

**AGREEMENT FOR
PUBLIC HEALTH LABORATORY DIRECTOR**

This Agreement ("Agreement") is made and entered into by the County of Ventura ("County"), and Thomas Rush, DrPH ("Contractor").

This Agreement shall be effective July 1, 2024, and, subject to receipt of all necessary budgetary approvals by the Ventura County Board of Supervisors, shall be for an initial period of twelve (12) months, that is, until June 30, 2025. The agreement may be extended monthly thereafter, until December 31, 2025.

**FIRST
SERVICES TO BE RENDERED**

County, as a provider of certain public health services through its Public Health Department, a department of the Health Care Agency, hereinafter referred to as Public Health, hereby contracts for the professional services of Contractor, all of which services are to be provided by Contractor. Contractor shall be designated as Public Health Laboratory Director, and shall perform professional services as requested by the Public Health Director. Contractor is to perform said work, and function at all times in strict accordance with the currently approved methods and practices of his professional specialty.

The services to be performed by Contractor are set forth in Attachment I, attached hereto.

**SECOND
COMPENSATION OF CONTRACTOR**

County shall compensate Contractor for services rendered under this Agreement as detailed in Attachment II, attached hereto. Upon termination of this Agreement, Contractor shall be entitled to compensation earned prior to the date of termination as provided in this Agreement, computed pro rata up to and including that date; and Contractor shall be entitled to no further compensation as of the date of termination. County shall have no obligation to pay claims of Contractor that are not received within thirty (30) days from the date of termination of this Agreement.

**THIRD
OBLIGATIONS OF COUNTY**

During the term of this Agreement, County agrees:

1. Malpractice Coverage - to provide professional liability (malpractice) coverage which will cover Contractor and County while Contractor is performing services under this Agreement, irrespective of the time at which such claim(s) may be filed or settled, and irrespective of the status of Contractor and County at said time.

2. Space - to provide necessary space for the performance of Contractor's professional duties under this Agreement.
3. Supplies - to provide supplies necessary to the proper operation and conduct of services, and supply ordinary janitorial and in-house messenger service, and such utilities as may be required for the proper operation and conduct of Contractor's service.
4. Support Services - to provide necessary support personnel required for the proper operation of medical services. County shall provide for accreditation surveys and quality control and survey programs.
5. Billing for Services Rendered - to bill and collect for all medical services rendered by Contractor pursuant to the terms of this Agreement. Contractor shall not bill for such services in that Contractor's sole compensation for services performed pursuant to this Agreement shall be the compensation set forth in Attachment II.
6. Expense Reimbursement - to reimburse Contractor for reasonable expenses incurred in connection with services required by this Agreement or requested by the Public Health Director that are extraordinary to the usual provision of services under this Agreement, subject to the limitations set forth in Attachment II. Such services include, but are not limited to, training, conference participation, and representing Public Health at selected meetings. Such expenses include, by way of example but without limitation, travel, lodging, meals, registration and materials. In order to receive reimbursement, such expenses must be pre-approved in writing by County. The responsibilities of County under this Article shall be subject to its discretion and usual purchasing practice, budget limitations and applicable laws and regulations.

FOURTH OBLIGATIONS OF CONTRACTOR

Contractor agrees to, at all times during the term of this Agreement:

1. License and Staff Membership - Contractor shall keep in full force and effect Contractor's unrestricted license as a laboratory director in the State of California and any other licenses or memberships required of the position of Public Health Laboratory Director in accordance with 42 CFR §493.1405.
2. Conduct in Community - Contractor shall conduct himself at all times with due regard to public conventions and morals. Contractor further agrees not to do or commit any acts that will reasonably tend to degrade her or bring her into public hatred, contempt or ridicule, or that will reasonably tend to shock or offend the community, or to prejudice County or the medical profession in general.

3. Return of Equipment and Supplies - Upon termination of this Agreement or whenever requested by County, Contractor shall immediately deliver to County any equipment and supplies in her possession or under her control belonging to County in good condition, ordinary wear and tear and damages by any cause beyond the reasonable control of Contractor excepted.
4. Restrictions on Use or Disclosure of Protected Health Information - Contractor will not use or disclose protected health information other than as permitted or required by the Agreement or as required by law. For the purposes of this Agreement, "protected health information" means information transmitted or maintained in any medium that (1) relates to the past, present or future physical or mental health condition of an individual, the provision of health care to an individual, or the past, present or future payment for healthcare, and (2) either identifies the individual or reasonably could identify the individual.
 - a. Permitted Uses and Disclosures – Contractor may use or disclose protected health Information only as follows: (1) for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor and (2) to provide data aggregation services to County. Contractor will document any disclosures of protected health information not permitted by law.
 - b. Safeguarding Protected Health Information - Contractor will use appropriate safeguards to prevent use or disclosure of protected health information, including electronic protected health information, other than as provided for by this Agreement, including ensuring that any agent, including a subcontractor, to whom Contractor provides protected health information received from or created or received by, Contractor on behalf of County agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information. Such safeguards shall include compliance with the requirements of the HIPAA Security Rule (45 C.F.R. part 164, subparts A and C), including the administrative, physical, and technical safeguards and documentation requirements set forth in 45 C.F.R. 164.308, 164.310, 164.312, and 164.316. Contractor shall, within two (2) calendar days of the discovery of such disclosure, report to County any use or disclosure of protected health information not provided for by this Agreement of which Contractor becomes aware and will, to the extent practicable, mitigate any harmful effect that is known to Contractor of a use or disclosure of protected health information in breach of the requirements of this Agreement. At the termination of this Agreement, Contractor will return or destroy all protected health information received from, or created or received by, Contractor on behalf of County and retain no copies of such information.

- c. Persons or Entities Allowed Access to Records - Except as otherwise prohibited by law, Contractor will allow an individual who is the subject of the protected health information to inspect and obtain a copy of protected health information and to receive an accounting of any disclosures of protected health information by Contractor occurring six (6) years prior to the date on which the accounting is requested. Contractor will make protected health information available to County for inspection, amendment and copying. Contractor will make his internal practices, books and records relating to the use and disclosure of protected health information available to the Secretary U.S. Department of Health and Human Services, for purposes of determining Contractor's compliance with this provision.
- d. No Remuneration - Unless otherwise permitted by law, Contractor shall not directly or indirectly receive remuneration in exchange for any protected health information concerning an individual unless Contractor obtains from the individual a valid authorization that includes a specification of whether the protected health information can be further exchanged for remuneration by Contractor.

FIFTH TERMINATION

This Agreement shall terminate immediately upon the occurrence of any of the following:

- 1. The failure to cure within thirty (30) days of written notice a breach of duty by Contractor in the course of providing services under this Agreement.
- 2. The failure to cure within thirty (30) days of written notice any neglect by Contractor of his duties under this Agreement.
- 3. The failure to cure within thirty (30) days of written notice a breach of the obligations of County to Contractor under this Agreement.
- 4. The restriction, revocation or suspension of the license as a laboratory director issued by the State of California.
- 5. By mutual consent of County and Contractor.
- 6. After the initial twelve (12) months under this Agreement, upon 30 days notice, with or without cause, from either party to the other.
- 7. Upon County's determination of a material breach of Article 4, section 4 of this Agreement by Contractor.

SIXTH GENERAL PROVISIONS

1. No Waiver - Failure by either party to insist upon strict performance of each and every term and condition and covenant of this Agreement shall not be deemed a waiver of or a relinquishment of their respective rights to enforce any term, condition or covenant.
2. Containment of Entire Agreement Herein - This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to Contractor providing the subject services to County and contains all the covenant an agreements between the parties with respect to such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, other than as set forth herein, have been made by any party, or anyone acting on behalf of any party to be charged.
3. Notices - Notices to be given by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, with return receipt requested. Mailed notices shall be addressed to County by addressing and delivering such notices to the Director of Public Health, 2240 East Gonzales Road, Oxnard, California 93036. The party may change its address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of two days after mailing.
4. Partial Invalidity - If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.
5. Law Governing Agreement - This Agreement shall be governed and construed in accordance with the laws of the State of California.
6. Compliance with Laws and Regulations - All parties to this Agreement shall comply with all applicable laws and regulations. Specifically, but without limiting the generality of the foregoing, there is no intention on behalf of County in connection with this Agreement or otherwise, to induce or to influence referrals by or from Contractor. In dealing with patients and in connection with any patient referrals or hospital admissions Contractor may make, Contractor is expected and required to act in accordance with the highest professional ethical standards, in accordance with applicable laws, and in the best interests of the patient. Neither Contractor's compensation, nor any other consideration or remuneration, to Contractor or any member of Contractor's family, currently or in the future, is or will be based on any expectation of referrals, or on Contractor's making or not making referrals to any particular person, entity or facility.

7. Preparation of Agreement through Negotiation - It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that neither party is to be deemed to be the party which prepared this Agreement within the meaning of Civil Code section 1654.
8. Independent Status of Contractor - In the performance of the work, duties and obligations under this Agreement, it is mutually understood and agreed that Contractor is at all times acting as an independent Contractor. Neither County nor Public Health shall have any control over the method by which Contractor shall give these services, provided, however, that Contractor shall perform the obligations and responsibilities hereunder and function at all times in accordance with the approved methods of practice of Contractor's professional specialty and in accordance with any applicable rules and regulations.
9. Subcontracts by Contractor - If in the performance of this Agreement, Contractor chooses to associate, subcontract with, or employ any third person in carrying out the responsibilities of this Agreement, any such third person shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of association, subcontract or employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of association, subcontract or employment or requirements of law shall be determined by Contractor, and County shall have no right or authority over such persons or the terms of their association, subcontract or employment, except as provided in this Agreement. Neither Contractor nor any such person shall have any claim under this Agreement or otherwise against County for sick leave, vacation pay, retirement benefits, social security, workers' compensation, disability, unemployment insurance benefits or employee benefits of any kind.
10. Hold Harmless by Contractor - Contractor agrees to hold County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement. County is not required to make any deductions from the compensation payable to Contractor under the provisions of this Agreement. Contractor shall be solely responsible for self-employment Social Security taxes, income taxes and any other taxes levied against self-employed persons. Contractor does not assign such obligations to County for collection or administration, except as may be required by federal and state statutes. Contractor further agrees to hold County harmless from and to compensate County for any claims against County for payment of state or federal income or other tax obligations relating to Contractor compensation under the terms of this Agreement. The foregoing hold harmless provisions would not apply with respect to a penalty, if any, imposed by any governmental without the fault of, or being caused by, Contractor.

11. Hold Harmless by County - Should Contractor be sued in connection with the performance of his obligations under this Agreement, or based solely upon actions of County, through no fault of and not due to actions of Contractor, County shall indemnify, defend and hold harmless Contractor from any loss, cost, damage, expense or liability which may arise from any such suit. The previous sentence shall not apply to any loss, cost, damage, expense or liability arising as a result of Contractor's willful misconduct or gross neglect.
12. Responsibility of Contractor for Services - It is understood and agreed that Contractor is to assure that the work and services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner and in accordance with all applicable laws and community standards. Any person acting pursuant to this Agreement must at all times be properly authorized in accordance with any applicable bylaws, rules and regulations, such as, for example, those promulgated by the VCMC Medical Staff, and nothing in this Agreement affects or limits in any way the application or implementation of those bylaws, rules and regulations.
13. Confidentiality - In providing services pursuant to this Agreement, Contractor may obtain or have access to certain information and/or material which is properly confidential and which has not been publicly released by County. Contractor shall maintain confidentiality with respect to all such information and/or material and shall not disclose such information and/or material to any third party other than as necessary in connection with providing services under this Agreement or as may be otherwise legally required. Any disclosure shall be limited to the extent necessary and shall be accompanied by limitations or restrictions to preclude further disclosure and to preserve confidentiality to the extent reasonable and permitted under applicable law.
14. Administration of Agreement - The Director of Public Health or his designee shall administer this Agreement on behalf of County.
15. Cooperation with Compliance Efforts of the Health Care Agency – Contractor agrees to cooperate with the Health Care Agency (HCA) as may be required for HCA to meet all requirements imposed on it by law or by the rules, regulations and standards of applicable federal, state or local agencies, the standards of the California Department of Public Health, any other agency that accredits the Public Health Laboratory, and all public and private third party payors, including without limitation, Medicare and Medi-Cal. Contractor has received HCA Code of Conduct, agrees to abide by it, and will execute a certification to that effect. Contractor shall cooperate with all compliance-related activities of HCA which includes, without limitation, attending the appropriate compliance training session(s) and providing certification of attendance.
16. Representations and Warranties – Contractor represents and warrants that Contractor is not and during the term of this Agreement shall not be: (a) suspended or excluded from participation in any federal or state health care program, (including,

without limitation, Medicare, Medi-Cal, or CHAMPUS/Tricare), or (b) convicted of any criminal offense related to the delivery of any good or service paid for by a federal or state health care program or to the neglect or abuse of patients, or (c) suspended, excluded or sanctioned under any other federal program, including the Department of Defense and the Department of Veterans Affairs. Contractor shall notify County immediately if any event occurs which would make the foregoing representations untrue in whole or part. Notwithstanding any other provision of this Agreement, County shall have the right to immediately terminate this Agreement for any breach of any of the foregoing representations and warranties.

17. Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto execute this Agreement on the dates written below:

CONTRACTOR

August 15, 2024
Dated: _____ By: Thomas Rush
Thomas Rush, DrPH
Tax ID#

COUNTY

Dated: July 22, 2024 By: Rory Aronsky
County Purchasing Agency, GSA Procurement
Rory Aronsky, Senior Buyer

ATTACHMENT I

**RESPONSIBILITIES OF
PUBLIC HEALTH LABORATORY DIRECTOR**

It is mutually agreed that Contractor shall have the following responsibilities:

- I. Contractor shall be designated as Public Health Laboratory Director.
- II. Contractor shall serve, as the Director of the Public Health Laboratory and, in that position, provide oversight of the lab operations, ensure compliance with regulations, develop and implement quality control procedures, be available to the Public Health Director and collaborate with the Ventura County Public Health Department overall. The services to be provided shall include, but are not limited to, the following:
 - A. Work collaboratively with the Public Health Director and Public Health Officer.
 - B. Be available and accessible to the laboratory staff and assure availability of license (in good standing) for laboratory to operate per Clinical Laboratory Improvement Amendments (CLIA) and Centers for Medicare and Medicaid Services (CMS) and provide standard lab director responsibilities.
 - C. Be responsible for all lab quality systems activities-per CLIA/CMS
 - D. Review and approvals of all documents related to quality systems (Standard Operating Procedures, Quality Assurance/Quality Control, validations/verifications, and corrective actions)- per CLIA/CMS
 - E. Review of staff qualifications, competencies- CLIA/CMS
 - F. Review of new hires
 - G. Perform onsite visits as needed for the lab project(s) and accreditation (e.g. California Department Public Health/CLIA/CMS, and ELAP water testing licenses).
- III. Contractor is to remove himself from any decisions in Public Health Laboratory Services or other program or appeals process that may present any indication or questions of a conflict of interest. In such instances, Contractor is to immediately notify and refer the case to the Public Health Director.
- IV. Contractor shall be accessible to Public Health on a regular basis, during normal business operating hours, in the performance of the responsibilities provided for under this contract.
- V. In the event of a public health emergency/disaster, Contractor agrees to be available as necessary to assist the Public Health Director in protecting the public health.

- VI. Contractor shall rotate after hour "On-Call Duty," as requested, mutually agreed to, and scheduled.
- VII. Contractor will maintain report and retain time records, in accordance with the requirements of federal and state laws, as specified by County.
- VIII. It is expressly agreed that the payment provisions of this Agreement are predicated on Contractor providing at least an average of twenty (20) hours of service per week to Public Health for fifty-two (52) weeks each year.
- IX. Contractor shall submit all necessary documentation, invoices for services, and/or records needed by County for the remuneration of Contractor's services within thirty (30) days of the provision of the services by Contractor.

By this Agreement, County contracts for the services of Contractor as Public Health Laboratory Director, and Contractor may not substitute service by another Public Health Laboratory Director without written approval of the Public Health Director, or his designee.

ATTACHMENT II COMPENSATION OF CONTRACTOR

- 1. Contractor shall be paid according to the following:
 - A. Contractor shall receive up to seven thousand eight hundred (\$7,800.00) per month for services provided under this Agreement. Total compensation shall not exceed ninety-three thousand six hundred dollars (\$93,600) per fiscal year for the period commencing July 1, 2024 to June 30, 2025. If contracted services are extended after June 30, 2025, Contractor may receive up to seven thousand eight hundred dollars (\$7,800) per month for services through December 31, 2025.
 - B. The compensation specified above shall constitute the full and total compensation for services, including administrative, teaching, research and professional, to be rendered by Contractor pursuant to this Agreement. In the event Contractor is requested by County to attend specific training and/or conferences related to this Agreement, County shall pay approved reasonable and actual expenses for travel and tuition/fees. All travel must be in accordance with County travel policy. The maximum direct reimbursement for approved expenses payable to Contractor shall not exceed \$1,500 per annual contract period commencing July 1, 2024 to June 30, 2025, and shall not exceed a prorated \$750 for the month-to-month extension period from July 1, 2025 to December 31, 2025. These

expenses are not included in the compensation described in Section 1.A. above

2. To receive payments, Contractor must submit an appropriate invoice reflecting work performed on an hourly basis up to twenty (20) hours per week. Contractor may submit an invoice to Public Health on the last day of the month during the month in which the services are provided. County shall pay the compensation due pursuant to the claim by the fourth day following the last day of the month, or within ten (10) working days after a valid invoice is received in the office of the Ventura County Auditor Controller, whichever is later. The invoice must include a record of days and hours worked. County shall pay no interest on any such payment which is withheld.
3. It is expressly agreed that the payment provisions of this Agreement under this Attachment II, Section A are predicated on Contractor providing an average of twenty (20) hours of service per week to Public Health for fifty-two (52) weeks each year. If fewer hours are provided, during any week of a pay period, or if Contractor provides hours of service during fewer weeks per year, than set forth above (less than 52 weeks), a prorated reduction will be made in compensation based on the \$90.00 hourly rate.