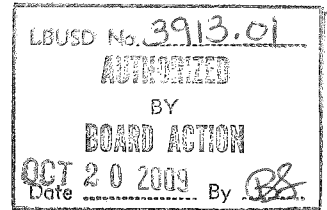


33623

**MEMORANDUM OF UNDERSTANDING**  
for  
**Participation in the State-Supplied Vaccine Program**  
and  
**Oversight of Vaccination Activities**



**BETWEEN**

**The Long Beach Unified School District**

**AND**

**The City of Long Beach**

**I. PURPOSE/OBJECTIVES/GOALS**

This **Memorandum of Understanding** (this MOU), made and entered into on October 20, 2009, sets in place the mechanisms to strengthen the existing collaboration between the LONG BEACH UNIFIED SCHOOL DISTRICT ("LBUSD"), located at 1515 Hughes Way, Long Beach, California 90810, and the CITY OF LONG BEACH, a municipal corporation (the "City"), through its Department of Health and Human Services ("LBDHHS"), to provide medical oversight for the vaccination program, to utilize the complementary expertise and capabilities of School Nurses and public health programs for participation in the State-supplied vaccine program, and in the development, validation, and translation of new and innovative strategies to offer quality preventive health services to children in the LBUSD.

The goals of this MOU are to (1) provide quality preventive health care services to children in need within the LBUSD, (2) provide guidelines for participation in the State-supplied vaccine program, (3) develop a model of collaboration for education and service, (4) to provide services for the vaccination of children in LBUSD clinics and/or school sites, and (5) to enhance the clinical skills regarding vaccination delivery by LBUSD nursing staff.

**II. BACKGROUND**

LBUSD is the third largest district in the State of California. LBUSD serves over 90,000 students in 94 schools. To serve this vast number of students, LBUSD employs approximately 65 school nurses to address the health issues of students, their families, and staff. School nurses are registered nurses with Bachelor's degrees in Nursing. They must also have their Public Health Nurse Certificate and additional credentials to remain in practice. School nurses are trained in assessing individuals/families, while also evaluating the overall health of their schools. School nurses provide vital services to LBUSD students, and that studies have found that schools with school nurses have an overall decreased number of missed school days of students when compared to schools that do not have school nurses present. In addition to health screening and monitoring health conditions, school nurses assist in assuring the provision of vaccinations to students.

The LBDHHS is one of 61 independent health jurisdictions in the State of California serving over 470,000 Long Beach residents. The LBDHHS has had a cooperative relationship with LBUSD, supporting the health and welfare of LBUSD students through the provision of health information, education, and vaccine distribution. Through its relationships with Federal, State and County agencies, the LBDHHS has traditionally provided vaccine to LBUSD to provide to its student

populations, when said vaccine is available, and the LBDHHS is willing to continue to do so in the future.

The California Education Code 49403, quoted in pertinent parts, specifies the responsibilities of LBUSD in the area of vaccinations:

"A registered nurse, acting under the direction of a supervising physician and surgeon, may perform immunization techniques within the course of a school immunization program provided that the administration of an immunizing agent is upon the standing orders of a supervising physician... "Supervising physician and Surgeon," as used herein, means the physician and surgeon of the local health department or the physician and surgeon of the school district that is directing the school immunization program." Full text of this section of the Code can be found in Exhibit A, attached hereto and incorporated by this reference.

A continuing collaboration between LBUSD and the LBDHHS to ensure the provision of vaccine is beneficial to both parties and the missions of each entity.

### **III. ROLES AND RESPONSIBILITIES**

Each participant intends to implement the following provisions of this MOU, under the responsibility of the Program Specialist of LBUSD and the City Health Officer of the City, as described below:

#### ***LBUSD:***

- A. Provide chart and documentation, materials and storage for sensitive materials, if needed.***
- B. Provide support for school nurse trainings.***
- C. Provide clinical meeting space.***
- D. Provide all basic clinic supplies.***
- E. Provide oversight and support of clinics.***
- F. Provide medical oversight for clinic nursing services.***
- G. Offer appropriate education, training, and demonstration of competence in vaccinations for school nurses on a yearly basis.***
- H. Provide policies and procedures necessary for training, equipment and guidance of the vaccination program.***
- I. Execute, to be in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Business Associate Agreement found in Exhibit C, attached hereto and incorporated by this reference***
- J. Execute, as a condition to receiving vaccines from the LBDHHS, the Outside Provider Agreement for Receipt of State-Supplied Vaccine found in Exhibit B, attached hereto and incorporated by this reference.***
- K. Other duties in responsibilities as noted in Exhibit A.***

#### ***CITY:***

- A. Provide vaccines and supplies for school-age children as available.***
- B. Provide oversight of vaccine related training for school nursing staff.***
- C. Provide CAIR access and inputting of records, as necessary. When input is complete, documents will be shredded according to HIPAA regulations.***
- D. Consultation on vaccine related issues in clinic.***
- E. Provision of medical oversight for vaccine related nursing services.***

***F. Execute, to be in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Business Associate Agreement found in Exhibit C, attached hereto and incorporated by this reference.***

#### **IV. LIMITATIONS**

All commitments made in this MOU are subject to the availability of appropriated resources and each party's priorities. Nothing in this MOU, in and of itself, obligates any participant to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or other financial obligation.

*This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the participants to this MOU will be handled in accordance with applicable laws, regulations, and procedures and will be subject to separate subsidiary agreements that will be effected in writing by representatives of the participants.*

Except as otherwise provided in Section VI of this MOU, LBUSD shall not be liable to City for any costs or expenses paid or incurred by City in performing services for LBUSD.

#### **V. INDEPENDENT CONTRACTOR**

City, in the performance of this MOU, shall be and act as an independent contractor. City warrants that it will not imply or represent that City or any of City's officers, employees or agents are officers, employees or agents of the LBUSD. City understands and agrees that it and all of its employees shall not be considered officers, employees or agents of the LBUSD, and are not entitled to benefits of any kind or nature normally provided employees of the LBUSD and/or to which LBUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. City assumes the full responsibility for the acts and/or omissions of its employees or agents as they relate to the services to be provided under this MOU. City shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to City's employees.

LBUSD warrants that it will not imply or represent that LBUSD or any of LBUSD's officers, employees or agents are officers, employees or agents of the City. LBUSD understands and agrees that it and all of its employees shall not be considered officers, employees or agents of the City, and are not entitled to benefits of any kind or nature normally provided employees of the City and/or to which City's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. LBUSD assumes the full responsibility for the acts and/or omissions of its employees or agents as they relate to the services to be provided under this MOU. LBUSD shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to LBUSD's employees.

#### **VI. INDEMNITY/HOLD HARMLESS**

City agrees to and does hereby indemnify, hold harmless and defend the LBUSD and its governing board, officers, employees and agents from every claim or demand made and every liability, loss, damage or expense, of any nature whatsoever, which may be incurred, caused by the negligence or willful misconduct of City, or any person, firm or corporation employed by the City, either directly or by independent contract, arising out of, or in any way connected with, the services covered by this MOU.

LBUSD agrees to and does hereby indemnify, hold harmless and defend the City, its Boards, Commissions, and their officials, employees and agents from every claim or demand made and every liability, loss, damage or expense, of any nature whatsoever, which may be incurred, caused by the negligence or willful misconduct of LBUSD, or any person, firm or corporation employed by the LBUSD, either directly or by independent contract, arising out of, or in any way connected with, the services covered by this MOU.

## **VII. INTELLECTUAL PROPERTY**

The participants agree to notify each other when joint-authoring a journal article that includes a non-government employee as a co-author. In such cases, the participants will ensure that all necessary rights under copyright are acquired to the satisfaction of all parties.

## **VIII. IMAGES**

If applicable, the parties are prohibited from capturing on any visual medium images of any property, logo, student, or employee of the other party, or any image that represents the other party without express prior written consent from the other party.

## **IX. POINTS OF CONTACT**

The following individuals are designated points of contact for the MOU:

### **LBUSD**

Name: Laura Foster, RN  
Title: Program Specialist  
Address: 999 Atlantic Ave, Long Beach CA 90813  
Telephone Number: 562- 997 – 8000, ext. 7172  
Fax Number: 562 – 983 - 0998  
Email: lfoster@lbschools.net

### **City of Long Beach**

Name: Helene Calvet, MD  
Title: City Health Officer  
Address: 2525 Grand Ave, Long Beach, CA 90815  
Telephone Number: 562- 570-4047  
Fax number: 562-570-4049  
Email: Helene.Calvet@longbeach.gov

## **X. NOTICES**

All notices or demands to be given under this MOU by either party to the other shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. At the date of this MOU, the addresses of the parties are as follows:

LBUSD:  
Long Beach Unified School District  
Purchasing & Contracts Branch  
2201 E. Market Street  
Long Beach, CA 90805  
Attn: Contracts Office

City of Long Beach:  
City of Long Beach Department of Health  
& Human Services  
2525 Grand Avenue  
Long Beach, CA 90815  
Attn: Helene Calvet, MD

Telephone: 562-663-3016  
Facsimile: 562-634-5013

Telephone: 562-570-4047  
Facsimile: 562-570-4049

#### **XI. MODIFICATION/DURATION/TERMINATION**

This MOU is to take effect on October 21, 2009 and shall remain in effect for a period of three (3) years, effective through October 20, 2012, unless the participants decide otherwise in writing. This MOU may be amended at any time by the mutual written consent of the participants and which is identified as an amendment to this MOU. Additionally, the participants agree to review this MOU annually to determine whether it should be revised, renewed, or cancelled. Either participant may terminate its participation in this MOU for any or no reason by providing written notice to the other participant at least thirty (30) days in advance of the desired termination date.

#### **XII. ASSIGNMENT**

Neither party shall assign the obligations of the other party pursuant to this MOU.

#### **XIII. COMPLIANCE WITH APPLICABLE LAWS**

The services completed herein must meet the approval of the LBUSD and shall be subject to the LBUSD's general right of inspection to secure the satisfactory completion thereof. The parties agree to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to the respective party's business, and personnel engaged in operations covered by this MOU or occurring out of the performance of such operations.

#### **XIV. PERMITS/LICENSES**

Each party and all its employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this MOU.

#### **XV. GOVERNING LAW**

The terms and conditions of this MOU shall be governed by the laws of the State of California with venue in Los Angeles County, California.

#### **XVI. EDUCATION CODE 45125**

During the entire term of this MOU, the participants shall fully comply with the provision of Education Code 45125.1 (Fingerprint Requirements), when it is determined that the participants will have contact with Long Beach Unified School District pupils in the performance of the work of under this MOU.

#### **XVII. NONDISCRIMINATION**

LBDHHS agrees that it will not engage in unlawful discrimination in employment of persons.

#### **XVIII. ENTIRE UNDERSTANDING**

This MOU, including all exhibits and attachments hereto, constitutes the entire understanding of the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.

**XIX. APPROVALS**

The undersigned hereby certify that they are authorized to bind their respective entities.

**CITY OF LONG BEACH**

**LONG BEACH UNIFIED SCHOOL  
DISTRICT OF LOS ANGELES COUNTY**

By  Assistant City Manager

By 

Patrick H. West  
City Manager

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

Barrick L. Bartlett  
Purchasing and Contracts Director

Date 11.3.09

Date 10/21/09

Tax ID# 95-6000733

Telephone (562) 570-6916

E-Mail Patrick.West@longbeach.gov

APPROVED AS TO FORM

10/26, 20 09

ROBERT E. SHANNON, City Attorney

By   
LINDA TRANG  
DEPUTY CITY ATTORNEY

## Exhibit A

### California Education Code

49403. (a) Anything to the contrary notwithstanding, the governing board of any school district shall cooperate with the local health officer in measures necessary for the prevention and control of communicable diseases in school age children. For that purpose the board may use any funds, property, and personnel of the district, and may permit any person licensed as a physician and surgeon, or any person licensed as a registered nurse acting under the direction of a supervising physician and surgeon as provided in subdivisions (b) and (c), to administer an immunizing agent to any pupil whose parents have consented in writing to the administration of such immunizing agent.

(b) A registered nurse, acting under the direction of a supervising physician and surgeon, may perform immunization techniques within the course of a school immunization program provided that the administration of an immunizing agent is upon the standing orders of a supervising physician and surgeon and in accordance with such written regulations as the State Department of Health may adopt pursuant to Section 303.5 of the Health and Safety Code.

"Supervising physician and surgeon," as used herein, means the physician and surgeon of the local health department or the physician and surgeon of the school district that is directing the school immunization program.

(c) While nothing in this section shall be construed to require the physical presence of the supervising physician and surgeon, the supervising physician and surgeon under whose direction the registered nurse is acting shall require such nurse to:

(1) Satisfactorily demonstrate competence in the administration of immunizing agents, including knowledge of all indications and contraindications for the administration of such agents, and in the recognition and treatment of any emergency reactions to such agents which constitute a danger to the health or life of the person receiving the immunization; and

(2) Possess such medications and equipment as required, in the medical judgment of the supervising physician and surgeon, to treat any emergency conditions and reactions caused by the immunizing agents and which constitute a danger to the health or life of the person receiving the immunization, and to demonstrate the ability to administer such medications and to utilize such equipment as necessary.

## Exhibit B

### Outside Provider Agreement for Receipt of State-Supplied Vaccine

#### OUTSIDE PROVIDER AGREEMENT FOR RECEIPT OF STATE-SUPPLIED VACCINE

As a condition for receiving vaccines from the

\_\_\_\_\_  
(County/City Health Department)

I/We

\_\_\_\_\_  
(Print name of physician/hospital/clinic/school)

\_\_\_\_\_  
(Print address, city, & zip)

\_\_\_\_\_  
(Telephone Number - include area code)

agree to the following requirements:

- I. Consent prior to immunization:
  - A. Prior to receipt of an immunization, all patients (or their parents or legal guardian/representative) must be screened according to the federal Centers for Disease Control and Prevention (CDC) and Centers for Medicare and Medicaid (CMMS) requirements to determine their eligibility for receipt of vaccine from the federal Vaccines for Children (VFC) Program. VFC eligibility is not a prerequisite for a patient to receive state-supplied vaccine in a public clinic. A record of the VFC screening must be retained in the patient's permanent medical record. (VFC screening criteria are available from the local health department).
  - B. At the clinic/site providing immunizations, use the current State-approved Important Information Statement(s) (IIS) or Vaccine Information Statement(s) (VIS) describing the benefits and risks of the vaccines. Copies can be obtained from the local health department.
  - C. Provide the Important Information Statement(s) or Vaccine Information Statement(s) to all patients (or their parents or legal guardians) prior to immunization (Appropriate translations are available from the local health department and are to be used for non-English speaking persons.)
  - D. Allow adequate time for reading the information and asking questions.
  - E. Ask patient if he/she (or parent or legal guardian) understands the information and if he/she has any questions.
  - F. Health care providers are not required to obtain the signature of the patient, parent, or legal representative, acknowledging receipt of the Important Information Statement(s) and/or Vaccine Information Statement(s). However, to ensure that a record of provision of the materials exists, health care providers must make notation in each patient's permanent medical record at the time the "statements" are provided. For health care providers who obtain vaccine via federal contract, the CDC Immunization Grant Guidance defines this as (1) date printed on the appropriate Important Information Statement(s) and/or Vaccine Information Statement(s) and (2) date the Important Information Statement(s) and/or Vaccine Information Statement(s) was given to the vaccine recipient, parent, or legal representative.
  - G. Ensure that all of the following information is included in a record retained by the provider for each patient receiving an immunization:



- patient name
- address
- date of birth
- age at time of immunization
- type of vaccine(s) given
- date of immunization
- site of immunization
- Name and title of person administering the vaccine (e.g., S. Smith, R.N.)
- vaccine manufacturer
- vaccine lot number
- signature of patient or parent/guardian authorizing immunization (optional)
- date of signature
- date printed on appropriate IIS or VIS and date given to patient or parent/guardian to read
- clinic/office address
- VFC eligibility status

*(This agreement is not intended for use with private physician offices enrolled in the Vaccines for Children Program.)*

- II. Provide the patient (or parent or legal guardian) with a record of immunization or update his/her existing record. (Supplies of the yellow California Immunization Record card are available free from the local health department).
- III. Provide a telephone number to call and request patient (parent or legal guardian) to report by telephone to the person or clinic administering the vaccine any illness that occurs within 28 days after receiving an immunization which requires him/her to visit a physician, hospital or clinic.

Report specified illnesses or adverse events that occur following certain vaccines within defined time intervals, as indicated in the federal "Table of Reportable Events Following Vaccination", will be reported to the local health department or to the California Department of Health Services, using the Vaccine Adverse Event Reporting System (VAERS) form.

- IV. Charge no patient, parent, legal guardian or third party (including CHDP and Medi-Cal) a fee for the cost of vaccine provided by the local health department. Discovery that a provider is making such a charge will result in discontinuation of provision of vaccine by the local health department and a report of possible fraudulent activity to the State Attorney General's Office.
- V. A charge to offset direct costs for administration or injection of vaccine is discouraged but not specifically prohibited. Should the medical provider establish an administration fee for an injection of vaccine, then a sign/poster must be prominently displayed which indicates that no one receiving an immunization in a public clinic may be denied vaccine provided through public funds for failure to pay the administration fee or failure to make a donation to the provider. Further, administration fees cannot vary between vaccines whose storage and administration costs are identical.
- VI. Report monthly the vaccine doses administered by vaccine type, age group of patient, and (for multiple dose vaccines) dose number, on the vaccine usage form provided by the Health Department. Report monthly or quarterly on the total number of vaccine doses remaining in inventory for all clinic sites used by the provider. Failure to supply these reports, satisfactorily completed, by the due dates specified by the local health department will result in discontinuation of provision of the vaccine by the health department.
- VII. If it appears that any of the State-supplied vaccine will not be used prior to its expiration date, notify the local health department as soon as possible, preferably at least three months before the

expiration date. Also, discarding a partially full vial of State-supplied vaccine, 30 days after opening it, is not allowable.

- VIII. Administer vaccines using trained personnel familiar with immunization schedules, vaccine contraindications, vaccine administration techniques, and proper vaccine handling and storage in accordance with the manufacturers' specifications. (Guidelines available from the local health department.)
- IX. Provision of all State-supplied vaccines is subject to vaccine availability and funding. All medical providers receiving State-supplied vaccine must comply with state-mandated usage restrictions on certain vaccines. These are listed in the back of the State Health Department's "Summary of ACIP/AAP Pediatric Immunization Recommendations" guide.
- X. Immunization registry participation at such time when the local health department has an operational system.
- XI. Permit periodic onsite visits by authorized representatives of the local health department to verify compliance with these requirements.

I understand and accept the conditions specified in items I - XI of this agreement, and agree to ensure that all member medical personnel who administer the State-purchased vaccine understand and agree to these conditions.

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*signature of physician, nursing director, or facility administrator*

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*date*

*(This agreement is not intended for use with private physician offices enrolled in the Vaccines for Children Program.)* OUTSIDE PROVIDER AGREEMENT FOR RECEIPT OF STATE-SUPPLIED VACCINE  
California Department of Health Services, Immunization Branch, (12/02) page 2

# Exhibit C

## Business Associate Agreement



## **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is made and entered as of the 1<sup>st</sup> day of October 2009 and is entered into by and between **Long Beach Unified School District** (“LBUSD” or “Covered Entity”) and the **City of Long Beach** through its Department of Health and Human Services (“City” or “Business Associate”) for good and valuable consideration, the sufficiency of which is acknowledged herein.

WHEREAS, Business Associate performs particular duties and/or provides particular services to LBUSD.

WHEREAS, the LBUSD wishes to disclose some information to the Business Associate, some of which may contain protected health information; and

WHEREAS, the LBUSD and the Business Associate intend to protect the privacy and provide for the security of protected health information in compliance with the Health Insurance Portability and Accountability Act of 1966 (“HIPAA”) and regulations promulgated there under by the U.S. Department of Health and Human Services and other applicable laws, including, but not limited to Title 45, Section 164.504(e) of the Code of Federal Regulations.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. **DEFINITIONS.** Terms used, but not otherwise defined in this Agreement shall have the same meaning as those terms in the Privacy Rule codified in Title 45, Sections 160-164 of the Code of Federal Regulations.
2. **OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.**
  - a) **Non-disclosure.** Business Associate agrees to not use or disclose protected health information other than as permitted or required by the Agreement or as required by law.
  - b) **Safeguards.** Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected health information.
  - c) **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of protected health information by Business Associate in violation of the requirements of this Agreement.
  - d) **Reporting of Disclosures.** Business Associate agrees to report to Covered Entity any use or disclosure of the protected health information not provided for by this Agreement which it becomes aware.
  - e) **Business Associate’s Agents.** Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
  - f) **Availability of Information to LBUSD.** Business Associate agrees to provide prompt access to protected health information in a designated record set to Covered Entity or, as directed by Covered Entity, to an individual upon Covered Entity’s request in order to meet the requirements under 45 CFR § 164.524.
  - g) **Amendment of Protected Health Information.** Business Associate agrees to promptly make any amendment(s) to protected health information in a designated record set that the Covered Entity

directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an individual.

- h) **Internal Practices.** Business Associate agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by Business Associate on behalf of, covered entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of the Secretary determining the Business Associate's compliance with the privacy rule.
- i) **Reporting of Disclosures.** Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for the Covered Entity to respond to a request by an individual for an accounting of disclosure of protected health information in accordance with 45 CFR § 164.528.
- j) **Availability of Information to Covered Entity.** Business Associate agrees to promptly provide to Covered Entity or an individual information collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR § 164.528.

### 3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

Except as otherwise limited in this Agreement, Business Associate may use or disclose protected health information on perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. The specific use and disclosure provisions are as follows:

- a) Except as otherwise limited in this Agreement, Business Associate may use protected health information for the proper management and administration of the Business Associate.
- b) Except as otherwise limited in this Agreement, Business Associate may disclose protected health information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- c) Except as otherwise limited in this Agreement, Business Associate may use protected health information to provide data aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).
- d) Business Associate may use protected health information to report violations of law to appropriate federal and state authorities, consistent with § 164.502(j)(1).

### 4. OBLIGATIONS OF COVERED ENTITY.

- a) **Notification of Limitations in Notice of Privacy Practices.** Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of covered entity in accordance with 45 CFR § 164.520, to extent that such limitation may affect Business Associate's use or disclosure of protected health information.
- b) **Notification of Change or Revocation of Permission.** Covered Entity shall notify Business Associate of any changes, in or revocation of, permission by individual to sue or disclose protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.
- c) **Notification of Restrictions.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of protected health information that Covered Entity has agreed to in

accordance with 45 CFR § 164.522, to the extent that such restriction may effect Business Associate's use or disclosure of protected health information.

5. PERMISSIBLE REQUESTS BY COVERED ENTITY. Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that this restriction is not intended and shall not be construed to limit Business Associate's capacity to use or disclose protected health information for the proper management and administration of the Business Associate or to provide data aggregation services to Covered Entity as provided for and expressly permitted under Section 3 (a), (b) and (c) of this agreement.
6. TERM AND TERMINATION.
  - a) Term. The term of this Agreement shall be effective upon execution, and shall terminate when all of the protected health information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy protected health information, protections are extended to such information, in accordance with the termination provisions in this section.
  - b) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
    - i) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
    - ii) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
    - iii) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary of the U.S. Department of Health and Human Services.
  - c) Effect of Termination.
    - i) Except as provided in paragraph ii) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to protected health information that is in possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the protected health information.
    - ii) In the event that Business Associate determines that returning or destroying the protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and shall extend the protections of this Agreement to such protected health information and limit further uses and disclosures of such protected health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such protected health information.
7. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS. Business Associate shall make itself and any subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under this Agreement with the Covered Entity, available to Covered Entity, at no cost to Covered Entity to testify as witnesses or otherwise, in the event of litigation or administrative proceedings commenced against Covered Entity, its Board members, administrators, or employees based on a claimed violation of HIPAA, the HIPAA Regulations or other laws relating to security or privacy, except where Business Associate or its subcontractors, employees or agents are named as an adverse party.

8. MISCELLANEOUS.

- a) References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- b) Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996. Amendments must be in writing and signed by the parties to the Agreement.
- c) Survival. The respective rights and obligations of the Business Associate under section 6 (c) of this Agreement shall survive the termination of this Agreement.
- d) Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

The undersigned hereby certify that they are authorized to bind their respective entity.

CITY OF LONG BEACH

LONG BEACH UNIFIED SCHOOL DISTRICT

By  Assistant City Manager By 

Print Name Patrick H. West Barrick L. Bartlett

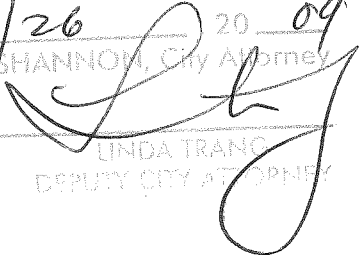
Title City Manager Purchasing & Contracts Director

Date 11.3.09 EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER Date 10/21/09

Telephone (562) 570-6916 562-663-3002

E-Mail Patrick.West@longbeach.gov bbartlett@lbschools.net

APPROVED AS TO FORM

10/26 2009  
ROBERT E. SHANNON, City Attorney  
By   
LINDA TRANG  
DEPUTY CITY ATTORNEY