center that according to Primary Care Services a conflict of interest did exist, and listing three options that would satisfy the Chief of Primary Care Services.

4. A summary of salaries and benefits paid by Comprehensive Health Center to UCSD for the services of Sandra P. Daley, M.D., which documents that no personal conflict of interest has occurred.

County of San Diego

J. WILLIAM COX, M.D., Ph.D
DIRECTOR
(619) 236-2237

DEPARTMENT OF HEALTH SERVICES

1700 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA 92101-2417

PHYSICAL HEALTH SERVICES
PRIMARY CARE SERVICES
3851 ROSECRANS STREET
P.O. BOX 85222
SAN DIEGO, CA 92138-5222
(619) 236-4636

June 30, 1989

Sandra Daley, M.D., Interim Administrator
Comprehensive Health Center
3177 Oceanview Blvd.
San Diego, CA 92113

Dear Dr. Daley:

Pursuant to Exhibit B - Special Provision, Article 12, Subsequent Year Funding and Operation, you are hereby given written notice and permission to operate under your multi-year Agreement No. 26961 with the County for primary health care, family planning and emergency dental services from July 1, 1989 through June 30, 1990.

Sincerely,

ELMER E. LUNDY, Chief
Primary Care Services

EEL:tkwp/F-284

AGREEMENT

THIS AGREEMENT is made between the COUNTY OF SAN DIEGO hereinafter referred to as COUNTY and: National Medical Association, Comprehensive Health Center, Inc., dba Comprehensive Health Center (Corporate Name of Party)

3177 Oceanview Blvd. San Diego, CA 92113
(Street Address) (City/State) (ZIP)

hereinafter referred to as CONTRACTOR for primary health care, family planning, and emergency dental care services.

WITNESSETH:

WHEREAS, CONTRACTOR possesses certain skills, experience, education or competency to perform certain special services, and COUNTY desires to engage CONTRACTOR for such special services upon the terms provided, and

WHEREAS, pursuant to the provisions of California Government Code Section 26227, the Board of Supervisors of COUNTY is authorized to enter a contract for health services.

NOW THEREFORE, the parties hereto do mutually agree to the terms and conditions as attached and set forth in:

EXHIBIT	TITLE
A	Standard Provisions
B	Special Provisions
C	Service Provisions
D	Budget

IN WITNESS THEREOF, COUNTY AND CONTRACTOR have executed this AGREEMENT to be effective: (check one) ( ) Upon the date authorized by the Board of Supervisors of COUNTY; OR (X) (enter effective date) July 1, 1988.

CONTRACTOR:
BY Robert Henderson

NAME Robert Henderson
TITLE Administrator

COUNTY: COUNTY OF SAN DIEGO
BY Kathryn A. Nelson
Clerk of the Board of Supervisors

(Reserved for County Counsel Approval)

Mark C. Head

(Reserved for Auditor-Controller Assignment of County Contract #)

26961-E, 26962-E

(Reserved for Clerk of the Board of Supervisors Citation)

Approved and/or authorized by the Board of Supervisors of the County of San Diego

7-5-88 #20

Kathryn A. Nelson

Clerk of the Board of Supervisors

(Reserved for Civil Service Commission)

N/A

COUNTY OF SAN DIEGO
Department of Health Services

Exhibit A - Standard Provisions

1. **Administration of Agreement**

COUNTY'S (designate official title) CHIEF, Primary Care Services hereinafter called COUNTY'S ADMINISTRATOR, shall represent COUNTY in all matters pertaining to the performance under this Agreement and shall administer this Agreement on behalf of COUNTY. CONTRACTOR'S (designate official title) Administrator shall represent the CONTRACTOR and shall administer this Agreement in accordance with its terms and conditions on behalf of CONTRACTOR. All reports, letters, notices and/or other correspondence shall be sent to the attention of the designated representatives at their respective addresses.

2. **Term of Agreement**

The term of this Agreement shall commence on July 1, 1988 and continue through and including June 30, 1991 unless sooner terminated as provided in paragraph seven (7).

3. **Compensation**

COUNTY agrees to pay CONTRACTOR a total sum not to exceed (specify in both words and number) **two million, seven hundred eight thousand, seven hundred twelve** dollars **($ 2,708,712.00)** for services performed.

4. **Multi-Year Funding** [X] Yes [ ] Not Applicable

In consideration of multi-year funding and performance, COUNTY agrees to reimburse CONTRACTOR for the period **July 1, 1988** to and including **June 30, 1989** a sum not to exceed **nine hundred two thousand, nine hundred four** dollars **($ 902,904.00)** for the period **July 1, 1989** to and including **June 30, 1990** a sum not to exceed **nine hundred two thousand, nine hundred four** dollars **($ 902,904.00)** and for the period **July 1, 1990** to and including **June 30, 1991** a sum not to exceed **nine hundred two thousand, nine hundred four** dollars **($ 902,904.00)**.

The term of this Agreement is for multi-year funding and performance. Should COUNTY, State, or Federal Government reduce or discontinue funds for this Agreement, COUNTY shall have the right to reduce or terminate this Agreement. COUNTY shall send notice to CONTRACTOR within seven (7) days of receipt of said reduction or discontinuance. In the event of reduction of funding for this Agreement, COUNTY and CONTRACTOR shall meet within ten (10) days of notice to renegotiate this Agreement based upon the modified level of funding.

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5. **Payment in Advance** [ ] Yes [X] Not Applicable

CONTRACTOR, upon certification of need and with prior COUNTY approval, may receive an advance of funds at the beginning of this Agreement. The total sum shall not exceed $ n/a as an advance payment toward contract performance. In repayment, the COUNTY'S ADMINISTRATOR shall recover the total advance by:

a. ( ) deducting one-half of the advance against each of the CONTRACTOR'S final two months' claims.

b. ( ) deducting no less than $ n/a of the advance from each monthly claim submitted by the CONTRACTOR during the contract term.

c. ( ) deducting no less than $ n/a during n/a against CONTRACTOR'S claims.

It is understood by the CONTRACTOR that said advance shall be used solely for purposes of performing this Agreement and shall not be used to benefit any other CONTRACTOR interests.

6. **Notice**

a. **Notices Pursuant to This Agreement** - Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail or registered mail, to the officials cited in paragraph one (1) of Exhibit A.

b. **Notice of Delay** - CONTRACTOR shall, within five (5) days of the beginning of any delay in the performance of this Agreement, notify the COUNTY'S ADMINISTRATOR in writing of said delay, causes, and remedial action to be taken by CONTRACTOR.

7. **Changes and Termination**

a. **Changes** - COUNTY or CONTRACTOR may request change, modification, or amendment to this Agreement. Such changes, modifications, or amendments as agreed upon in writing by and between COUNTY'S ADMINISTRATOR and CONTRACTOR except as specifically detailed in Exhibits B, C, and D, are not in force until approval by either Board of Supervisors of COUNTY, CONTRACTOR OFFICER, or designee.

b. **Termination of Agreement for Cause** - Upon breach of this Agreement, COUNTY shall have the right to terminate this Agreement, by giving written notice to CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, and other materials, prepared by CONTRACTOR under this Agreement shall become the sole and exclusive property of COUNTY.

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CONTRACTOR shall be entitled to receive reasonable compensation not to exceed an amount payable as provided in paragraph eight (8), for any satisfactory work completed on such documents, or other such materials to date of termination, not to exceed the amounts payable to date of termination, reduced by the amount of damages sustained by the COUNTY by reason of such breach.

c. **Termination for Convenience of Parties** - Either party may terminate this Agreement at any time by giving written notices to the other's representative of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination or as provided in paragraph four (4). In that event, all finished or unfinished documents and other materials shall become the sole and exclusive property of COUNTY. If the Agreement is terminated as provided herein, CONTRACTOR shall be paid as provided in paragraph eight (8) through the date of such termination. CONTRACTOR hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this paragraph.

d. **Termination for Reduction Due to Cessation or Reduction of State, Federal or County Funding** - COUNTY shall have the right to terminate this Agreement within five (5) days in the event that Federal, State or COUNTY funding for this Agreement ceases prior to the ordinary term of this Agreement. In the event of reduction of funding for this Agreement, COUNTY and CONTRACTOR shall meet within ten (10) days of notice to renegotiate this Agreement based upon the modified level of funding.

e. **Renewal** - COUNTY and CONTRACTOR agree that COUNTY may renew this Agreement for subsequent periods, subject to approval and authorization of COUNTY'S Board of Supervisors.

8. **Budget and Method of Payment**

a. **Agreement Budget** - Exhibit D is the budget for this Agreement. The budgeted amounts for each line are considered to be estimates, and may be exceeded without prior COUNTY approval. The exceptions to this general rule are identified on the Agreement Budget (Exhibit D) and in Special Provisions (Exhibit B). A budget revision, approved by COUNTY'S ADMINISTRATOR, is required prior to exceeding any of the line item accounts so identified, and prior to adding any new line items to the budget. In no case will COUNTY pay CONTRACTOR in excess of the amounts stipulated in Exhibit A, paragraphs 3 and 4.

b. **Payment by Claim** - Subject to conditions and/or limitations described in the Special Provisions (Exhibit B), COUNTY agrees to reimburse CONTRACTOR for actual cost, less earned program revenue. Payment shall be in arrears on receipt of a properly submitted claim certifying to the extent of performance under this Agreement. CONTRACTOR'S claim shall be in accordance with Service Provisions (Exhibit C), and Agreement Budget (Exhibit D), appended hereto. Each claim shall be approved by COUNTY'S ADMINISTRATOR prior to payment.

c. **Withholding of Payment** - COUNTY may withhold final payment until final reports required under this Agreement are received and approved by COUNTY. COUNTY may also withhold payment if CONTRACTOR is in non-compliance with this Agreement.

d. **Disallowance** - In the event CONTRACTOR claims and receives payment from COUNTY for a service, reimbursement for which is later disallowed by the COUNTY, or the State of California or United States Government, CONTRACTOR shall promptly refund the disallowed amount to County on request, or at its option, COUNTY may offset the amount disallowed from any payment due or to become due to the CONTRACTOR under this Agreement or another Agreement. Similarly, a disallowance under a prior Agreement may be offset against this Agreement.

e. **Full Compensation** - Pending any cost adjustments, each claim so approved and paid shall constitute full and complete compensation to CONTRACTOR for the period covered by the claim. It is expressly understood and agreed that this Agreement constitutes the entire Agreement of CONTRACTOR and COUNTY and in no event shall CONTRACTOR be entitled to any compensation, benefits, reimbursements or ancillary services other than as herein expressly provided.

f. **Partial Performance** - In the event less than all services are performed in a proper and timely manner, CONTRACTOR shall be paid only the reasonable cost for the services performed for the payment period as determined by COUNTY'S ADMINISTRATOR.

9. **Independent Contractor**

a. **Independent Contractor** - It is agreed the CONTRACTOR shall perform as an independent contractor under this Agreement. CONTRACTOR is, for all purposes arising out of this Agreement, an independent contractor, and shall not be deemed an employee of COUNTY. It is expressly understood and agreed that CONTRACTOR shall in no event be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, and leave benefits.

b. **Personnel and Equipment** - The CONTRACTOR shall secure or furnish all services and supplies (including, but not limited to supplies, equipment, furniture, insurance, utilities, telephones and facilities) necessary for the provision of services pursuant to this Agreement. All such services shall be performed by CONTRACTOR, or under CONTRACTOR'S supervision, by persons authorized by law to perform such services.

c. **Responsibility for Equipment** - COUNTY shall not be responsible nor be held liable for any damage to person or property consequent upon the use, misuse, or failure of any equipment used by CONTRACTOR, or any of CONTRACTOR'S employees, even though such equipment be furnished, rented or loaned to CONTRACTOR by COUNTY. The acceptance or use of any such equipment by CONTRACTOR or any of CONTRACTOR'S employees shall be construed to mean that CONTRACTOR accepts full responsibility for and agrees to exonerate, indemnify and save harmless COUNTY from and against any and all claims for any damage whatsoever resulting from

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the use, misuse, or failure of such equipment, whether such damage be to the employee or property of CONTRACTOR, other contractors, COUNTY, or other persons.

d. **Non-expendable Property Acquisition** - Ownership of non-expendable property purchased with funds under this Agreement shall remain with the COUNTY unless otherwise provided for in Exhibit B or Contractor's Manual.

10. **Contractor's Manual Provisions** [X] Yes [ ] Not Applicable

Reference is hereby made to the Department of Health Services, Division of Primary Care Services Contractor's Manual (Dated) 7/86, a copy of which is on file with the COUNTY'S ADMINISTRATOR, and which may be amended from time to time in accord with provisions for its amendment contained in said Contractor's Manual. CONTRACTOR will comply with all applicable provisions contained in said Contractor's Manual including, but not limited to, budget and claims. Said provisions of said Contractor's Manual are incorporated in this Agreement by Reference.

11. **Interest of CONTRACTOR**

a. **Assignability** - CONTRACTOR shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of COUNTY thereto; provided, however, that claims for money due or to become due to CONTRACTOR from COUNTY under this Agreement may be assigned without such approval. Notice of any such assignment or transfer shall be furnished to COUNTY within five (5) days of said action.

b. **Interest of Contractor** - CONTRACTOR covenants that CONTRACTOR presently has no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

CONTRACTOR further convenants that in the performance of this Agreement, no person having any such interest, shall be employed or retained by CONTRACTOR under this Agreement.

c. **Interlocking Directorate** - In recognition of COUNTY Policy A-79, CONTRACTOR shall not engage nor compensate from contract funds any of its governing body without COUNTY'S written approval.

d. **Sub-contract** - All sub-contracts entered into by CONTRACTOR shall be in writing and shall have prior written approval of COUNTY'S ADMINISTRATOR unless waived by provision in Exhibit B. No such sub-contract shall act to terminate any legal responsibility of CONTRACTOR to COUNTY to assure complete performance of all activities and functions required of CONTRACTOR under this Contract.

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e. **Defend, Indemnify and Hold Harmless** - The CONTRACTOR agrees to fully indemnify, defend and save harmless the COUNTY against any and all loss, damage, liability, claim, demand, suit or cause of action resulting from injury or harm to any person or property arising out of or in any way connected with the performance of work under this contract, excepting only such injury or harm as may be caused solely and exclusively by the fault or negligence of the COUNTY.

12. **Insurance**

a. **Insurance** - Before commencement of the work, CONTRACTOR shall submit insurance policies or Certificate of Insurance evidencing that CONTRACTOR has obtained for the period of the contract, from a generally recognized responsible insurer, insurance in the following forms of coverage and minimum amounts specified:

(1) A policy of Worker's Compensation insurance covering all employees of CONTRACTOR.

(2) Comprehensive General Liability Insurance of:

(a) $ 500,000 Bodily Injury - per person;

(b) $ 1,000,000 Bodily Injury - each occurrence;

(c) $ 100,000 Property Damage

OR

In lieu of (a), (b), and (c), $ 1,000,000 combined single limit bodily injury and property damage.

(3) CONTRACTOR shall maintain medical malpractice insurance of no less than $1,000,000 per person per occurrence, and $1,000,000 coverage per occurrence.

(4) The policies shall name the COUNTY of San Diego as additional insured.

(5) Each policy of insurance shall contain the following clauses:

"It is agreed that these policies shall not be cancelled nor the coverage reduced until thirty (30) days after the COUNTY'S ADMINISTRATOR shall have received written notice of such cancellation or reduction. The notice shall be deemed effective the date delivered to said ADMINISTRATOR, as evidenced by properly validated return receipt."

"The insured waives any right of subrogation against COUNTY of San Diego which might arise by reason of any payment under these policies."

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b. **Bonding** - CONTRACTOR shall furnish and maintain an appropriate bond to insure all individuals who will receive or disburse funds. The amount of the bond will be **$ 225,726.00**, which represents **25%** of the annual Compensation Amount.

13. **Maintenance of Records and Reports**

a. In order to assure that funds provided under this Agreement are used by CONTRACTOR in accordance with such Agreement, CONTRACTOR shall maintain:

(1) **Accounting Records** - CONTRACTOR shall maintain within San Diego COUNTY accounting records that clearly reflect the cost of services for which claims against COUNTY are made pursuant to this Agreement in accordance with generally accepted accounting principles and as further specified in the Contractor's Manual. Such records shall include, but not be limited to, accounting ledgers, statistical data, and supporting documents such as purchase requisitions, purchase orders, vouchers, timesheets, payrolls, analyses of capital equipment costs, and schedules for allocating costs.

(2) **Personnel Records** - CONTRACTOR shall maintain within San Diego County adequate personnel records, payroll records, personnel files, and personnel policies and procedures. Employee time and attendance records shall show the hours and dates worked and shall be signed and approved by both the employee and his or her immediate supervisor. Payroll and personnel records shall reflect employee's date of hire, job title, authorized salary or rate of pay, payroll deduction data, and leave time earned and taken. CONTRACTOR shall develop and maintain written policies governing employment practices, job descriptions, compensation, paid leave, promotion, termination procedures, and performance evaluations.

b. **Accounting Method** - It is agreed that CONTRACTOR shall adopt and maintain one of three accounting and reporting methods: (check method chosen)

[ ] Accrual method

[X] Modified accrual method

[ ] Cash method

It is expressly understood that CONTRACTOR may not change accounting method without the prior written approval of COUNTY'S ADMINISTRATOR.

c. **Client/Patient Records** - CONTRACTOR shall maintain within San Diego County adequate records for all services provided and clients/patients served pursuant to this Agreement. Pertinent data shall be kept in sufficient detail as further described in the Contractor's Manual so as to allow for the evaluation of the services rendered under this Agreement. COUNTY, at its option, may take custody of CONTRACTOR'S

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client/patient records upon contract termination. COUNTY agrees that such custody will conform to applicable confidentiality provisions of State and Federal law. Said records shall be kept by COUNTY in an accessible location within San Diego County and shall be available to CONTRACTOR for examination and inspection.

d. **Confidentiality of Records** - CONTRACTOR agrees that all information and records obtained in the course of providing services to COUNTY clients in the program shall be subject to confidentiality and disclosure provisions of applicable Federal and State statutes and regulations adopted pursuant thereto.

e. **Research** - COUNTY permits CONTRACTOR to conduct evaluation of research involving contact with past or present recipients of services provided under this Agreement if conduct of such evaluation or research will not adversely affect the quality of services provided or individual participation in services. COUNTY reserves the right to prohibit or terminate evaluation or research activities which in its judgement jeopardize the quality of services or individual participation in services provided under this Agreement.

f. **Reports** - CONTRACTOR shall submit reports to the COUNTY'S ADMINISTRATOR as may be requested or as specified in the Contractor's Manual. The timely submission and completeness of these reports is a necessary and material term and condition of this Agreement, and CONTRACTOR agrees that failure to submit fully completed reports or to meet specified deadlines will be sufficient cause to withhold payment.

14. **Audit, Inspection and Retention of Records**

a. **Audit and Inspection** - At reasonable times during normal business hours, during the period of this Agreement and for as long thereafter as the records shall be required to be kept, CONTRACTOR shall grant to authorized staff of COUNTY, State or Federal agencies, access to any and all records, policies, procedures, and other documents related to the performance of Agreement, for the purpose of conducting audits and evaluations of such performance. Inspection of such records shall be subject to confidentiality provisions.

b. **Retention** - The CONTRACTOR shall retain all financial service and administrative documents relevant to the Agreement in accordance with applicable COUNTY, State and Federal statutes and regulations adopted pursuant thereto. All such records shall be returned to the COUNTY should CONTRACTOR become defunct prior to limitations set forth in such statutes.

15. **Compliance with Laws and Regulations**

a. **COUNTY Affirmative Action Program** - The CONTRACTOR, subcontractors and suppliers of the CONTRACTOR, shall comply with the requirements of the COUNTY'S Affirmative Action Program for Vendors as set forth in Article IIIk of the Administrative Code of the COUNTY of San Diego, unless specifically exempted in accordance with the Article's rules and regulations. Article IIIk is incorporated herein by reference.

The CONTRACTOR must have prequalified for this program or must furnish a signed Certificate of Compliance together with fully completed Employment Data Sheets for approval prior to award of contract.

1. **Equal Opportunity** - CONTRACTOR will comply with the provisions of Title VI of the Civil Rights Action of 1964 (42 USC 2000 as amended by the Equal Opportunity Act of March 24, 1972, Public Law No. 92-261) in that it will not discriminate against any employee, or against any applicant of such employment because of age, race, color, religion, sex, physical handicap, ancestry or national origin. This provision shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. **Non-discrimination** - CONTRACTOR shall ensure that services and benefits are provided without regard to race, color, religion, sex, age or national origin in accordance with Title VI of the Civil Rights Act of 1964. CONTRACTOR shall comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), pertaining to the prohibition of discrimination against qualified handicapped persons under any program or activity which receives or benefits from Federal financial assistance. CONTRACTOR shall comply with California Government Code, Section 11135. CONTRACTOR shall ensure that no person shall, on the basis of ethnic group, identification, religion, age, sex, color, or physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the State or receives any financial assistance from the State. Section 11135 of the California Government Code is incorporated herein by reference.

3. CONTRACTOR shall comply with all Federal, State, COUNTY, and Local Law, Rules and Regulations with respect to Affirmative Action efforts, Equal Opportunity, procurement of subcontracted services, purchase of materials and supplies and prohibited discriminatory practices currently promulgated and hereinafter promulgated applicable to this contract.

b. **Licensing** - CONTRACTOR agrees that it shall be the sole responsiblity of CONTRACTOR to obtain all licenses and permits that are, or shall become, necessary to the performance of this Agreement. Failure to obtain and/or maintain such licenses and permits shall constitute grounds for termination of this Agreement.

c. **Lobbying** - CONTRACTOR agrees to comply with the lobbying ordinances of the COUNTY and to assure that its officers and employees comply before any appearance before the Board of Supervisors of COUNTY. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat any legislation pending before State and Federal Legislatures or the Board of Supervisors of the COUNTY.

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d. **Religious Activity Prohibited** - There shall be no religious worship, instructions or proselytization as part of or in connection with the performance of this Agreement.

e. **Conformance to Laws and Regulations** - CONTRACTOR shall perform this Agreement in accordance with all applicable Federal, State, Local and municipal laws, rules and regulations, including applicable facility and professional licensure and/or certification laws.

16. **Ownership, Publication, Reproduction and Use of Material**

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other material or properties produced under this Agreement shall be the sole and exclusive property of COUNTY. No such materials or properties produced in whole or in part under this Agreement shall be subject to private use, copyright or patient right by CONTRACTOR in the United States or in other countries without the expressed written consent of the COUNTY. COUNTY shall have unrestricted authority to publish, disclose, distribute and otherwise use copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement.

17. **Appeals**

All appellate matters shall be in writing and shall contain clear statement of issue which CONTRACTOR wishes considered in the appeal of any discrepancy or exception between CONTRACTOR and COUNTY pertaining to performance of this Agreement. Appeals from CONTRACTOR shall be submitted within ninety (90) days of said discrepancy or exception. Appeals from CONTRACTOR shall be processed in the manner described in the Contractors' Manual.

18. **Political Activity**

No funds provided by COUNTY under this Agreement, shall be used either directly or indirectly by CONTRACTOR, its officers or employees for any partisan political activities, or activities for or against the election of candidates for an elected office. However, nothing in this Section shall affect the right of such officers or employees to express opinions, in their private capacities, on political subjects or issues. This Section is not intended to restrict the right of CONTRACTOR, its officers or employees to appear before COUNTY in any matter reasonably related to the services provided under this Agreement, subject to the conditions of Exhibit A, Section 15(c). CONTRACTOR shall not utilize or allow its name to be utilized in any partisan political activity, or activities for or against the election of candidates for an elected office. Nothing herein shall be construed to prohibit CONTRACTOR from paying membership dues to relevant associations or organizations which may engage in political activity, provided that such dues are not paid with COUNTY funds provided under this agreement.

19. **Precedence**

In the event that any provisions of this Agreement, its EXHIBITS or the Contractor's Manual conflicts with any other provision, precedence shall be in the following order: First--Exhibit A; Second--Exhibit B; Third--Exhibit C; Fourth--Exhibit D; Fifth--Contractor's Manual.

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20. **Contractor's Manual Provisions** [X] Applicable [ ] Not Applicable

Reference is hereby made to the Department of Health Services Division of **Maternal and Child Health** Contractor's Manual (Dated) **12-22-81,** a copy of which is on file with the COUNTY'S ADMINISTRATOR, and which may be amended from time to time in accord with provisions for its amendment contained in said Contractor's Manual. CONTRACTOR will comply with all applicable provisions contained in said Contractor's Manual including, but not limited to, budget and claims. Said provisions of said Contractor's Manual are incorporated in this Agreement by refence.

County of San Diego

J. WILLIAM COX, M.D., Ph.D.
DIRECTOR
(619) 236-2237

STEVEN A. ESCOBOZA
ASSISTANT DIRECTOR
(619) 236-7833

DEPARTMENT OF HEALTH SERVICES

1700 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA 92101-2417

PHYSICAL HEALTH SERVICES
PRIMARY CARE SERVICES
3851 ROSECRANS STREET
P.O. BOX 85222
SAN DIEGO, CA 92138-5222
(619) 692-5737

December 12, 1989

Sam Williams, M.D., Chairman
Comprehensive Health Center
286 Euclid Avenue
Suite 303
San Diego, CA 92114

Dear Dr. Williams:

I am following-up the October 31, 1989 meeting and discussion of responses to the Special Site Review of the Comprehensive Health Center conducted on December 8, 1988. I have attached, for action by the Center, the final recommendations relative to the Special Site Review.

The following documentation supporting corrective action by the Center must be submitted to this office by January 12, 1990:

1. A copy of the facility license for the 6601 Imperial Avenue facility required by the State of California Department of Health Services;

2. A copy of the minutes of the Board of Directors' meeting which approved payment by the Center to retire its past due account with UCSD Medical Center for pediatric services; and

3. A copy of the job descriptions for the Administrator and Medical Director.

In addition to the three above items, the Center must submit by January 12, 1990, a report showing the status of its past due account with UCSD Medical Center. Then, the Center must submit an account status with each monthly claim for reimbursement beginning with the January 1990 submission for the month of December 1989.

Further, the site review showed that the medical director who is now the administrator of the Center to be an employee of UCSD, a subcontractor under Agreement to the Center to provide pediatric services. This is a direct

conflict of interest and violates Exhibit A - Standard Provisions, Paragraph 11 b. of the County's Agreement. Therefore, I am requiring the following action to be taken in order to resolve the breach of contract.

1) The Center must sever its contractual relationship with the UCSD, School of Medicine for pediatric services; or

2) The Center must remove the Administrator from the position which directs and is responsible for the operation of the Center. As required in the County Agreement, the Center can not allow any person having a conflicting interest, direct or indirect, to be employed or retained by the Center; or

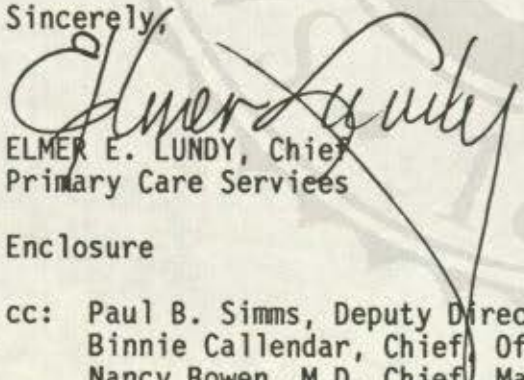
3) Administrator must resign UCSD position to become full-time employee of the Center.

In the site review to commence on December 1, 1989, the Site Review Team will examine the subcontractual relationship between UCSD Medical Center and the Center. This will include 1) examining the original purpose and scope of services of the UCSD pediatric subcontract, as approved by the County; and 2) comparing the current services which are outlined in the subcontract with the services/activities actually provided vis-a-vis the last amendment of the subcontract approved by the County. After this examination, I will decide the appropriateness of continuing a subcontract relationship and make concomitant recommendations.

The conflict of interest issue must be fully resolved by January 12, 1990 or I will **1) cite the Comprehensive Health Center and will hold all claims for reimbursement in suspension** and **2) disapprove the subcontract relationship between UCSD** (as yet, not approved by County's Administrator, as required by contract) and the Center and withhold all funds associated with the subcontract as of January 12, 1990.

A written response is required to all action items and recommendations in the enclosed report, including the required supporting documentation and corrective actions in my office by January 12, 1990.

Sincerely,



ELMER E. LUNDY, Chief
Primary Care Services

Enclosure

cc: Paul B. Simms, Deputy Director, Physical Health Services
Binnie Callendar, Chief, Office of AIDS Coordination
Nancy Bowen, M.D. Chief, Maternal and Child Health
Sandy McChesney, Chief, County Medical Services
Sandra Daley, M.D., Administrator, Comprehensive Health Center

Review of Dr. Daley/UCSD wages

Fiscal Year	Monthly Salary Rate	Salary Annual Increase	F.T.E.	Total Salary & Benefits	Total Charges Annual Increase (per FTE)
1978/1979	$2,900	-----	50%	$17,915	-----
1979/1980	N/A	N/A	N/A	N/A	N/A
1980/1981	N/A	N/A	N/A	N/A	N/A
1981/1982	$4,369	-----	90%	$61,465	-----
1982/1983	$4,511	3.3%	70%	$50,258	5.1%
1983/1984	$4,973	10.2%	70%	$55,266	10.0%
1984/1985	$5,467	9.9%	70%	$57,405	3.9%
1985/1986	$5,822	6.5%	72%	$63,126	6.9%
1986/1987	$5,989	2.9%	75%	$69,034	5.0%
1987/1988	$6,100	1.9%	65%	$62,355	4.2%
1988/1989	$6,335	3.9%	65%	$65,124	4.4%
1989/1990	$6,674	5.4%	65%	$72,369	11.1%