

PROFESSIONAL SERVICE CONTRACT
University of Michigan - Vendor #359736

AGREEMENT is made this 1st day of January, 2019, by the COUNTY OF WASHTENAW, a municipal corporation, with offices located in the County Administration Building, 220 North Main Street, Ann Arbor, Michigan ("County") and The Regents of the University of Michigan located at 5082 Wolverine Tower 3003 S State Street Ann Arbor MI 48109 ("U-M" or "Consultant")

In consideration of the promises below, the parties mutually agree as follows

ARTICLE I - SCOPE OF SERVICES

U-M employs Dr Brendan Byrne MD who is sworn with limited authority with the Washtenaw County Sheriff's Office "WCSO" for purposes of providing services to the Underwater Search & Rescue Team "USRT" In the course of Dr Byrne's service to the "WCSO", Dr Byrne is to provide service in compliance with "WCSO" policy and organizational structure

Dr Byrne will review all diver's physical results if conducted by another physician and make recommendations of diving fitness for each diver Any diver's physical to be conducted by Dr Byrne will be contracted for separate from this agreement

Dr Byrne will dive with the "USRT" for training purposes only and to maintain a diving awareness and capability commensurate with his current level of certification and capability and as the "WCSO" - Dive Team Leader determines is needed to provide knowledgeable service of all modes of diving used by the "USRT" All diving will be at the discretion of the "WCSO" – Dive Team Leader in accordance with "WCSO" policy

Dr Byrne is expected to be able to provide research and/or documentation of information supporting any professional opinion or decision of a medical nature that he has offered or made as it relates to any "USRT" diver, activity or practice when requested by the "WCSO" – Dive Team Leader

Dr Byrne will make himself available on-call to the "USRT" consistent with "WCSO" policy

Dr Byrne may, in rare circumstances, be requested to respond on-scene at the discretion of the "WCSO" – Dive Team Leader where either danger(s) to divers may require immediate medical treatment or hyperbaric conditions create the possibly or the imminent need for hyperbaric exposure or calculate in-water decompression to prevent or reduce injury to a "USRT" diver

Dr Byrne and/or the U-M shall immediately notify the "WCSO" – Dive Team Leader if there is any change in his medical license status or limitation placed on same for any reason

ARTICLE II - COMPENSATION

Upon completion of the above services and submission of invoices the County will pay the Consultant an amount not to exceed Eleven Thousand Dollars and zero cents (\$11,000 00) annually

ARTICLE III - REPORTING OF CONSULTANT

Section 1 - The Consultant is to report to "WCSO" – Dive Team Leader and will cooperate and confer with him/her as necessary to insure satisfactory work progress

Section 2 - All reports, estimates, memoranda and documents submitted by the Consultant must be dated and bear the Consultant's name

Section 3 - All reports made in connection with these services are subject to review and final approval by the County Administrator

Section 4 - The County may review and inspect the Consultant's activities during the term of this contract

Section 5 - When applicable, the Consultant will submit a final, written report to the County Administrator

Section 6 - After reasonable notice to the Consultant, the County may review any of the Consultant's internal records, reports, or insurance policies

ARTICLE IV - TERM

This contract begins on January 1, 2019, and ends on December 31, 2021, *with an option to extend for two (2) additional one (1) year periods*

ARTICLE V- PERSONNEL

Section 1 - The Consultant will provide the required services and will not subcontract or assign the services without the County's written approval

Section 2 - The Consultant will not hire any County employee for any of the required services without the County's written approval

Section 3 - The parties agree that all work done under this contract shall be completed in the United States and that none of the work will be partially or fully completed by either an offshore subcontractor or offshore business interest either owned or affiliated with the contractor. For purposes of this contract, the term, "offshore" refers to any area outside the contiguous United States, Alaska or Hawaii

ARTICLE VI-INDEPENDENT CONTRACTOR

Contractor and the County shall, at all times, be deemed to be independent contractors and nothing herein shall be construed to create or imply that there exists between the parties a partnership, joint venture or other business organization. Contractor shall hold no authority, express or implied, to commit, obligate or make representations on behalf of the County and shall make no representation to others to the contrary

Nothing herein is intended nor shall be construed for any purpose as creating the relationship of employer and employee or agent and principal between the parties

Except as otherwise specified in this contract, Contractor retains the sole right and obligation to direct, control or supervise the details and means by which the services under this contract are provided

Contractor shall not be eligible for, or participate in, any insurance, pension, workers' compensation insurance, profit sharing or other plans established for the benefit of the County's employees Contractor shall be solely responsible for payment of all taxes arising out of the Contractor's activities in connection with this Agreement, including, without limitation, federal and state income taxes, social security taxes, unemployment insurance taxes and any other tax or business license fees as required The County shall not be responsible for withholding any income or employment taxes whatsoever on behalf of the Contractor

ARTICLE VII - INDEMNIFICATION AGREEMENT

U-M will protect, defend and indemnify Washtenaw County, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the Consultant's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of Washtenaw County in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of Consultant, any sub-Consultant, or any employee, agent or representative of the Consultant or any sub-Consultant

ARTICLE VIII- INSURANCE REQUIREMENTS

U-M will maintain at its own expense during the term of this Contract, the following insurance

- 1 Workers' Compensation Insurance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000 each accident for any employee
- 2 Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage
- 3 Automobile Liability Insurance covering all owned, hired and nonowned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage For transportation services contracts
- 4 Professional Liability coverage with a minimum limit of \$1,000,000 each occurrence

No payments will be made to U-M until the current certificates of insurance have been received and approved by the Administrator If the insurance as evidenced by the certificates furnished by U-M expires or is canceled during the term of the contract, services and related payments will be suspended U-M shall furnish certification of

insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this contract. Certificates shall be addressed to the Washtenaw County c/o Business Office 2201 Hogback Rd, Ann Arbor, MI 48105, **AND Contract #** 51121, and shall provide for written notice to the Certificate holder of cancellation of coverage.

ARTICLE IX - COMPLIANCE WITH LAWS AND REGULATIONS

The Consultant will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE X - INTEREST OF CONSULTANT AND COUNTY

The Consultant promises that it has no interest which would conflict with the performance of services required by this contract. The Consultant also promises that, in the performance of this contract, no officer, agent, employee of the County of Washtenaw, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 of the Public Acts of 1978, whichever is applicable.

ARTICLE XI - CONTINGENT FEES

The Consultant promises that it has not employed or retained any company or person, other than bona fide employees working solely for the Consultant, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach of this promise, the County may cancel this contract without liability or, at its discretion, deduct the full amount of the fee, commission, percentage, brokerage fee, gift or contingent fee from the compensation due the Consultant.

ARTICLE XII - EQUAL EMPLOYMENT OPPORTUNITY

The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The Consultant will take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicant and the treatment of employees. Affirmative action will include, but not be limited to: Employment, upgrading, demotion or transfer, recruitment advertisement, layoff or termination, rates of pay or other forms of compensation, selection for training, including apprenticeship.

The Consultant agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf

of the Consultant, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief

ARTICLE XIII - LIVING WAGE

The parties understand that the County has enacted a Living Wage Ordinance that requires covered vendors who execute a service or professional service contract with the County to pay their employees under that contract, a minimum of either \$13.22 per hour with benefits or \$14.75 per hour without benefits. Contractor agrees to comply with this Ordinance in paying its employees. Contractor understands and agrees that an adjustment of the living wage amounts, based upon the Health and Human Services poverty guidelines, will be made on or before April 30, 2019 and annually thereafter which amount shall be automatically incorporated into this contract. County agrees to give Contractor thirty (30) days written notice of such change. Contractor agrees to post a notice containing the County's Living Wage requirements at a location at its place of business accessed by its employees.

ARTICLE XIV - ASSIGNS AND SUCCESSORS

This contract is binding on the County and the Consultant, their successors and assigns. Neither the County nor the Consultant will assign or transfer its interest in this contract without the written consent of the other.

ARTICLE XV - TERMINATION OF CONTRACT

Section 1 - Termination without cause Either party may terminate the contract by giving thirty (30) days written notice to the other party.

ARTICLE XVI - EQUAL ACCESS

The Consultant shall provide the services set forth in paragraph I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

ARTICLE XVII - OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by the Consultant. During the performance of the services, the Consultant will be responsible for any loss of or damage to the documents while they are in its possession and must restore the loss or damage at its expense. Any use of the information and results of this contract by the Consultant must reference the project sponsorship by the County. Any publication of the information or results must be co-authored by the County.

ARTICLE XVIII - PAYROLL TAXES

The Consultant is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect the County against such liability.

ARTICLE XIX - PRACTICE AND ETHICS

The parties will conform to the code of ethics of their respective national professional associations.

ARTICLE XX - CHANGES IN SCOPE OR SCHEDULE OR SERVICES

Changes mutually agreed upon by the County and the Consultant, will be incorporated into this contract by written amendments signed by both parties

ARTICLE XXI - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan

ARTICLE XXII - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral

ARTICLE XXIII - ELECTRONIC SIGNATURES

All parties to this contract agree that either electronic or handwritten signatures are acceptable to execute this agreement

ATTESTED TO.

WASHTENAW COUNTY

By: Lawrence Kestenbaum 01/22/2019
Lawrence Kestenbaum (DATE)
County Clerk/Registrar
SIGNED BY DESIGNATED DEPUTY CLERK
SIGNED BY E. GOLEMBIEWSKI FOR LAWRENCE
KESTENBAUM

By: Gregory Dill 01/17/2019
Gregory Dill (DATE)
County Administrator

APPROVED AS TO CONTENT

CONSULTANT

By: Jerry Clayton 1/4/19
Jerry Clayton (DATE)
Sheriff
School

By: Marschall A. Runge
Marschall Runge, MD, PhD (DATE)
Dean, University of Michigan Medical School
Executive Vice President for Medical
Affairs
CEO, Michigan Medicine

APPROVED AS TO FORM.

By: Curtis N. Hedger 01/17/2019
Curtis N. Hedger (DATE)
Office of Corporation Counsel
CORPORATION COUNSEL

Hi Mariann,

The rate reflects 5% of Dr. Byrne's University of Michigan academic salary and benefits. It reflects the percentage of time he will dedicate to providing the services under the agreement.

If you need more information, please let us know.

Thanks, Eric

Eric Kratochwill | Michigan Medicine | Office of Strategic Planning & Business Development |

CR 51121.0
UofM