

Gila County Division of Health and Emergency Services

Agreement for Medical Consultant Services

This agreement is made and entered into between Gila County, Arizona (Gila County Office of Health) and Michael R. Durham, M. D.

Whereas, the Office of Health has the need for a consultant physician, and

Whereas, Dr. Durham is a physician licensed to practice medicine in the State of Arizona; is a Gila County resident in medical practice; and

Whereas, the Office of Health wishes to contract with Dr. Durham for consulting physician services and Dr. Durham is willing to contract with the Office of Health for the purpose of providing consultation to the Gila County Office of Health.

IT IS AGREED:

I. TERM OF AGREEMENT

This agreement shall commence January 1, 2011 and continue in full force and effect up through and including December 31, 2011. However, this agreement may be terminated by either party, for any reason, by giving sixty (60) days prior written notice to the other party. In addition this agreement may be terminated in accordance with the provision of ARS §38-511.A. Which is as follows:

"The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, security, drafting, or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract."

II. CONTRACTOR STATUS

In the performance of his duties under the provisions of this agreement, it is mutually understood and agreed that Dr. Durham, his agent(s), employee(s), and subcontractor(s), is at all times acting and performing as an independent contractor.

III. INDEMNIFICATION

Dr. Durham agrees to defend, indemnify, and hold harmless Gila County from all losses, liability, claims or expenses (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of Dr. Durham, except to the extent same are caused by the negligence or willful misconduct of Gila County. It is the intent of this section to require Dr. Durham to indemnify Gila County to the extent permitted under Arizona law.

IV. INSURANCE

Dr. Durham agrees to take out and keep in force during the term of this agreement at his expense, professional liability insurance, general liability insurance and other insurance(s) as requested by the Office of Health and listed below, with reputable insurance companies acceptable to the Office of Health under this agreement. Dr. Durham agrees to provide coverage equal to or greater than the limits as set forth herein. Dr. Durham agrees to provide the Office of Health with certificates evidencing the coverage specified.

1. Medical Professional Liability insurance in the amount of \$1,000,000.00 per incident.
2. Commercial General Liability insurance in the amount of \$145,000.00 per incident.

V. DUTIES/RESPONSIBILITIES

Duties and responsibilities to be provided by Dr. Durham shall be as follows:

Dr. Durham shall sign routine standing orders and review medical protocols to include, but not limited to:

1. Preventable disease immunizations to include influenza vaccine.
2. Tuberculosis control.
3. Anaphylaxis treatment.
4. Venous/capillary blood collection.
5. Provide for testing, diagnosis and treatment for sexually transmitted disease clients.
6. Child and Adult Health.
7. Environmental Health.
8. Nutritional Services.
9. Communicable disease investigation.
10. Emergency Preparedness.
11. Well child clinic in Globe held monthly*.

12. HIV services.
13. Nursing services.
14. Maternal/child health services.
15. Rabies control services.
16. STD clinic in Globe, held monthly*.
17. Reproductive Health/Family Planning
18. Other services as they arise.

Dr. Durham shall also be available to:

1. Provide input on community health matters.
2. Act as a liaison with county physicians/medical providers in medical matters.
3. Work with Office of Health staff to develop protocols as necessary.
4. Maintain current licensure with the State of Arizona and DEA.
5. Obtain annual PPD and/or questionnaire for Office of Health licensure requirements.
6. Backup coverage when unavailable for long periods of time.
7. Contact phone numbers, locations as needed.

* Well Child Clinics and STD clinics will be held once a month in Globe. Dr. Durham will only be paid for scheduled clinics that he attends.

Office of Health will provide:

1. Work space in Office of Health offices.
2. Transportation as indicated for Office of Health business.
3. Per Diem and travel reimbursement as indicated per county policy.
4. Necessary/required Emergency Preparedness/Public Health continuing education.

VI. EMERGENCY PREPAREDNESS

Dr. Durham shall be available for consultation requests from Gila County staff, for issues or events related to Preparedness and Response to acts or suspected acts of Bioterrorism, which may require a physician's expertise.

VII. PROFESSIONAL STANDARDS AND LEVELS OF SERVICE

Dr. Durham shall deliver Agreement services in accordance with any and all applicable professional accreditation standards. Dr. Durham shall obtain and maintain all applicable licenses, permits, and authority required to provide agreement services.

VIII. COMPENSATION

For the services to be provided by Dr. Durham under this agreement, financial compensation from Gila County will be as follows:

Well Child clinic Globe	\$300.00/month, for each month a clinic is held*
STD Clinic Globe	\$300.00/month, for each month a clinic is held*
TB services	\$300.00/month
Professional Services	<u>\$400.00/month</u>
Total possible	\$1,300.00/month

IX. DEFAULT

If Dr. Durham fails to comply with one or more provisions of the agreement, the Office of Health may give written notice to Dr. Durham and specify a period of time not less than sixty (60) days from receipt of said notification by which such noncompliance fails to be remedied within the specified time period, the Office of Health may interrupt funding, amend or terminate this agreement.

X. ASSIGNMENTS AND SUBCONTRACTS

No rights or obligations of Dr. Durham under this agreement shall be assigned. No rights or obligations of Dr. Durham under this agreement shall be subcontracted by Dr. Durham without approval of the Office of Health. All subcontracts shall incorporate the laws, rules, and regulations governing this agreement. The approved subcontracts shall forward copies of such to the Office of Health and shall retain originals on file.

XI. RELATIONSHIP OF PARTIES

Dr. Durham is an independent contractor of the County. Dr. Durham represents that he has or will secure, at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this contract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. It is further agreed by Dr. Durham that he shall obey all state and federal statutes, rules, and regulations which are applicable to provisions of the services called for herein. Neither Dr. Durham nor any employee of Dr. Durham shall be deemed an officer, employee, or agent of the County.

XII. NON-APPROPRIATIONS CLAUSE

Dr. Durham acknowledges that the County is a governmental entity, and the contract validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this contract, then this contract shall automatically expire without penalty to County after written notice to Dr. Durham of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure.

XIII. ENTIRE CONTRACT CLAUSE

Dr. Durham and the County have read this contract and agree to be bound by all of its terms, and further agree that it constitutes the entire contract between the two parties and may only be modified by a written mutual contract signed by the parties.

XIV. NON-WAIVER OF ENFORCEABILITY

Failure of the County to enforce, at any time, any of the provisions of this contract, or to request at any time performance by Dr. Durham of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the County to enforce each and every provision.

XV. GOVERNING LAW

Both parties agree that this contract shall be governed by the laws of the state of Arizona. The parties further agree that the jurisdiction for any legal disputes arising out of this contract shall be the Superior Court of the State of Arizona. The parties agree that even if this contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this contract by this reference as though they were specifically listed herein.

XVI. ANTI-TERRORISM CERTIFICATION

Pursuant to A.R.S. §§ 35-391 through 35-393.06, Dr. Durham certifies by signing this Contract that he does not have scrutinized business operations in Iran or Sudan and that it is in compliance with the Export Administration Act and not on the Excluded Parties List.

XVII. LEGAL ARIZONA WORKERS ACT COMPLIANCE

Dr. Durham hereby warrants that he will at all times during the term of this Contract comply with all federal immigration laws applicable to Dr. Durham's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Dr. Durham shall further ensure that each subcontractor who performs any work for Dr. Durham under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Dr. Durham and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Dr. Durham's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Dr. Durham to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Dr. Durham shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion.

Dr. Durham shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Dr. Durham.

Signed: Michael R. Durham, M.D. 12/19/10
Michael R. Durham, M.D. Date

Approved as to form:

Signed: _____
Bryan Chambers, Date
Gila County Chief Deputy
County Attorney

Signed: _____
Michael A. Pastor, Chairman Date
Gila County Board of Supervisors