AGREEMENT
RE: PURCHASE OF SERVICES AGREEMENT
RE: MEDICAL ADVISOR TO PUBLIC HEALTH ADMINISTRATOR

THIS AGREEMENT made effective upon the date of execution between the County of Montrose, State of Colorado, hereinafter referred to as "Montrose County" and Joe Adragna, MD., a physician duly licensed to practice medicine, and in good standing in the State of Colorado whose medical practice, Peak Family Medicine, LLC, office is located at 1550 E. Niagara Road, Montrose, CO 81401 (hereinafter referred to as "Medical Advisor").

RECITALS

WHEREAS, C.R.S. 25-1-508(5) (c) (I) provides, inter alia:

> "To select a public health director to serve at the pleasure of the county or district board. The public health director shall possess such minimum qualifications as may be prescribed by the state board. A public health director may be a physician, a public health nurse, or other qualified public health professional. A public health director may practice medicine or nursing within his or her license and scope of practice, as necessary to carry out the functions of the office of public health director. The qualifications shall reflect the resources and needs of the county or counties covered by the agency. If the public health director is not a physician, the county or district board shall employ or contract with at least one medical officer to advise the public health director on medical decisions. The public health director shall maintain an office location designated by the county or district board and shall be the custodian of all property and records of the agency."

WHEREAS, the Public Health Director of Montrose County is not a physician, Montrose County is, therefore, in need of service of a licensed physician in an advisory capacity upon an independent contractor basis and, therefore, Montrose County desires to enter into this Agreement with the Medical Advisor; and

WHEREAS, Medical Advisor is a licensed physician in the State of Colorado and desires to perform such medical advisory duties on behalf of Montrose County; and

WHEREAS, Montrose County and Medical Advisor agree that the work shall be performed in accordance with the terms and conditions as set forth in the Agreement; and

WHEREAS, the local medical officer shall be appointed by the local board of health (Montrose Board of County Commissioners), but there is no specific statutory guidance for the role of the medical advisor for the function of providing medical guidance to the agency; and

WHEREAS, the Medical Advisor must be a physician licensed to practice in the State of Colorado. She/he typically provides medical advice to public health nurses, environmental health specialists, and the local Board of Health regarding immunizations, exposure to blood borne pathogens, communicable disease control of outbreaks, maternal child issues and environmental health issues; and

WHEREAS, the Medical Advisor reviews and signs medical protocols for the local health agency on an annual basis. These protocols might include, but are not limited to, anaphylaxis protocol, acetaminophen guidelines for patients, immunizations, etc; and

WHEREAS, the Medical Advisor also represents public health to the community and collaborates on public health advisory boards and coalitions as available. It is desirable for the Medical Advisor to have an understanding of the public health concepts of core functions and essential services, as well as familiarity with the county community health assessment and community health plan. It is helpful to have knowledge and an understanding of CDPHE resources related to her/his role, such as communicable disease consultation and control, immunization program resources, and environmental health resources.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between Montrose County and Medical Advisor as follows:

SECTION I
DESCRIPTION OF WORK

THE WORK to be performed by the Medical Advisor in accordance with the terms of this Agreement shall include the Medical Advisor's fulfilling the functions and duties of a licensed physician providing medical advice and oversight on behalf of Montrose County in accordance with the provisions of C.R.S. 25-1-501(1), et. seq. Such work will encompass, but not necessarily be limited to the following major areas of responsibility:

- Public Health practice
- Infectious disease
- Environmental health
- Epidemiology/assessment
- Management/leadership
- Relationships with key groups
- Communications

Duties will include, but shall not necessarily be limited to the following:

- Review and sign, on an annual or as needed basis, standard protocols for vaccine administration
- Medical consultation for the public health nurse(s), including communicable disease control, and review of other public health nursing protocols, such as well child care, exposure to blood-borne pathogens, etc.
- Write prescriptions annually for antibiotics for Montrose County HHS employees and household members to be used as prophylaxis during a bioterrorist event.
- Assist Montrose County HHS staff in securing the cooperation of key health care partners in planning and implementing a county-wide, universal pre-event pandemic clinic.
- Meet with communicable disease staff quarterly and as needed to provide consultation, guidance, and training on communicable disease surveillance, investigation, and control strategies.

- Consult with staff and provide services as needed during large disease outbreaks. Respond to media inquires as appropriate.
- Enforcement of State and County statutes and rules and regulations to ensure appropriate enforcement action to be taken to abate health problems regarding contagious diseases, public health nuisances, quarantines, environmental health issues, communicable diseases, and appropriate reporting of such circumstances. Montrose County Attorney will coordinate appropriate legal action as concerns the enforcement of the statutes, rules and regulations.
- Review clinical aspects of Montrose County HHS communicable disease policies and offer medical oversight and recommendations as needed.
- Serves as consultant to the Montrose Board of Health (Montrose Board of County Commissioners).
- Collaborate on public health advisory boards and coalitions as available.
- Review Montrose County HHS Emergency Preparedness Response Plan (EPR) annually and make recommendations for improvements.
- Represent public health to the medical community.

Communications with the Board of Health:

Both the Medical Advisor and the Local Health Office have responsibility to establish a good communication with the local board of health. The local board of health depends on them to:

- Understand the board of health's roles and responsibilities.
- Frame issues so that the board of health can take appropriate action
- Provide comparative information
- Attend to long-term health goals and objectives
- Help board of health members consider alternatives and consequences.

SECTION II
PAYMENT

MONTROSE COUNTY will pay the Medical Advisor, through his practice, Peak Family Medicine, LLC, the total sum of $10,000.00 per year during the two year contract period for the work to be performed in accordance with the terms of this Agreement, with the exception of services performed during declared emergencies, which may be addressed by a separate agreement based upon the amount of time dedicated to the County for participating in a leadership role during such declared emergencies. Montrose County will reimburse the Medical Advisor for overhead expenses such as telephone and copying expenses incurred in connection with the Medical Advisor's performance of her/his services hereunder. The Medical Advisor agrees to bill Montrose County quarterly and Montrose County agrees to pay Peak Family Medicine, LLC for such billed services within thirty (30) days of each invoice.

THIS AGREEMENT, and the payments and other monetary obligations of Montrose County hereunder, are a multi-fiscal year debt or other financial obligation of Montrose County within the meaning of Section 20 (4)(b) of Article X of the Constitution of Colorado (TABOR). Therefore, the County

may terminate this Agreement at any time that funds are not available and appropriated for the purpose of fulfilling the County's obligations under this Agreement. This Agreement shall not obligate Montrose County, directly or indirectly, to make any payments or meet any other monetary obligation required herein, beyond such payments or obligations as are specifically appropriated for each fiscal year in which this Agreement is in effect. Montrose County certifies that all payments due by Montrose County are within the current budget and within an available, unexhausted and unencumbered appropriation of Montrose County.

SECTION III
RELATIONSHIP OF THE PARTIES

THE PARTIES intend that the Medical Advisor shall be an independent contractor, and no employer-employee relationship will be created by this Agreement. Montrose County is interested only in the results to be achieved, and the conduct and control of the work will lie solely with the Medical Advisor. The Medical Advisor is not to be considered an agent or employee of Montrose County for any purpose, and it is specifically understood and agreed that the Medical Advisor is not entitled to any of the benefits that Montrose County provides for its employees. Therefore, it is agreed that none of the withholding taxes, FICA, insurance in any form, retirement plans, worker's compensation, or unemployment compensation are available from Montrose County to the Medical Advisor under the terms of this Agreement.

SECTION IV
LIABILITY

THE WORK to be performed under this Agreement will be performed entirely at the Medical Advisor's risk, and the Medical Advisor assumes all responsibility for such risk. To the extent permitted by law, the Medical Advisor agrees to indemnify Montrose County, its officials and employees, harmless for any and all liabilities or loss arising in any way out of the performance of this Agreement.

SECTION V
INSURANCE

THE Medical Advisor, shall procure and keep in force during the term of this Agreement professional medical malpractice insurance in the amount of One Million Dollars ($1,000,000.00) per incident and Three Million Dollars ($3,000,000.00) in the aggregate which insurance provides coverage for the County for her/his services as provided herein. Said insurance shall provide that such policy may not be materially changed, altered or cancelled by the insurer during the term of this Agreement without giving thirty (30) days written notice by certified mail, return receipt requested, to Montrose County. All such policies of insurance or certified copies thereof, together with receipts showing payment of premiums thereon, shall be delivered to and left in the possession of Montrose County or it designated representative.

SECTION VI
DURATION

IT IS AGREED that either party may cancel this Agreement upon thirty (30) days written notice to the other party; otherwise, this Agreement shall commence on the 1st day of May, 2020, and shall terminate on the 30th day of April, 2022, unless terminated earlier pursuant to the terms and provisions of this Agreement.

SECTON VII
MONTROSE COUNTY'S OVERALL SUPERVISION

IN THE PERFORMANCE of the work herein contemplated, the Medical Advisor is an independent contractor with the authority to control and direct the performance of the details of the work, Montrose County being interested only in the results obtained. However, the work contemplated must meet the approval of Montrose County and shall be subject to Montrose County's general right of inspection and supervision to insure the satisfactory completion thereof. The Medical Advisor has the authority to terminate employment of its employees without consent of the Montrose County or the Montrose County Department of Health and Human Services (Department), change direct supervision of positions at any time without notice; followed by notification to the Department within thirty (30) days. The Medical Advisor agrees to comply with all Federal, State and Municipal laws, rules and regulations that are now or may in the future become applicable to the Medical Advisor on the Medical Advisor's performance covered by this Memorandum or accruing out of the performance of such operations. The Medical Advisor acknowledges that she/he is required to keep a valid license to practice medicine in the State of Colorado, and that failure to possess such a license is a basis for immediate termination of this contract.

Medical Advisor agrees to provide access for any duly authorized representative of the Department, Montrose County or the Colorado Department of Human Services, or the Federal Government, until the expiration of five (5) years after the final payment under this Agreement, to examine any financial, program, and other records of the Medical Advisor involving transactions related to this Agreement.

SECTION VIII
NON-ASSIGNABILITY

THE PARTIES hereto stipulate and agree that this Agreement or any interest therein shall not be assigned, sublet or transferred without the prior written consent of both parties.

SECTON IX
EFFECT OF AGREEMENT

EACH AND EVERY clause and covenant of this Memorandum shall extend to, benefit, and bind the successors and assigns of the parties hereto respectively.

SECTION X
AMENDMENTS

ANY AND ALL modifications or alterations of or additions to or changes in any term, condition, or agreement contained herein shall be void and not binding on any party hereto unless set forth in writing and signed by both parties.

SECTION XI
DEFAULT

IT IS AGREED that time is of the essence in the performance of this Agreement. In the event of default by either of the parties, the non-defaulting party shall give the defaulting party written notice by certified mail of such default, and the defaulting party shall have thirty (30) days to correct said default. If said default is not corrected within said thirty (30) day period, the non-defaulting party may terminate this Agreement, and may bring any action at law or equity authorized by the laws of the State of Colorado. If legal action is commenced, the prevailing party shall be entitled to recover costs and attorney's fees incurred in connection with any such action.

SECTION XII
COMPLIANCE

MEDICAL ADVISOR agrees that she/he shall perform pursuant to this Agreement in full compliance with all local, state and federal laws, specifically including, but not limited to HIPAA.

MEDICAL ADVISOR acknowledges that it has been notified of the immigration compliance requirements of C.R.S. § 8-17.5-101, *et seq*. (House Bill 06-1343), and hereby certifies that the Medical Advisor will comply with the statute and requirements in "Exhibit A" hereto.

SECTION XIII
GOVERNING AUTHORITY

The laws of the State of Colorado, without giving effect to its conflicts of law principles, govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Both Parties attest that each has received the appropriate and necessary approvals from their respective governing bodies and that the signatories below each have the authority to execute this Agreement on behalf of their respective entity.

IN WITNESS WHEREOF, the respective parties have hereunto set their signatures effective the day and year first above written.

MONTROSE COUNTY HEALTH AND **THE MEDICAL ADVISOR:**

HUMAN SERVICES:

_____
Jim Austin
Director of Public Health

_____
Joe Adragna, M.D.

_____
DATE

_____
DATE

MONTROSE COUNTY:
BOARD OF COUNTY COMMISSIONERS
Montrose, County, Colorado

_____
Chairman

_____
DATE

ATTEST:

_____
Deputy Clerk

_____
DATE

EXHIBIT A

C.R.S. § 8-17.5 -101, *et. seq*.

COMPLIANCE ACKNOWLEDGEMENT

1. The Medical Advisor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services; or

2. Enter into a contract with a subcontractor that fails to certify to the Medical Advisor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services;

3. The Medical Advisor has verified or attempted to verify through participation in the basic pilot program that the Medical Advisor does not employ any illegal aliens and, if the Medical Advisor is not accepted into the basic pilot program prior to entering into a public contract for services, that the Medical Advisor shall apply to participate in the basic pilot program every three months until the Medical Advisor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall not be required or effective in a public contract for services if the basic pilot program is discontinued;

4. The Medical Advisor acknowledges that the Medical Advisor is prohibited from using basic pilot program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed;

5. If the Medical Advisor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Medical Advisor shall be required to:

    a. Notify the subcontractor and the contracting state agency or political subdivision within three (3) days that the Medical Advisor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

    b. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (5)(a) of this Section, the subcontractor does not stop employing or contracting with the illegal alien; except that the Medical Advisor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Medical Advisor is required to comply with any reasonable request by the State Department of Labor and Employment ("State Department" herein) made in the course of an investigation that the State Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

7. If the Medical Advisor violates a provision of the public contract for services required herein the Department or Montrose County may terminate the contract for a breach of the

contract. If the contract is so terminated, the Medical Advisor shall be liable for actual and consequential damages to the Department and Montrose County.

8. The Department is obligated to notify the office of the Secretary of State if a contractor violates a provision of this section and the Department terminates the contract for such breach. Based on this notification, the Secretary of State shall maintain a list that includes the name of the Medical Advisor, the state agency or political subdivision that terminated the public contract for services, and the date of the termination. The Medical Advisor shall be removed from the list if two years have passed since the date the contract was terminated, or if a court of competent jurisdiction determines that there has not been a violation of the provision of the public contract for services. An agency or political subdivision shall notify the office of the Secretary of State if a court has made such a determination. The list shall be available for public inspection at the office of the Secretary of State and shall be published on the internet on the website maintained by the office of the Secretary of State.

9. The State Department may investigate whether the Medical Advisor is complying with the provisions of a public contract for services required. The State Department may conduct on-site inspections where a public contract for services is being performed, request and review documentation that proves the citizenship of any person performing work on a public contract for services, or take any other reasonable steps that are necessary to determine whether the Medical Advisor is complying with the provisions of a public contract for services required. The State Department shall receive complaints of suspected violations of a provision of a public contract for services and shall have discretion to determine which complaints, if any, are to be investigated. The results of any investigation shall not constitute final agency action. The Medical Advisor is hereby notified that the State Department is authorized to promulgate rules in accordance with article 4 of title 24, C.R.S., to implement the provisions of C.R.S. § 8-17.5-101, *et. seq*.

SO RECEIVED:

_____ Date:_____

Contract