

AGENDA TRANSMITTAL FORM

To: **Board of Supervisors**

Date: September 18, 2014

From: Jon Hopkins, Dir.
(Department Head - please type)

Phone Ext. X759

- | | |
|-------------------------------------|----------------|
| <input type="checkbox"/> | Regular Agenda |
| <input checked="" type="checkbox"/> | Consent Agenda |
| <input type="checkbox"/> | Blue Slip |
| <input type="checkbox"/> | Closed Session |

Meeting Date Requested:
09/23/14

Department Head Signature _____

Agenda Title: Contract with Doctor Kerr for County Health Officer

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)

Please see the attached memorandum.

Recommendation: 1) Approve the attached agreement with Doctor Rita Huspen Kerr as the Contract Public Health Officer and authorize the Chairmen to execute said agreement contingent upon a successful background check.

Recommendation/Requested Action:
See above recommendation.

Fiscal Impacts (attach budget transfer form if appropriate) N/A
Staffing Impacts N/A

Is a 4/5ths vote required? Yes No

Committee Review? N/A

Name _____
Committee Recommendation: _____

Contract Attached: Yes No N/A
Resolution Attached: Yes No N/A
Ordinance Attached: Yes No N/A
Comments: _____

Request Reviewed by:
Chairman _____ Counsel _____
Auditor _____ GSA Director Hop
CAO _____ Risk Management _____

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)
GSA-Jon Hopkins, Health & Human Services-James Foley.

FOR CLERK USE ONLY

Meeting Date _____ Time _____ Item # Addendum
Board Action: Approved Yes ___ No ___ Unanimous Vote: Yes ___ No ___
Ayes: _____ Resolution _____ Ordinance _____ Other: _____
Noes _____ Resolution _____ Ordinance _____
Absent: _____ Comments: _____

| | | |
|----------------------|---|--|
| Distributed on _____ | A new ATF is required from _____ Department _____ For meeting _____ of _____ | I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors. ATTEST: _____ Clerk or Deputy Board Clerk |
|----------------------|---|--|

GENERAL SERVICES ADMINISTRATION

MAIL: 12200-B Airport Road, Jackson, CA 95642
LOCATION: 12200-B Airport Road, Martell, CA
PHONE: (209) 223-6744 FAX: (209) 223-0749 E-MAIL: jhopkins@co.amador.ca.us



SUMMARY MEMORANDUM

TO: Board of Supervisors
FROM: Jon Hopkins, GSA Director *JH*
DATE: September 19, 2014
SUBJECT: Contract with County Health Officer

On September 9, 2014, the Board of Supervisors appointed Doctor Rita Kerr as the Contract Public Health Officer contingent upon a successful background check and authorized the Health and Human Services Director and County Counsel to negotiate final terms and conditions based upon the sample agreement.

The sample agreement provided included standard insurance provisions; however, past insurance requirements for this particular position have been different and accepted by the County (i.e. Limited Professional Office Premises insurance versus Commercial General Liability). Doctor Kerr has provided Limited Professional Office Premises insurance which is a reduced version of Commercial General Liability (less coverage with the same dollar limits) with no Additional Insured status or Endorsement.

This change has been incorporated into the agreement and is acceptable to Risk Management and County Counsel.

Based upon these final changes, staff recommends the following:

Recommendation: 1) Approve the attached agreement with Doctor Rita Huspen Kerr as the Contract Public Health Officer and authorize the Chairmen to execute said agreement contingent upon a successful background check.

Cc: Chuck Iley, CAO
file

Attachments: Agreement

AGREEMENT FOR HEALTH OFFICER SERVICES

THIS AGREEMENT FOR HEALTH OFFICER SERVICES (this "Agreement") is entered into as of _____ by and between the COUNTY OF AMADOR, a political subdivision of the State of California (the "County") and Rita Huspen Kerr, MD, an individual ("Physician").

RECITALS

A. County is required under the provisions of California Health and Safety Code section 10100 to appoint a Health Officer.

B. Physician has the required licensing, skills, and knowledge to act as Health Officer for County. County's Board of Supervisors has by resolution appointed Physician as Health Officer of Amador County, in accordance with Health and Safety Code section 101000.

C. County desires to engage Physician, and Physician desires to enter into a contract with County, to perform the work described below, upon the terms and conditions set forth in this Agreement.

NOW THEREFOR, in consideration of the performance of the covenants herein contained, the parties agree as follows:

1. SERVICES TO BE RENDERED BY PHYSICIAN.

1.1 County hereby appoints Physician to serve as Health Officer for Amador County. In accordance with California Health and Safety Code section 101030, Physician as Health Officer shall be responsible for enforcing State statutes and County ordinances related to public health and sanitary matters. In that role, Physician shall perform the services set forth on **Attachment A**, attached and incorporated by this reference (the "Work"). Physician shall comply with all applicable Federal, State and local laws relating to Physician's performance of this Agreement.

1.2 The parties will negotiate a mutually acceptable schedule including hours devoted to the Work, conferences, vacation, holidays, and, when practical, absence due to illness.

2. CHANGES IN SCOPE OF SERVICES. Only the Amador County Board of Supervisors has the authority to agree to any extension of time, change order, change in the scope of work, change in the contract price, or other term or condition affecting either Physician's or County's duties set forth herein. Adjustments in compensation, if any, shall be determined through negotiation between the parties to the Agreement and are subject to approval by the Board of Supervisors. Physician acknowledges that no County staff person or County officer other than the Board of Supervisors has the power to amend the terms and conditions of this Agreement. Any change not so authorized in advance in writing by the Board of Supervisors shall be null and void.

3. TERM; TERMINATION OF AGREEMENT. This Agreement shall commence as of the execution date shall terminate on **October 1, 2015** unless earlier terminated by one of the parties. This Agreement may be terminated by either party at any time by giving written notice to the other party not less than **Thirty (30)** days before the intended date of termination; provided, however, that Physician shall give County not less than Thirty (30) days' written notice of his/her intention to resign from his/her position as Health Officer in order to allow County time to find a replacement; and provided further, that County may terminate this Agreement immediately in the event that County does not receive any funding that is contemplated to provide for payment of a portion of Physician's compensation as set forth in this Agreement. County may immediately terminate this Agreement upon written notice to Physician in the event Physician fails to provide, in any manner, the services required under this Agreement or otherwise fails to comply with the terms of this Agreement. In the case of such early termination, Physician shall be paid for all services satisfactorily rendered up to the effective date of termination, up to the maximum fee prescribed for any task.
4. COMPENSATION TO PHYSICIAN. County shall pay Physician the sum of **Six Thousand Six Hundred Dollars and No Cents (\$6,600.00)** per month from **October 1, 2014 through October 1, 2015**. The compensation under this paragraph shall be for all duties as Health Officer, regardless of the time spent performing such tasks. Physician shall be paid monthly.
5. CONFERENCES, VISITS TO SITE, INSPECTION OF WORK. In the event it should become necessary for the State or County to hold or participate in any conference relative to the Work, Physician shall attend any such conference as a part thereof.
6. ASSIGNMENTS. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
7. PHYSICIAN NOT EMPLOYEE OF COUNTY. It is understood that Physician is not acting hereunder as an employee of County, but solely as an independent contractor. Physician, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in this Agreement, Physician has no authority or responsibility to exercise any rights or power vested in County. It is understood by both Physician and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.
8. LICENSES, PERMITS, ETC. Physician represents and warrants to County that he has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Physician to practice his/her profession and to perform the Work. Physician represents and warrants to County that Physician shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any license, permits, and approvals that are legally required for Physician to practice his/her profession and perform the Work.

9. INSURANCE.

9.1 Physician shall take out and maintain at all times during the performance of any work to be done under the terms of this Agreement, a policy or policies of insurance as follows:

9.1.1 Limited Professional Office Premises Liability Insurance - Liability Insurance of not less than One Million Dollars (\$1,000,000) limit per claim, including bodily injury and property damage. 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.

9.1.2 Commercial or Personal Automobile Liability - Automobile Liability Insurance on owned, non-owned and hired autos of not less than One Million Dollars (\$1,000,000) combined single limit each person for bodily injury and property damage, including coverage for owned, non-owned and hired vehicles.

9.1.3 Professional Liability - Professional liability insurance with a limit of liability not less than \$1,000,000 per occurrence. If Professional Liability insurance is written on a claims made form, Physician shall maintain and provide evidence of such insurance for a period of at least three (3) years following completion of performance of the Work, or, in the alternative, the policy shall be endorsed to provide not less than a 3-year discovery period.

9.1.4 If the Physician maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the Physician.

9.2 Physician shall furnish a certificate of insurance and policy endorsements satisfactory to the Amador County Office of Risk Management, as evidence that the insurance required above is being maintained; such documents shall be furnished to the Amador County Office of Risk Management, 810 Court Street, Jackson, CA 95642, faxed to (209) 223-6426, or emailed to risk@amadorgov.org. **Certificates and endorsements shall refer to the work. Certificate of Insurance shall list the Certificate Holder as County of Amador, Attn: Risk Management, 810 Court Street, Jackson, CA 95642**

All certificates and endorsements are to be received and approved by the County of Amador before Work commences. Failure to obtain the required documents prior to the Work beginning shall not waive the Physician's obligation to provide them. The County of Amador reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

In the event the insurance coverage expires at any time or times during the term of this contract, Physician agrees to provide at least 30 days prior to the expiration date a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of this Agreement, or for a period of not less than

one year. Certificates of insurance and policy endorsements must be received and approved by Risk Management prior to beginning the Work.

9.3 Certificates of insurance and policy endorsements must include the following provisions:

9.3.1 The insurer will not cancel the insurance coverage without thirty days prior written notice to the County; and

9.3.2 Commercial or Personal Automobile Liability policy shall be endorsed to name the County of Amador, its officers, officials, employees, and volunteers as additional insureds, but only insofar as the operations under this Agreement are concerned.

9.4 Physician's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, representatives and agents. Any insurance or self-insurance maintained by the County, its officers, officials, employees, representatives or agents shall be in excess of the Physician's insurance and shall not contribute with it.

9.5 Physician shall be responsible for payment of any deductible contained in any insurance policy required under this Agreement and Physician shall also be responsible for payment of any self-insured retention. Any deductible or self-insured retention must be declared to, and approved by County's Risk Manager prior to beginning the Work. In the event any deductible and/or self-insured retention is deemed unacceptable by County's Risk Manager, either (i) Physician's insurer shall reduce or eliminate such deductible or self-insured retention as respects the County, its officers, officials, employees, representatives or agents; or (ii) Physician shall provide a financial guarantee, satisfactory to County's Risk Manager, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

10. WORKERS' COMPENSATION INSURANCE. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860), and Chapter 4, Part 1, Division 4 (commencing with Section 3700), of the Labor Code of the State of California, Physician is required to secure the payment of compensation to his/her employees and shall for that purpose obtain and keep in effect adequate Workers' Compensation Insurance. Physician is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to permissibly self-insure in accordance with the provisions before commencing the performance of the services of this Agreement.

The Workers' Compensation policy shall contain or be endorsed to contain a waiver of subrogation against the County, its officers, officials, employees, representatives, representatives or agents.

11. INDEMNIFICATION. Each party is responsible for its own acts or omissions and is not responsible for the acts or omissions of the other.

12. HIPAA COMPLIANCE: The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). The County of Amador is a "hybrid entity" under said Act, and the Department of Public Health is a "covered entity" under said Act. Physician, a health care provider as defined in HIPAA (45 C.F.R. § 160.103), is also a Covered Entity. Each Covered Entity hereby represents that they are and shall remain in compliance with the rules and regulations of said Act as required by law. Each Covered Entity understands that it has obligations with respect to the confidentiality, privacy and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, including the training of staff and the establishment of proper procedures for the release of such information as required by HIPAA and Title 42 CFR, Part 2 where applicable.

The parties acknowledge that the disclosures of Protected Health Information specified herein concern the provision of health care services to, and the treatment of, individuals only. Therefore, pursuant to 45 C.F.R. § 164.502(e)(1)(ii)(A), Covered Entity and Physician are not required to enter into a separate business associate agreement. Although not presently required, to the extent that it may in the future become mandatory that the parties execute a business associate agreement pursuant to HIPAA or Title 42 CFR, Part 2, such an agreement shall be executed and made part hereof. Failure or refusal of a party to execute a business associate agreement when required by law shall constitute a basis for termination of this Agreement in its entirety.

13. PUBLIC RECORDS ACT DISCLOSURE. Physician has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Physician and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et seq.). Exceptions to public disclosure may exist for those documents or other information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7. County will endeavor to maintain as confidential all information obtained by it Physician has designated in writing to County as a trade secret. County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked or marked by Physician if disclosure is deemed by County to be required by law or by court order.

14. NON-DISCRIMINATION. Physician shall provide all services under this Agreement without discrimination, and shall not discriminate against any employee or applicant for employment, on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Physician will comply with Section 1735 of the Labor Code and all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and all rules, regulations and relevant orders of the President's Committee on Equal Opportunity created thereby. Physician shall also comply with the California Fair Employment and Housing Act (Government Code Section 12900 and following).

15. CONFLICT OF INTEREST. Physician warrants and represents that it presently has no interest and covenants that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise

conflict in any manner or degree with the performance of the Work. Physician further agrees that in the performance of this Agreement no person having any such interest shall be employed by Physician.

16. ALCOHOL-FREE AND DRUG-FREE WORK PLACE POLICY. Physician acknowledges that it has received a copy of the County's policy regarding alcohol free and drug free workplace, and shall execute an acknowledgment of this policy in the form attached as **Attachment B**.

17. RETENTION OF RECORDS. Pursuant to Government Code section 8546.7, the performance of any work under this Agreement is subject to the examination and audit of the State Auditor at the request of County or as part of any audit of County for a period of three years after final payment under the Agreement. Each party hereto shall retain all records relating to the performance of the Work and the administration of the Agreement for three years after final payment hereunder.

18. NOTICES. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Postal Services, certified with return receipt requested, with postage prepaid and addressed as follows:

| | |
|-----------------|--|
| To Physician: | Rita Huspen Kerr, MD 13591 Pine Gulch Court Sutter creek, CA 95685 |
| To County: | Director of Health Services 10877 Conductor Blvd. Sutter Creek, CA 95685 |
| With a copy to: | Office of the County Counsel 810 Court Street Jackson, CA 95642 |

The address to which notice shall or may be mailed, as aforesaid, to either party shall or may be changed by written notice given by such party or the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

19. CONTRACT EXECUTION. Each individual executing this Agreement on behalf of Physician represents that he or she is fully authorized to execute and deliver this Agreement.

20. CONSTRUED PURSUANT TO CALIFORNIA LAW. The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California.

21. INCORPORATION OF AGREEMENTS AND AMENDMENTS. This Agreement contains all agreements of the parties with respect to any matter mentioned herein. No other Agreement or understanding pertaining to any such matter shall be effective, unless in writing signed by the party to be charged. This Agreement may be modified by the parties hereto only in writing and signed by both parties.

22. SEVERABILITY. The invalidity of any provision of this Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

23. TIME OF ESSENCE. Time is hereby expressly declared to be the essence of this Agreement and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF AMADOR

PHYSICIAN:
Rita Huspen Kerr, MD

BY: _____
Chairman, Board of Supervisors

BY: Rita Huspen Kerr, M.D.
Name: Rita Huspen Kerr, M.D.
Title: Medical Doctor
Federal I.D. No.: _____

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL
COUNTY OF AMADOR

ATTEST:
JENNIFER BURNS, CLERK OF THE
BOARD OF SUPERVISORS

BY: _____
Gregory Gillott

BY: _____

ATTACHMENT A – SCOPE OF WORK

Physician shall perform the duties of a Health Officer as set forth in the California Health and Safety Code, Sections 101000 *et seq.* The overall duties of the Health Officer shall include the following:

1. Provide medical supervision to Public Health staff;
2. Coordinate public health services with external agencies and health care providers;
3. Provide ongoing communication with the local medical community and hospitals;
4. Provide community education and awareness regarding public health issues;
5. Monitor activities of the contract medical provider serving the jail population;
6. Interpret policies, laws, regulations, and state and federal directives regarding medical and public health issues;
7. Consult and coordinate with federal and state officials and representatives of local public and private health agencies in the enforcement of health laws, the development of health programs, and the coordination of emergency preparedness efforts;
8. Consult with clinical staff and participate in clinical and management decisions to ensure adherence to current medical protocols and procedures concerning public health services;
9. Provide medical direction for services provided by the County, including Emergency Medical Services and Environmental Health.
10. Additional assignments and tasks as may be deemed appropriate by the Health Officer and Director of Health Services on an “as needed” basis, or as a result of changes in public policy and/or regulations concerning overall public health.

**ATTACHMENT B
ALCOHOL POLICY ACKNOWLEDGMENT FORM**

**ALCOHOL-FREE AND DRUG-FREE WORKPLACE AND DRUG & ALCOHOL TESTING
POLICY ACKNOWLEDGMENT FORM FOR CONTRACTORS**

The undersigned, authorized signatory for Rita Huspen Kerr, MD the "Contractor"), certifies as follows:

1. Contractor has received a copy of the **AMADOR COUNTY ALCOHOL-FREE AND DRUG-FREE WORKPLACE AND DRUG & ALCOHOL TESTING POLICY** concerning maintenance of an alcohol-free and drug-free workplace as required by 41 U.S.C. Chapter 10 and California Government Code Section 8350 *et seq.*; and drug and alcohol testing as required by the Federal Highway Administration 49 C.F.R. Part 382 and Department of Transportation procedures for transportation workplace drug testing programs, 49 C.F.R. Part 40.
2. All of Contractor's officers, subcontractors, and agents who perform services pursuant to the Contract to which this **Attachment "B"** is attached will abide by that policy as a condition of the Contract.
3. If any of such officers, employees, subcontractors, or agents violates the Amador County Alcohol-Free Workplace and Drug & Alcohol Testing Policy, the County of Amador may terminate the Contract immediately.

Federal I.D. No. : _____

Printed Name: Rita Huspen Kerr, M.D.

Signed: Rita Huspen Kerr, M.D.

Date: 9/18/14

Title: Medical Doctor