



MEDICAL SERVICES AGREEMENT

THIS MEDICAL SERVICES AGREEMENT ("Agreement") is made and entered this 24th day of July, 2019, by and between MARTIN COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, 2401 SE Monterey Road, Stuart, FL 34996 (hereinafter referred to as "COUNTY"), and EMPLOYEE WELLNESS, P.A., a Florida corporation, 1050 Monterey Road, Suite 101, Stuart, FL 34994 (hereinafter referred to as "EMPLOYEE WELLNESS").

RECITALS

WHEREAS, the COUNTY determined it is necessary to provide certain medical services for participants in its group medical plan; and

WHEREAS, COUNTY issued Request for Proposal No. 2019-3112 seeking an entity to provide Medical Services (as hereinafter defined) for certain Participants of its group medical plan (as hereinafter defined) and through a selection process conducted in accordance with the requirements of law and COUNTY policy, determined that it was in the COUNTY'S best interest to award a contract to EMPLOYEE WELLNESS to provide those medical services described herein; and

WHEREAS, EMPLOYEE WELLNESS occupies and operates a full-service medical facility and medical center providing primary medical services, preventive and health/wellness care (including, but not limited to, occupational and industrial care, minor illnesses, chronic conditions, and women's health), and EMPLOYEE WELLNESS has reviewed the above RFP and is qualified and able to provide the medical services provided herein.

TERMS

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for good and valuable consideration, the receipt and the sufficiency of which are hereby acknowledged, COUNTY and EMPLOYEE WELLNESS, hereby agree to the following:

1. DEFINITIONS

- a. "Medical Assistant" shall mean a registered nurse ("RN"), licensed practical nurse ("LPN"), Medical Assistant ("MA"), Emergency Medical Technician ("EMT"), X-ray Technician, Paramedic, or Phlebotomist operating under the scope of their certification and under the direction of a Nurse and/or Medical Professional appropriately licensed in the State of Florida.

b. **“Medical Professional”** shall mean a Medical Doctor (“M.D.”), Doctor of Osteopathy (“D.O.”), appropriately licensed in the State of Florida and Certified Registered Nurse Practitioner (“ARNP”) or Physician Assistant (“PA”) operating within the scope of their license.

c. **“Medical Records”** shall mean any and all electronic and paper copies of medical records, notes, history, of laboratory and x-ray data.

d. **“Medical Services”** shall include, but not be limited to, the prevention, diagnosis, and treatment of the following: sore throats and ears, headaches, strains, sprains, musculoskeletal problems, non-specific abdominal pain, non-specific chest pain, coughs, sinus problems, allergies and their treatment (injections), rashes, common childhood illnesses (chicken pox, mumps, measles), pregnancy testing and contraception, acute urinary complaints, personal hygiene related problems, acute injuries, acute routine office injury treatment, work-related injuries, minor surgical procedures (such as sutures for laceration treatment), flu and treatment (administration of flu vaccines), ordinary and routine care for typical office and follow-up visits, physicals (for pre-employment, annual, sports, or fitness-for-duty), pre-employment drug testing, Drug-Free Workplace testing, disease management services, and lifestyle coaching.

e. **“Nurse”** shall mean, and is inclusive of, a Registered Nurse (“RN”) and a Licensed Practical Nurse (“LPN”), appropriately licensed in the State of Florida, that operates within the scope of their license and under the direction of a Medical Professional.

f. **“Covered employee”** shall mean an employee, retiree living within Martin, Palm Beach, St. Lucie, Okeechobee or Indian River County, or COBRA participant of COUNTY or its Constitutional Officers who is currently enrolled in the group medical plan.

g. **“Participants”** shall mean an employee, retiree, COBRA participant, and their dependents of COUNTY or its Constitutional Officers enrolled in the group medical plan of COUNTY who are eligible to receive of Medical Services from such plan. Employees not covered under the group health plan will be eligible to receive Worker’s Compensation and Occupational Health services only.

h. **“Protected Health Information”** shall mean information as defined by the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”) and following all federal and state privacy requirements.

i. **“Hours of Operation”** shall mean the hours during which the EMPLOYEE WELLNESS is open, specifically: Monday, Tuesday, Thursday, Friday 7:30 a.m. – 5:00 p.m., Wednesday 7:30 a.m. – 7:00 p.m., and Saturday 9:00 a.m. – 1:00 p.m..

j. **“Overlap hours”** shall mean any period of time where additional staff is provided within the “Hours of Operation” which exceeds the hourly staff required herein.

2. **GENERAL RESPONSIBILITIES AND PROVISION OF MEDICAL SERVICES**

a. **Provision of Medical Personnel.** EMPLOYEE WELLNESS shall furnish Medical Professionals and Medical Assistants to provide the Medical Services at EMPLOYEE WELLNESS' medical facility/medical center (or a location designated by COUNTY) to Participants, the eligibility for which shall be determined by COUNTY. EMPLOYEE WELLNESS shall provide those Administrative and Medical Services as defined herein, as well as more specifically described in Exhibit "A", which is attached hereto and incorporated herein. The parties acknowledge and agree that significant consideration was given to EMPLOYEE WELLNESS' agreement that Michele Libman, M.D. shall be the primary medical professional for the services set forth in this Agreement. Dr. Libman. may designate in her sole professional discretion alternative or relief physicians who may be medical doctors or doctors of osteopathy. Any change to Dr. Libman's role as primary physician for COUNTY participants shall require the prior written agreement of COUNTY. COUNTY and EMPLOYEE WELLNESS may, at any time, and from time to time, amend or supplement the definition of Medical Services by mutual written agreement. EMPLOYEE WELLNESS agrees not to hire any current/active employees of the COUNTY or its Constitutional Officers to perform any of the duties or services provided under this Agreement.

b. **Standards of Performance of Medical Services.** EMPLOYEE WELLNESS shall contract with Medical Professionals to comply with, perform, or deliver the following (with the support of a Medical Assistant under the Medical Professional's direction and control):

(1) Each Medical Professional shall determine his or her own means and methods of providing Medical and Administrative Services in connection with this Agreement and the Scope of Medical and Administrative Services set forth in Exhibit "A". Nothing in this Agreement is intended to create (nor shall be construed or deemed to create) any right of EMPLOYEE WELLNESS or COUNTY to intervene in any manner in the means and methods by which the Medical Professional renders Medical Services, unless otherwise agreed to or contracted by Medical Professional.

(2) All Medical Professionals shall comply with all applicable laws and regulations with respect to the licensing and the regulation of physicians, nurse practitioners, or physician assistants and shall ensure that the Medical Assistant does the same with respect to the licensing and regulation of nurses.

(3) All Medical Professionals and Medical Assistant shall provide the Medical Services in a manner consistent with all applicable laws and regulations and in a professional manner consistent with community standards.

(4) All Medical Professionals shall maintain the following, during the term of this Agreement, including:

- A. A duly issued and active license to practice medicine and prescribe medication in the State of Florida,
- B. A good standing with his or her profession and state professional association,
- C. The absence of any license restriction, revocation, or suspension,
- D. The absence of any involuntary restriction placed on his or her Federal DEA registration, and
- E. The absence of any conviction of a felony.

(5) In the event that any Medical Professional (A) has his or her license to practice medicine or prescribe medication restricted, revoked or suspended, (B) has an involuntary restriction placed on his or her federal DEA registration (C) is convicted of a felony, or (D) is no longer in good standing with his or her professional or state licensing authority, EMPLOYEE WELLNESS shall promptly remove that Medical Professional and replace such Medical Professional with another Medical Professional that meets the requirements of subsection b.(4) of this Section 2. EMPLOYEE WELLNESS shall require any Medical Professional to remove and promptly replace any Medical Assistant who has his or her other professional license restricted, revoked or suspended, is convicted of a felony, or is no longer in good standing with his or her professional or state licensing authority. Further, EMPLOYEE WELLNESS shall inform COUNTY when any individual providing medical or administrative services at EMPLOYEE WELLNESS is arrested for any criminal charge.

(6) EMPLOYEE WELLNESS shall require the Medical Professional to ensure that any Medical Assistant complies with the requirements of subsection b. (2), (3), and (4) of this Section 2 with respect to performance, licensing, certification, and good standing, as applicable. EMPLOYEE WELLNESS warrants and represents that it has full legal power and authority to bind the Medical Professionals to the aforementioned requirements of this Agreement. EMPLOYEE WELLNESS shall require the Medical Professional to notify EMPLOYEE WELLNESS immediately in the event the Medical Professional learns of the possibility that any of the events specified in subsection b.(5) of this Section 2 has occurred or may occur with respect to the Medical Professional or any Medical Assistant, and EMPLOYEE WELLNESS shall immediately notify COUNTY of such, so that COUNTY may exercise its right to remove the Medical Professional pursuant to Section 2.a of this Agreement.

c. **Scheduling of Services and Hours of Operation.** EMPLOYEE WELLNESS shall contract with Medical Professionals or Medical Assistants for the provision of Medical Services at the location(s) and on schedules according to the Hours of Operation as defined in Section 1.i. EMPLOYEE WELLNESS shall not change the Hours of Operation without prior approval of the COUNTY. EMPLOYEE WELLNESS and the COUNTY recognize the need for Overlap Hours; EMPLOYEE WELLNESS may

propose Overlap Hours and staffing (including the number of physicians, nurse practitioners, physician's assistants and medical assistants) for the Hours of Operation. The need to adjust the Overlap Hours within the proposed Hours of Operation to best serve the participants is also recognized. EMPLOYEE WELLNESS shall reduce the Professional Fees provided for in Section 4.b.2 herein in the event that staffing is reduced from the staff provided for in Section 4.b.2 due to the Overlap Hours or changes in the Hours of Operation or other change in staffing. EMPLOYEE WELLNESS shall propose any changed Hours of Operation or Overlap Hours for the Center and submit such document to COUNTY for their review and approval in writing before changing the proposed Hours of Operation or Overlap Hours. COUNTY shall not be responsible for the cost of any professional fees for staff time that is not previously approved by COUNTY and in no event shall COUNTY be responsible for services in excess of the total hours provided for in this Agreement or for costs not provided for in this Agreement. The County Administrator or her designee may approve or deny changes in Hours of Operation or Overlap Hours in her sole discretion on behalf of the COUNTY.

d. **Place of Services.** EMPLOYEE WELLNESS shall provide the full measure of examination rooms, storage areas for medication, necessary equipment and supplies (unless otherwise provided in this Agreement), designated exclusively for COUNTY participants use and COUNTY records shall be maintained in a private and confidential manner. Such location is currently and exclusively occupied and operated by EMPLOYEE WELLNESS for the provision of primary, preventive and health/wellness issues typically presented in a practice environment (including occupational and industrial services, minor illnesses, chronic conditions, women's health).

e. **Medical Equipment and Medical Supplies.** EMPLOYEE WELLNESS shall notify COUNTY of supplies the Medical Professional reasonably requires in connection with the provision of the Medical Services and any need to order/reorder such medical equipment and medical supplies. COUNTY shall purchase available supplies and provide to EMPLOYEE WELLNESS. Medical Equipment and Medical Supplies which cannot be purchased by COUNTY shall be purchased by EMPLOYEE WELLNESS in accordance with Section 4.a. herein. EMPLOYEE WELLNESS shall provide a copy of the actual invoice for such purchase(s) to COUNTY pursuant to Section 4.a. It is specifically acknowledged and agreed that any purchase by EMPLOYEE WELLNESS shall be reimbursed by COUNTY for actual out-of-pocket cost and shall not include any surcharge, handling charge or other markup. Any item exceeding the cost of \$5,000 shall require prior written approval from COUNTY. EMPLOYEE WELLNESS shall provide an invoice to COUNTY for the cost of the approved order of medical equipment and supplies pursuant to Section 4.a.(3). EMPLOYEE WELLNESS agrees that all equipment and supplies provided by or paid for by COUNTY shall only be used for services provided to COUNTY participants. EMPLOYEE WELLNESS is responsible for fully insuring all medical equipment and supplies.

f. **Relationship of Parties.** EMPLOYEE WELLNESS and its Medical Professionals are independent contractors. Neither EMPLOYEE WELLNESS nor its Medical Professionals or Medical Assistants are employees of COUNTY. The Medical

Professional shall be solely responsible for his or her actions or omissions and the actions or omissions of any agent or any employee used by him or her (including without limitation any Medical Assistant) in connection with providing Medical Services contemplated by this Agreement. COUNTY shall have no control or involvement in the independent exercise of medical judgment by the Medical Professional or any Medical Assistant, and COUNTY shall not incur any liability for the actions or the omissions of the Medical Professional or any agent or any employee used by the Medical Professional (including without limitation any Medical Assistant or nurse or x-ray technician) in connection with this Agreement.

g. **Other Licensed Physicians and Medical Professionals.** COUNTY agrees and acknowledges that EMPLOYEE WELLNESS may, from time to time, have other equally qualified physicians in addition to Michele Libman, M.D. and other Medical Professionals to assist and/or replace Michele Libman, M.D. or other Medical Professionals during his or her regularly scheduled time as set forth in the Hours of Operation required in Section 2c above in the event of an absence of Michele Libman, M.D. or other Medical Professionals. Sections 2.b. and 2.f. shall apply in the same manner to the replacement physician or other Medical Professionals as such sections apply to the Medical Professional. Provided, however, any substitution of Medical Professional shall be with a professional with the same level of medical license (i.e., physician with physician, nurse practitioner with nurse practitioner). EMPLOYEE WELLNESS shall also ensure, or require the Medical Professional to ensure, and provide documentation of such, that all Medical Professionals who provide services hereunder have insurance coverage consistent with the requirements of Section 3 of this Agreement and comply with applicable provisions of HIPAA.

h. **Employee/Health Plan Cost.** The Medical Professional shall not bill or otherwise solicit payment from Participants or COUNTY or from the group health plan for the Medical Services provided pursuant to this Agreement.

i. **Medical Records.** The Medical Professional shall maintain medical records with respect to all of the patients, all of which medical records shall be maintained in a professional manner consistent with the accepted practice of the community in which the Medical Professional provides the Medical Services in connection with this Agreement. EMPLOYEE WELLNESS shall also require the Medical Professional to comply with state and federal privacy standards. All patient records maintained by the Medical Professional in connection with this Agreement shall be the sole property of the Medical Professional and EMPLOYEE WELLNESS. EMPLOYEE WELLNESS' place of services will comply with HIPAA standards including patient access to medical records. COUNTY understands and agrees that all of the medical records and other protected health information maintained by the Medical Professional will be held by the Medical Professional in strictest confidence. COUNTY is not entitled to have access to the medical records (as defined by state law) or protected health information (as defined by federal regulations) maintained by the Medical Professional without the appropriate written authorization from the Participant, or unless medical records are a result of occupational medical services provided (i.e. Worker's Compensation & Pre-Employment

Physicals) or otherwise permitted by law. The retention of all medical records shall be in compliance with applicable State and/or Federal laws. To ensure compliance with the above, EMPLOYEE WELLNESS and/or the Medical Professional shall develop and implement policies, standards and procedures to protect the confidentiality and security of the medical records and ensure that all employees are trained to adhere to these policies, standards and procedures. EMPLOYEE WELLNESS will immediately notify COUNTY of any suspected or confirmed loss, copying or unauthorized disclosure of Protected Health Information ("PHI") as the term is defined by 45 C.F.R. § 160.103.

j. **Quarterly Reports.** EMPLOYEE WELLNESS shall provide to COUNTY no later than the last day of each quarter during the contract period, a written report by month with respect to the provision of Medical Services for COUNTY during the immediately preceding quarter. The written report shall be in form and content reasonably satisfactory to COUNTY and EMPLOYEE WELLNESS. The written report shall include (a) the number of Participants treated by Medical Professionals during such immediately preceding quarter, (b) the number of Participants for whom work related treatments were provided, (c) the number of Participants for whom primary care services were provided, (d) the type and number of prescriptions dispensed and (e) an inventory of the prescriptions and supplies on hand. The report shall set forth total numbers for services, prescriptions and supplies, as well as separate totals for COUNTY participants. Any reports shall comply with HIPAA and all other related privacy requirements. COUNTY may request additional information from EMPLOYEE WELLNESS as to reporting requirements, i.e., worker's compensation claims information, and allowable pre-employment physical reports which may require various reporting periods.

k. **Participants.** COUNTY shall provide EMPLOYEE WELLNESS a monthly listing of eligible "Participants" and "Covered Employees" as defined in Section 1.f. and g.

l. **Noncompliance by the Medical Professional.** In the event that COUNTY becomes aware of any failure by the Medical Professional to comply with the obligations of the Medical Professional which are contemplated by this Agreement, COUNTY shall immediately provide written notification to EMPLOYEE WELLNESS of such failure, which written notification shall describe the failure in reasonable detail, and EMPLOYEE WELLNESS shall use its best efforts to resolve such failure as soon as possible. In the alternative, EMPLOYEE WELLNESS may arrange for the substitution of another person as the Medical Professional, pursuant to Section 2.g of this Agreement. As provided in Section 2.a of this Agreement, COUNTY shall have the right to require immediate removal of the Medical Professional by EMPLOYEE WELLNESS.

m. **Martin County Designated Parking Spaces.** COUNTY employees are provided with one (1) hour to attend appointments with EMPLOYEE WELLNESS during the employee's normal working hours. As a result, it is important to have designated parking spaces for Martin County employees from 7:30 am – 5:30 pm on Monday, Tuesday, Thursday, and Friday; 7:30 am – 7:00 pm on Wednesday; and from 9 am – 1 pm on

Saturday. EMPLOYEE WELLNESS will provide three (3) parking spaces designated for Martin County Employees Only.

n. **Patient Satisfaction and Service.**

(1) **Completion of Surveys.** EMPLOYEE WELLNESS will strive to have 75% of the wellness patients' complete performance surveys provided by the COUNTY. Patients will evaluate EMPLOYEE WELLNESS based on the satisfactory rate of the patients. EMPLOYEE WELLNESS will strive to obtain a satisfactory rating or greater by 80% of the patients completing the survey. If more than 20% of the completed surveys fall below a satisfactory rating, EMPLOYEE WELLNESS will implement changes at the request of the COUNTY to improve service to wellness patients.

(2) **Programs.**

A. EMPLOYEE WELLNESS will provide monthly health tips via email to the COUNTY for distribution to employees on wellness and health topics.

B. EMPLOYEE WELLNESS will provide up to four lunch and learn sessions per year for employees at COUNTY facilities on pertinent health topics upon request by COUNTY.

(3) **Timeliness of Appointments/Service.** Employees are provided with one (1) hour during the work day if needed for wellness appointments. Time is of the essence for patients and long wait times cause frustration. EMPLOYEE WELLNESS will strive to complete all appointments at the wellness center within 45 minutes of arrival.

3. **INSURANCE AND INDEMNIFICATION**

a. **Professional Liability Insurance.** EMPLOYEE WELLNESS shall maintain a Professional Liability Medical Malpractice Liability policy in the name of the entity with a specific schedule of all medical professionals (as defined on page 2), including but not limited to both employed and independent contractors, and any other physicians and medical professions utilized to assist or replace staff, even on a temporary or fill in basis, with limits of liability not less than \$1,000,000 each occurrence/\$3,000,000 aggregate. All other Medical Assistants (as defined on page 2) shall also be covered under this policy, including both employed and independent contractors. When a self-insured retention ("SIR") or deductible exceeds \$10,000, COUNTY reserves the right, but not the obligation, to review and request a copy of EMPLOYEE WELLNESS' most recent annual report or audited financial statement. For policies written on a claims-made basis, EMPLOYEE WELLNESS warrants the retroactive date equals or precedes the effective date of this Agreement. In the event the policy is canceled, non-renewed, switched to an occurrence form, retroactive date advanced, or any other event triggering the right to purchase a supplemental extended reporting period ("SERP") during the life of this

Agreement, EMPLOYEE WELLNESS shall agree to purchase an SERP with a minimum reporting period not less than three (3) years for all of those requiring Professional Liability Insurance described above. Further, EMPLOYEE WELLNESS shall maintain on behalf of, or contract with to maintain, any Medical Professionals, throughout the term of this Agreement, professional liability insurance covering the acts and omissions of the Medical Professional in the amount of \$1,000,000/\$3,000,000. EMPLOYEE WELLNESS shall contract with the Medical Professional to notify EMPLOYEE WELLNESS immediately in the event he or she does not have the required coverage and shall promptly remove and replace such Medical Professional with another qualified Medical Professional, with COUNTY approval. EMPLOYEE WELLNESS shall provide COUNTY proof of such professional liability insurance maintained by the Medical Professional. EMPLOYEE WELLNESS shall also maintain professional liability and general liability insurance during the term of this Agreement, which will include, but be limited to, coverage for any negligent acts, errors, or omissions, on the part of Medical Assistants. Any insurance policy shall include a schedule of all employed or independent contractors.

b. **Indemnification.** In exchange for other consideration furnished, EMPLOYEE WELLNESS shall indemnify, defend and hold harmless COUNTY, its departments, representatives, employees and elected and appointed officials, from and against all claims, costs, demands, legal fees, costs of action, losses, damages or other expenses arising as a result of any negligent act, conduct, error or omission by EMPLOYEE WELLNESS, or its agents, employees or independent contractors, in the performance of this Agreement. Further, EMPLOYEE WELLNESS agrees to indemnify and hold harmless COUNTY from and against any cost, damage, expense, loss, liability or obligation of any kind including, without limitation reasonable attorney's fees, which COUNTY may incur in connection with EMPLOYEE WELLNESS' furnishing of Medical Professionals, Medical Assistants, or the Medical Services provided by them under this Agreement. In addition to other consideration furnished in this Agreement, in consideration for this indemnity provision, EMPLOYEE WELLNESS shall be paid the sum of one hundred dollars (\$100.00), which shall be invoiced and paid prior to the effective date of this Agreement. EMPLOYEE WELLNESS shall be responsible for providing a separate invoice that shall be submitted with the signed Agreement, and EMPLOYEE WELLNESS shall remit this invoice with its Insurance Certificates. Notwithstanding the foregoing, this section and all other provisions of this Agreement relating to indemnity and insurance are not intended to and shall not be construed to waive COUNTY'S sovereign immunity, the provisions of Section 768.28, Fla. Stat., or a consent to be sued by third parties.

c. **Workers' Compensation.** EMPLOYEE WELLNESS shall maintain Workers' Compensation Insurance & Employers' Liability in accordance with Florida Statutes Chapter 440. Employers Liability coverage should be included with limits of at least \$500,000 each accident and \$500,000 each disease/Employee and \$500,000 each disease/maximum.

d. **Commercial General Liability.** EMPLOYEE WELLNESS shall maintain commercial general liability insurance for public liability during the lifetime of this Agreement which shall have minimum limits of \$3,000,000 per occurrence for personal injury, bodily injury, and property damage liability. Coverage shall include premises, operations, independent contractors, products, complete operations, contractual liability and broad form property damage endorsements. Coverage shall not contain an exclusion or limitation endorsement for contractual liability or cross liability. All insurance policies shall be issued from a company or companies duly licensed by the State of Florida. All policies shall be on an occurrence-made basis; COUNTY shall not accept claims-made policies. Specific endorsements shall be requested depending upon the type and scope of work to be performed.

e. **Cyber Liability.** EMPLOYEE WELLNESS shall maintain cyber liability insurance during the lifetime of this Agreement, including first-party and third-party coverage as outlined in this paragraph. Coverage should include protecting a patient's digital scans, medical records and sensitive personal information (e.g., financial and billing information, insurance and Social Security numbers). First-party coverage shall protect EMPLOYEE WELLNESS against its own lost data or business revenue, and third-party coverage shall protect the EMPLOYEE WELLNESS against outside claims resulting from negligence or inadequacies regarding the reliability and/or security of its computer network or website. Coverage should also be included for situations following a data breach to cover the costs incurred to notify those affected, answer questions about the breach, and offer affected persons credit-monitoring and other preventative services to avoid or correct identity theft.

f. **Additional Insured Requirements.** Except as to Workers' Compensation, Professional Liability and Employers' Liability, said insurance certificate(s) shall state that coverage required by the Agreement has been endorsed to include the COUNTY of Martin, a political subdivision of the State of Florida, and its officers, agents and employees as additional insured with a CG 2026-Designated Person or Organization endorsement or similar endorsement, to its commercial general liability. The names for the additional insured endorsement issued by the insurer shall read "County of Martin, political subdivision of the State of Florida, its officers, employees, and agents." The contract number shall be included. The certificate of insurance and policy shall unequivocally provide thirty (30) days written notice to COUNTY prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Said liability insurance must be acceptable by and approved by COUNTY as to form and types of coverage. In the event that the statutory liability of COUNTY is amended during the term of this Agreement to exceed the above limits, EMPLOYEE WELLNESS shall be required, upon thirty (30) days written notice by COUNTY to provide coverage at least equal to the amended statutory limit of liability of COUNTY.

g. **Waiver of Subrogation.** EMPLOYEE WELLNESS shall agree by entering into this Agreement to a waiver of subrogation for each required policy. When required by the insurer or should a policy condition not permit an insured to enter into a pre-loss

agreement to waive and subrogation without an endorsement, EMPLOYEE WELLNESS shall notify the insurer and request the policy be endorsed with a waiver of transfer of rights of recovery against others, or its equivalent. This waiver of subrogation requirement shall not apply to any policy which a condition to the policy specifically prohibits such an endorsement, or voids coverage should EMPLOYEE WELLNESS enter into such an agreement on a pre-loss basis.

h. **EMPLOYEE WELLNESS, Subcontractors, and Independent Contractors.** It shall be the responsibility of EMPLOYEE WELLNESS to ensure that all independent contractors and subcontractors comply with the same insurance requirements referenced above.

i. **Deductible Amounts.** All deductible amounts shall be paid for and be the responsibility of EMPLOYEE WELLNESS for any and all liability insurance claims under this Agreement.

j. **Certificate(s) of Insurance.** Within thirty (30) days of the date of this Agreement, EMPLOYEE WELLNESS shall deliver to COUNTY a certificate(s) of insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. Such certificate(s) and policy will include a minimum thirty (30) day requirement to notify due to cancellation or non-renewal of coverage.

k. **Umbrella or Excess Liability.** EMPLOYEE WELLNESS may satisfy the minimum limits required above for commercial general liability, business auto liability, and employer's liability coverage under an existing policy umbrella coverage or excess liability. The umbrella or excess liability coverage shall have an aggregate limit not less than the highest "each occurrence" limit for commercial general liability, business auto liability, or employer's liability. When required by the insurer, or when umbrella or excess liability is written on "non-follow form" COUNTY shall be added as an additional insured by an endorsement of the policy.

l. **Right to Review.** COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage.

4. **COMPENSATION**

a. **Equipment and Supplies**

(1) **Initial Set-Up Fee.** There will be no initial start-up fees or costs. All COUNTY equipment in possession of EMPLOYEE WELLNESS shall be marked as COUNTY property in accordance with COUNTY policy. COUNTY shall have the right to conduct periodic inventory control inspections of such equipment. EMPLOYEE WELLNESS agrees that all equipment and supplies provided under this Agreement shall be used exclusively for the provision of medical services for COUNTY. Any risk of loss for such equipment shall be

borne by EMPLOYEE WELLNESS. Upon discovery of any loss, EMPLOYEE WELLNESS shall replace the equipment at its sole cost and expense. All other supplies shall be subject to EMPLOYEE WELLNESS' obligation to track and report use of such supplies.

(2) **Equipment and Supplies Purchased by COUNTY.** EMPLOYEE WELLNESS shall submit to COUNTY its written request for re-order of equipment and supplies needed to re-stock the clinic. COUNTY shall purchase such supplies pursuant to such request. EMPLOYEE WELLNESS shall request via written correspondence, additional equipment not part of the initial setup and supplies which EMPLOYEE WELLNESS and the Medical Professional reasonably require in connection with the provision of the Medical Services and the date by which such equipment and such supplies are required. COUNTY shall approve the acquisition of such additional equipment and supplies by such date, provided the request is reasonable. COUNTY shall pay the actual cost of any supplies, without mark up by EMPLOYEE WELLNESS. In the event COUNTY deems such request(s) unreasonable, it shall be denied, and costs related to any unilateral procurement of such equipment/supplies by EMPLOYEE WELLNESS shall not be borne by COUNTY.

(3) **Additional Equipment and Supplies Purchased by EMPLOYEE WELLNESS.** Medical equipment, supplies, and prescription drugs that COUNTY cannot purchase and are pre-approved in writing by COUNTY to be purchased by EMPLOYEE WELLNESS through the course of the provision of services by EMPLOYEE WELLNESS will be billed to COUNTY at cost and shall be due and payable within forty-five (45) days following the receipt of the EMPLOYEE WELLNESS invoice.

b. **Monthly Fees.**

(1) **Monthly Administration Fee.** COUNTY shall pay EMPLOYEE WELLNESS the administrative fee of \$28.00 per "Covered Employee" as defined in Section 1f for year one (1) and year two (2) of the contract. On year three (3) of the contract, the COUNTY shall pay EMPLOYEE WELLNESS the administrative fee of \$29.00 per "Covered Employee".

The Monthly Administration Fee is based upon the number of Covered Employees each month for clinic attendance and includes establishing the arrangement of the clinic, general liability, ordering medical supplies and medications, the integrated software for phone or on-line scheduling, and maintaining medical records in accordance with HIPAA/Privacy requirements.

(2) **Professional Fees.** In accordance with its obligation to provide medical services as described herein, EMPLOYEE WELLNESS shall supply one medical doctor or doctor of osteopathy, one nurse practitioner (or physician assistant), one X-ray technician/Medical Assistant, and two Front Desk/Medical

Assistant(s) for all hours of operation as defined in Section 1.i. COUNTY shall pay for all such professional services as outlined in Exhibit "B." EMPLOYEE WELLNESS agrees to only charge the hourly professional fee for hours provided in accordance with the Hours of Operation described in Section 1.i. herein. If any of the four categories of employees are not provided as set forth herein, the hourly fee shall be reduced by the respective rate for said staff member(s) as outlined in EXHIBIT "B." EMPLOYEE WELLNESS shall timely pay all of the employees within the four categories on a regular schedule without delay.

(3) **Prescription Drugs.** COUNTY may decide, with the assistance of EMPLOYEE WELLNESS, which prescription drugs are to be purchased for use in the provision of Medical Services by EMPLOYEE WELLNESS. Such prescription drugs, if procured, shall follow the procurement requirements of Section 4.a. above. EMPLOYEE WELLNESS shall only dispense drugs for which cost savings can be justified or additional drugs which are authorized in writing by COUNTY. EMPLOYEE WELLNESS shall provide an inventory report to COUNTY of all prescriptions and supplies on a quarterly basis along with written documentation showing dates and amounts of usage with separate totals for COUNTY. EMPLOYEE WELLNESS shall provide written documentation, including invoices of the actual cost of such drugs and supplies on a monthly basis.

c. **Billing of Fees and Expenses.** Within fifteen (15) days from the last day of each month, EMPLOYEE WELLNESS shall submit an invoice equal to the sum of EMPLOYEE WELLNESS' administrative fees, professional fees and authorized reimbursable expenditures associated with the services provided by the Medical Professional(s) and Medical Assistant(s). Such invoices shall be accompanied by reports documenting such billing. The invoice shall provide a clear breakdown of the number of visits, equipment, supply and prescription use. All expenses for outside vendors, services and/or suppliers will be reimbursed by the COUNTY at cost without additional mark up of any kind. Such expenses must be itemized and supported by documentation from the third-party vendors. COUNTY shall submit payment to EMPLOYEE WELLNESS within thirty (30) days from receipt of the invoice.

5. AFTER HOURS USE OR URGENT CARE

In the event a participant visits EMPLOYEE WELLNESS' Urgent Care at a time when EMPLOYEE WELLNESS is closed, the following provisions shall apply:

- a. Participant shall be treated by Urgent Care and not charged applicable copay for the visit.
- b. EMPLOYEE WELLNESS shall charge COUNTY \$130.00 as an all-inclusive charge, including treatment provided for each participant.
- c. All such after-hours charges may be billed on a monthly basis.

- d. No claim shall be filed with COUNTY insurance carrier.
- e. If an after-hours visit is not emergent or urgent, Urgent Care shall direct the participant to return during EMPLOYEE WELLNESS' operating hours.

6. TERM AND TERMINATION

- a. **Term.** This Agreement shall be for a term of three (3) years commencing on the effective date of this Agreement, unless otherwise terminated. Unless either COUNTY or EMPLOYEE WELLNESS gives written notice of non-renewal to the other party at least ninety (90) calendar days prior to the end of the initial term or of any renewal term, this Agreement shall be automatically renewed under the same terms for two additional periods of three years each.
- b. **Termination Without Cause.** This Agreement may be terminated by either party for any or no cause by providing the other party at least one hundred twenty (120) calendar days' written notice prior to termination.
- c. **Effect of Expiration or Termination.** The expiration or the termination of the Agreement shall not affect the obligation of COUNTY to pay compensation to EMPLOYEE WELLNESS for any outstanding invoice for the period prior to such expiration or termination and shall not affect the obligation of EMPLOYEE WELLNESS to provide monthly reports for the period prior to the effective date of such expiration or such termination.
- d. **Non-funding/Non-Appropriation.** In the event sufficient budgeted funds are not available or become depleted, the COUNTY shall notify EMPLOYEE WELLNESS of such occurrence and the Agreement shall be terminated without penalty or expense to the COUNTY, as provided in Section 5.b. above.
- e. **Return of Equipment/Supplies/Prescriptions.** Upon Termination of this Agreement, EMPLOYEE WELLNESS shall return all equipment, supplies and prescriptions procured or otherwise purchased in connection with this Agreement to the COUNTY with 30 days of the termination date. Provided, however, upon the written agreement of the parties, EMPLOYEE WELLNESS may purchase such equipment, supplies and prescriptions from COUNTY at a price mutually agreed to by the parties.

7. PUBLIC RECORDS

EMPLOYEE WELLNESS shall comply with the provisions of Chapter 119, Fla. Stat. (Public Records Law), in connection with this Agreement and shall provide access to public records in accordance with §119.0701, Fla. Stat. and more specifically shall:

- a. Keep and maintain public records required by the COUNTY to perform the Agreement.

b. Upon request from the COUNTY'S custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the EMPLOYEE WELLNESS does not transfer the records to the COUNTY.

d. Upon completion of the Agreement, transfer, at no cost, to the COUNTY all public records in possession of the EMPLOYEE WELLNESS or keep and maintain public records required by the COUNTY to perform the Agreement. If the EMPLOYEE WELLNESS transfers all public records to the COUNTY upon completion of the Agreement, the EMPLOYEE WELLNESS shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the EMPLOYEE WELLNESS keeps and maintains public records upon completion of the Agreement, the EMPLOYEE WELLNESS shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

IF EMPLOYEE WELLNESS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE EMPLOYEE WELLNESS' DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (772) 419-6959, public_records@martin.fl.us, 2401 SE MONTEREY ROAD, STUART, FL 34996.

Failure to comply with the requirements of this Article shall be deemed a default as defined under the terms of this Agreement and constitute grounds for termination.

8. MISCELLANEOUS

a. **Notice.** All notices, requests, consents, and other communications required or permitted shall be in writing and as elected by the person giving such notice, hand delivered by messenger or courier service, telecommunicated (email or fax), or mailed by certified mail (postage prepaid), return receipt requested, addressed to:

As to COUNTY:
Martin County Administrator
2401 SE Monterey Road
Stuart, FL 34996

With a Copy to:
Martin County Attorney
2401 SE Monterey Road
Stuart, FL 34996

As to EMPLOYEE WELLNESS:

Michele Libman, M.D.
1050 Monterey Road, Suite 101
Stuart, FL 34994

b. **Transferability.** (1) COUNTY may not assign or otherwise transfer this Agreement to a third party without the prior, written consent of EMPLOYEE WELLNESS; (2) EMPLOYEE WELLNESS may not assign or otherwise transfer this Agreement to a third party without the prior written consent of COUNTY.

c. **Entire Agreement and Amendments.** This Agreement constitutes the entire understanding between COUNTY and EMPLOYEE WELLNESS with respect to the subject matter herein and supersedes all prior agreements. This Agreement shall not be amended or waived, in whole or in part, except in writing signed by COUNTY and EMPLOYEE WELLNESS. Additional data has been submitted in the form of a proposal in response to RFP 2019-3112 providing additional details relative to the management of the place of services, scope of services, expected hours of operations, and other general operating details not specifically described in this Agreement. EMPLOYEE WELLNESS' complete proposal in response to RFP 2019-3112 is incorporated by reference as part of this Agreement. Changes to such provisions shall not be unreasonably withheld from COUNTY.

d. **Governing Law and Venue.** This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Florida, without giving effect to its conflict of laws provisions. The venue of any action taken pursuant to this agreement shall be Martin County, Florida.

e. **Waiver of Jury Trial.** The parties knowingly and voluntarily waive their right to trial by jury in any litigation arising out of or relating to this Agreement.

f. **Access to Books and Records.** During the term of this Agreement and for a period as required by Florida or federal law, each party shall, upon written request of the other party, provide the other party and its representatives reasonable access to its books and records related to this Agreement, during reasonable business hours for the limited purposes of ensuring compliance with this Agreement in accordance with and in compliance with HIPAA/privacy requirements.

g. **Audit Requirements.** EMPLOYEE WELLNESS shall establish and maintain a reasonable accounting system, which enables ready identification of EMPLOYEE WELLNESS' cost of goods and/or services and use of funds. Such accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods and/or services for five (5) years after completion of this Agreement. The COUNTY or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the EMPLOYEE WELLNESS or its subcontractors as required to

comply with this section for the purpose of inspection or audit anytime during normal business hours at the EMPLOYEE WELLNESS' headquarters. This right to audit shall include the EMPLOYEE WELLNESS' subcontractors used to procure goods and services under this Agreement with the COUNTY. Audit of subcontractors and subconsultants shall be limited to those records associated with the goods and services provided under this Agreement. EMPLOYEE WELLNESS shall keep complete and accurate inventory control records of all medical supplies, pharmaceuticals, equipment and other items purchased and utilized for medical services. EMPLOYEE WELLNESS shall submit a "Med Dispense Report" to the COUNTY monthly. The COUNTY shall have the right to make a special audit, by auditors selected by the COUNTY, of the books and records required to be made and preserved by EMPLOYEE WELLNESS.

h. **Successors.** This Agreement is binding upon the parties, their successors and assigns. Thirty (30) days notice of any change in ownership, management, or control shall be given the other parties by the party experiencing the change. In such event, the rights, responsibilities, and obligations of this Agreement shall bind the new owners or managers, upon such change of ownership, management, or control, so long as all other parties' consent and are in mutual agreement to continue this Agreement. Notice of non-acceptance of the change by any party must be provided in writing within 30 days to the other party or parties and could result in termination without cause of the Agreement by any party.

i. **Force Majeure.** Neither party shall be liable for nor deemed to be in default for any delay or failure to perform under this Agreement deemed to result, directly or indirectly, from acts of God, civil or military authority, wars, accidents, fires, explosions, hurricanes, or any other like cause beyond the reasonable control of the parties.

j. **Severability.** In the event any portion of this Agreement is found to be void unenforceable, or illegal, the validity or enforceability of any other portion shall not be affected.

k. **Dispute Resolution.** As a condition precedent to the filing of any legal proceedings, the parties shall endeavor to resolve claim disputes or other matters in question by mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The party shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the COUNTY shall select the mediator, who, if selected solely by the COUNTY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediator. If either party fails to abide by the condition precedent of mediation prior to filing any legal proceedings, the party failing to comply shall be liable for the reasonable attorneys' fees and costs of the other party in contesting the filing of the legal proceeding without mediating first.

k. **Binding Authority.** Each person signing this Agreement warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she

is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, COUNTY and EMPLOYEE WELLNESS have caused this Agreement to be executed in their names by the undersigned representatives, the same duly authorized to do so.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

EDWARD V. CIAMPI, CHAIRMAN

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

SARAH W. WOODS, COUNTY ATTORNEY

EMPLOYEE WELLNESS, P.A.

Witness

By: _____
Michele Libman, M.D.
Its President

Witness

EXHIBIT “A”

Clinic Administration

- Program Management
- Supply and Medication ordering
- Medication Dispensing
- Outreach Program
- Workers Compensation documentation
- HRA Management
- Integrated phone & internet Scheduling
- Computer Software maintenance
- Ongoing evaluation and implementation
- Office Staff Management
 - Recruiting
 - Credentialing service reports on Medical professional
 - Annual performance review and quality control of medical staff
 - Appropriate staff scheduling
 - 24 x 7 Nurse on Call

Technology (included in administration fee)

- 24x7 On-line appointment scheduling
- 24x7 Patient access to labs & radiology results
- EMR software management and support
- Online Wellness Center

Reporting

- Monthly utilization reporting
 - Participants treated for Primary Care Services
 - Number of prescriptions being dispensed (by total and by drug)
 - Participants treated for work related injuries
- WellSource Productivity and Economic Benefits Report
 - Projected savings of health care cost
 - Absenteeism
 - Productivity
 - ROI

Prevention Programs

- Health Risk Assessment Program (ongoing)
 - Online or Paper Assessments
 - Detailed Questionnaire, including:

Health History
Physical Activity
Eating Practices
Substance Abuse

Mental/Social Health
Safety
Job Satisfaction
Health Interest

- Comprehensive Physical Exam including Labs and Biometrics
- Review and Analysis by Provider
- One on One “Wellness Coaching” by Provider with detailed lab analysis
- Online access to results
- Out Reach Program (ongoing)
 - Clinic and Out Reach Program Marketing
 - Monthly Wellness Newsletter
 - Group Presentations to include Wellness topics

Stress Management
Accident and Injury
Safety and Health Fairs
Stress Management
Back Care

Home/Work life balance
Smoking Cessation
Disease Management
Worksite Relationships

- Meetings with Clinic/Insurance Committee(s) as requested by COUNTY
- Marketing the Clinic
- Promoting Benefits of the Services
- Identifying employee physical and mental stressors
- Management of employee preferences
- Prioritization of employee needs

Medical Core Scope of Services

Medical Services

- Emergency Services:
 - On-site laboratory and X-rays
 - Strains, sprains, cuts and stitches
 - Dislocations and fractures
 - Splinter and foreign body removal
 - Breathing Treatments
 - Ear and sinus infections
 - Abdominal pain
- Family Medicine:
 - Routine medical exams and regular follow-ups
 - Diabetes Management
 - Migraines and Headaches
 - High Blood Pressure Management

- Sore throats, coughs, ear aches, fevers, coughs and flu
- Pneumonia and flu shots, and other immunizations such as tetanus
- Biometrics, including BMI calculations and lab profiles
- Patient Education and case management
- EKG
- Pediatrics (starting at 6 months of age):
 - Childhood illnesses
 - School, Sports and Camp Physical Exams
- Women's Health
 - Pap Smears and Breast Exams
 - Gynecological Problems
 - Urinary Tract Infections
 - Pregnancy Testing and Contraception Prescription
- Hospital inpatient care

Medical Staff Services

- Wellness Coaches
- Specialized Case & Disease management
- On-site/in office vaccination
- Limited Work-site Clinical Services
- Staff time for X-ray examinations

Labs

- Onsite collection of specimens and blood
- Reporting of results to EMPLOYEE WELLNESS/patients
- Integration of lab data within EMR system

Medications

- On-site dispensing of medication
- Stock the top prescribed medication or County/Sherriff preferred formulary
- Analyze and track actual usage of all dispensed medications
- Initial formulary will include the following drug classes:

Analgesics
 Anti-anxiety agents
 Anti-asthmatic and bronchodilator
 Antibiotics
 Antidepressants
 Anti-fungals
 Antihistamines
 Anti-Hyperlipidemics
 Antivirals

Anti-hypertensives
 Contraceptives
 Corticosteroids
 Diabetic medications
 Gout agents
 Musculoskeletal therapy agents
 Nasal agents – systemic and topical
 Thyroid agents
 Gastrointestinal agents
 Psychiatric

Occupational/Workers' Compensation Services

Workers' Compensation

- First Report of Injury
- Treatment thru Maximum Medical Improvement
- Facilitate a safe and expedited return to work
- DWC-25
- Prevention Services
 - Post accident drug screens and alcohol testing
 - Work physicals
 - Wellness checks for employees
 - Pre-employment and fit for duty exams
 - DOT physicals
 - Available specialty testing
 - Audiometric exam
 - Spirometry/Pulmonary Function Testing
 - Vision Testing
 - Urine Drug Screens
 - Alcohol Testing
 - TB Testing
 - Administer random selection program for drug testing
 - Provide the Medical Review Officer and reporting services

Additional items to be provided at actual cost or as indicated with no markup or profit

- Lab tests
- X-ray and Interpretation
 - \$8.00 Radiologist fee for Interpretation
 - Film costs

EXHIBIT “B”

**STAFFING AND STAFF PAY RATES
Year 1 and Year 2 of Contract**

Position	Staff Members	Hourly Rate (Per Member)	Total Rate
Physician	1	\$158/hr	\$158
A.P.R.N/P.A	1	\$83/hr	\$83
X-ray RT/M.A	1	\$30/hr	\$30
M.A./Front Desk	2	\$23/hr	\$46
Total Per Hour	5		\$317

**STAFFING AND STAFF PAY RATES
Year 3 of Contract**

Position	Staff Members	Hourly Rate (Per Member)	Total Rate
Physician	1	\$160/hr	\$160
A.P.R.N/P.A	1	\$85/hr	\$85
X-ray RT/M.A	1	\$32/hr	\$32
M.A./Front Desk	2	\$24/hr	\$48
Total Per Hour	5		\$325