

MEMORANDUM OF UNDERSTANDING

**BETWEEN BISHOP UNIFIED SCHOOL DISTRICT AND
NORTHERN INYO HEALTHCARE DISTRICT**

This Memorandum of Understanding (“MOU”) is entered into this ____ day of _____, 2021 (“Effective Date”), by and between Bishop Unified School District (the “District”) and Northern Inyo Healthcare District, a California nonprofit corporation, (“NIH”). District and NIH are collectively referred to as the “Parties.”

RECITALS

A. WHEREAS, pursuant to Education Code sections 38130 et seq. (the “Civic Center Act”), the management, direction, and control of school facilities are vested in the District’s Board of Trustees (“Board”), and the Board may provide for the use of school facilities as a civic center where such use is consistent with school purposes and does not interfere with the regular conduct of schoolwork; and

B. WHEREAS, the District owns and operates certain real property known as Bishop Union High School, located at 301 N. Fowler Street, Bishop, California, 93514 (the “School Site”), which includes certain facilities the District is willing to make available to NIH to operate a school-based health center when such facilities are not being used for District purposes; and

C. WHEREAS, NIH is federally qualified to provide health care services through a hospital based rural health clinic and a school-based health center program (“Health Center Program”) to be located at the School Site (the “Health Center”); and

D. WHEREAS, NIH is willing to operate and manage the Health Center, and to provide those medical, mental health, health education, and other services as set forth in Exhibit A, attached hereto and incorporated herein (“Services”) to District students attending Bishop Union High School and Palisade Glacier High School; and

E. WHEREAS, the District has determined that such Services to be provided by NIH are beneficial for eligible District students and that enhancing the health of students through such Services thereby supports their academic growth and achievement; and

F. WHEREAS, the District is willing to contract with NIH for the provision of the Health Center Program, and is further willing to permit NIH to use and occupy certain District facilities located at the School Site, more particularly identified and described hereunder and in the Site Plan attached as Exhibit B, under the terms and conditions set forth in this MOU, and in accordance with law, for the purpose of operating the Health Center.

NOW, THEREFORE, in consideration of the covenants and conditions of this MOU, including the Recitals hereof, which herein incorporated by reference, the Parties hereby agree as follows:

MEMORANDUM OF UNDERSTANDING

1. **Purpose of MOU.** The Parties agree that the purpose of this MOU is to set out the terms and conditions whereby NIH will be permitted to use and occupy the Health Center for the purpose of providing eligible District students with those Services as described in **Exhibit A** at no cost to the District and and at no cost or at a discounted cost to eligible District students without private or public health insurance.
2. **Eligibility for Services.** All District students attending Bishop Union High School (“**BUHS**”) and Palisade Glacier High School (“**PGHS**”) are eligible for Services under this MOU (“**Eligible Students**”). Eligible Students also include those students attending BUHS or PGHS who are deemed to have complied with the residency requirements for school attendance in the District as set out in Education Section 48204, including students placed in group homes, Licensed Children’s Institutions, and foster homes within the District. Students who have been suspended or expelled from BUHS or PGHS but who continue to reside within the District’s boundaries, remain eligible for Services during the pendency of the students’ suspension or expulsion.
3. **Term.**
 - a. **Initial Term.** The term of this MOU shall be from the Effective Date, through _____, 2022 (“**Term**”), unless earlier terminated as provided herein or extended by written agreement signed by the Parties.
 - b. **Automatic Renewal.** This MOU shall be renewed automatically for succeeding terms of one (1) year each, on the same terms and conditions as contained in this MOU, unless either Party gives written notice to the other at least ninety (90) days prior to the expiration of the initial Term or any subsequent renewed Term.
 - c. **Biennial Review.** The Parties agree to work together to joint conduct a biennial review of this MOU to evaluate progress towards implementing the Services.
4. **Waiver of Fees.** In acknowledging the importance of the Services that will be made available to eligible District students through the operation of the Health Center, the District hereby agrees to waive all facilities use fees for NIH’s use of the Health Center for the Term of this MOU.
5. **Operation and Management of Health Center.** NIH will be responsible for supervising, managing and directing all Health Center operations, including the hiring and supervision of all employees of the Health Center, who will at all times be employees or independent contractors of NIH. NIH will be responsible for obtaining all required permits, and for complying with all laws and regulations pertaining to the operation of the Health Center and the provision of the Services, in addition to compliance with any applicable granting terms and requirements regarding the operation of the Health Center and the use of grant funds, whether such terms and requirements are now in force or hereinafter enacted (the “**Grant Terms**”). NIH will provide all budgeting and development services for the operation of the Health Center including, without limitation, grant writing and solicitation of individual giving. The District will be entitled, but not required, to reasonably monitor and inspect the operation of the Health Center for conformity with the terms of this MOU and any applicable Grant Terms.

6. Financial Responsibility for Operations. NIH will pay all costs associated with Health Center operations including, without limitation, the hiring and employment of the Health Center employees and independent contractors, the processing of payroll, tax payments, workers' compensation insurance or self-insurance, group health insurance benefits, accounting and wage reporting services for Health Center employees, annual independent audits of the Health Center as part of NIH's overall audit process, the preparation of legally required reports to funding sources, and the like. NIH's responsibility for operations of the Health Center shall also include the collection, maintenance, and provision of all statistical information, demographics, and information required to be gathered, maintained, or submitted regarding the operations of the Health Center pursuant to law, regulation or any applicable Grant Terms. Unless otherwise set forth in this MOU, the District will have no financial responsibility for any part of the operation of the Health Center, including compliance with any applicable Grant Terms.

7. Provision of Services.

a. NIH shall provide only those Services as described in **Exhibit A** to Eligible Students, on those terms and conditions described herein.

b. Urgent or emergency care or services beyond the scope of those Services set out in **Exhibit A** shall not be provided at the Health Center. Eligible Students requiring urgent or emergency services or services other than those Services listed in **Exhibit A**, shall be referred, as appropriate, to a local clinic, a specialty health care provider, or to the nearest hospital emergency room.

c. Eligible Students who become ill or are injured during school hours may first be seen by a District School Nurse or Health Aide in accordance with District policy. However, NIH staff may provide emergency first aid or treatment for a student or stabilization of a student who is seriously injured during school hours before that student is transported to an emergency room or other health care provider.

d. Except where applicable law authorizes confidential medical services, parents or legal guardians must provide written authorization for the provision of all Services to minor children.

e. District schools will maintain and provide Health Center parent consent forms with new student registration mailing and other mailings as appropriate.

8. Qualifications of Health Center Personnel. Services shall be made available and provided to Eligible Students by trained and qualified NIH physicians, physician's assistants, nurse practitioners, registered nurses, and qualified support staff ("**NIH Staff**") at the Health Center for approximately one (1) day per week or as agreed upon by the Parties. . NIH shall adhere to all applicable state licensing requirements and applicable credentialing and privileging standards when hiring health care providers to provide Services to Eligible Students at the Health Center.

9. Billing and Collection Activities by NIH; Enrollment in Public Benefit Programs. NIH may bill and collect payment for all services provided to its patients, including Eligible Students, through appropriate third party payors such as Medi-Cal, CHDP, and insurance. All revenues generated by the Health Center are understood and agreed to be the property of NIH and

retained by NIH. NIH staff may assist parents or legal guardians of Eligible Students without private or public health insurance in applying for and completing applications for qualification in any available public health benefit program. The District will have no responsibility for Eligible Student patients' unpaid bills.

10. Equipment. Except as otherwise provided herein, NIH shall provide, at its sole cost, all necessary furnishings, durable and disposable medical equipment, supplies, materials and other items necessary to properly provide the Services under this MOU and to maintain and operate the Health Center.

11. Utilities. With the exception of any specialized services required for the disposal of medical waste, the District will pay all utilities necessary for the operation of the Health Center including, without limitation, water, gas, electricity and trash disposal.

12. Telephones & Computer Equipment. NIH will provide its own telephones, computer hardware and software, and related equipment for use at the Health Center, and shall pay for all of its telephone and internet services therein.

13. Custodial Services. The District shall provide all routine custodial services for the Health Center; however, NIH shall be responsible for any medical waste requiring specialized disposal. NIH will maintain the cleanliness of the Health Center in accordance with federal and state regulations, including all OSHA regulations, for the cleanliness of health centers.

14. Communication. In the interest of promoting and maintaining a strong and positive collaboration, The District and NIH shall each identify one employee to serve as a "Health Center Liaison" to be responsible for regular communication and coordination with each other regarding issues concerning the Health Center. District personnel will respond to requests from Health Center personnel in a reasonable time period in order to ensure continuity and quality of health care to Eligible Students.

15. Fingerprinting Requirements. Pursuant to California Education Code section 45125.1, before any agents or employees of NIH may enter school grounds where they may have any contact with pupils, NIH shall submit fingerprints of its employees and agents or independent contractors in a manner authorized by the California Department of Justice, together with applicable fees. NIH shall not permit any employee or agent or independent contractor to come in contact with pupils of the District until the Department of Justice has ascertained that such NIH employee has not been convicted of a felony as defined in Education Code section 45122.1.

16. Access to Information. Subject to compliance with federal and state law concerning pupil record information, Health Center personnel will be given access to student information, such as class schedules, so that the Health Center can more easily provide the Services set forth in this MOU. For example, Health Center personnel may access student emergency and contact information maintained by the District through emergency cards and/or the school's online student information system. Such access to information shall be coordinated through the District's Health Center Liaison.

17. Confidentiality.

a. HIPAA. The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) governs the privacy and security of patients’ protected health care information. NIH shall comply with all aspects of HIPAA as well as other state and federal privacy laws in providing Services to Eligible Students by, among other things: (i) properly using or disclosing health care information that comes into NIH’ s possession in the operation of the Health Center and only using such information for the purposes for which it was intended; and (ii) safeguarding all District students’ health care information from misuse. The District agrees to assist NIH in complying with its duties under HIPAA to the extent any District student’s protected health care information comes into the District’s possession in the performance of any of its duties under this MOU and to otherwise respect student’s right to privacy and confidentiality of their protected health care information, including mental health care records, and information in accordance with applicable regulations, rules and guidelines.

b. FERPA & California Education Code. The Family Educational Rights and Privacy Act of 1974, 20 USC § 1232g, and Chapter 6.5 (commencing with section 49060) of Part 27 of Division 4 of Title 2 of the California Education Code govern the privacy of the District’s pupil records. The District shall comply with all aspects of said laws as well as other state and federal privacy laws in providing pupil record information to NIH by, among other things: (i) properly using or disclosing pupil record information that comes into the District’s possession in connection with the operation of the Health Center and only using such information for the purposes for which it was intended; and (ii) safeguarding District pupil record information from misuse. NIH agrees to assist the District in complying with its duties under said laws to the extent any District protected pupil record information comes into NIH’s possession in the performance of any of its duties under this MOU and to otherwise respect student’s right to privacy and confidentiality of their protected pupil information. If so requested, NIH agrees to execute a standard agreement committing it to comply with said laws in the use and disclosure of any District protected pupil record information.

11. No Referrals.

a. Nothing in this MOU requires, is intended to require, or provides payment or benefit of any kind (directly or indirectly) for the referral of individuals or business to either Party. Neither Party shall track such referrals for purposes relating to setting the compensations of their professionals or influencing their choice.

b. The Parties agree and understand that neither Party is offering or soliciting remuneration to/from the other Party for patient referrals. Nothing in this MOU restricts the ability of patients to choose their own provider and each provider shall inform its patients of their freedom to choose any willing provider.

c. Each Party agrees that it will at all times operate in compliance with all federal, state, and local laws, rules, and regulations relating to its activities hereunder, including but not limited to instructions issued by the Centers for Medicare and Medicaid Services, the False Claims Act, the Anti-Kickback Statute, the Physician Self-Referral Law (Stark law), the Office of Inspector General’s Exclusion Authorities, and the Civil Monetary Penalties Law.

12. Assurances of Non-Discrimination. NIH shall not unlawfully discriminate in employment or in the provision of Services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation applicable to NIH.

13. Policies and Procedures. The District will inform Health Center personnel in writing of the District procedures on how to handle the following:

- a. Protocols when a student is sick or injured, no District Nurse or Health Center Nurse is onsite, and/or a parent/guardian is not reachable; and
- b. Emergency procedures for events including fire, earthquake, violence or threat of violence on campus.

14. Student Access. In accordance with District policy and practice, the District will ensure that students who have been given an approved pass are allowed to leave class or other school activities to use the Health Center.

15. Indemnification.

a. NIH shall hold harmless, defend and indemnify District, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including District property, arising from, or in connection with: (i) the operation of the Health Center; or (ii) any negligent acts or omissions, or any intentional misconduct of NIH or its agents, officers employees, and/or subcontractors in performance of services rendered pursuant to this MOU. This indemnification specifically includes any claims that may be made against District by any taxing authority asserting that an employer-employee relationship exists by reason of this MOU, and any claims made against District alleging civil rights violations by NIH under Government Code section 12920 et seq., California Fair Employment and Housing Act or Title VII of the federal Civil Rights Act. This indemnification obligation shall continue beyond the term of this MOU as to any acts or omissions occurring under this MOU or any extension of this MOU.

b. The District shall hold harmless, defend and indemnify NIH, its agents, officers, and employees from and against any liability, claims, actions, costs, damages, or losses of any kind, including death or injury to any person and/or damage to property, including NIH property, arising from, or in connection with, any negligent acts or omissions, or any intentional misconduct of the District or its officers, employees, agents, and/or subcontractors, other than NIH, in performance of services rendered pursuant to this MOU. This indemnification obligation shall continue beyond the term of this MOU as to any acts or omissions occurring under this MOU or any extension of this MOU.

16. Independent Contractor. In the performance of the Parties' duties and obligations under this MOU, it is mutually understood and agreed that each Party is at all times acting and performing as an independent contractor. Neither Party shall exercise or have control or direction over the methods by which other Party shall perform its duties and obligations under this MOU. This MOU is not intended to create a partnership, joint venture, or other relationship between NIH and District other than an independent contractor relationship.

17. Insurance. NIH shall maintain in force, at all times during the term of this MOU, commercial, automobile, Workers' Compensation and Employee's Liability, and medical malpractice liability insurance, or programs of self-insurance, in the amount, manner and form set forth in the attached **Exhibit C**. NIH shall, to the extent required by law, provide Workers' Compensation and Employee's Liability insurance at NIH's own cost and expense, and neither

NIH, nor its carrier, shall be entitled to recover from the District any costs, settlements, or expenses of Workers' Compensation or Employer's Liability claims arising out of this MOU, except when such claims are the sole result of District negligence.

18. Termination. Either party hereto may terminate this MOU at any time without cause on 120 days' written notice. In addition, this MOU may also be terminated by either party for "cause" on 30 days' notice to the other, after written notice and opportunity is given to the breaching party to "cure" the breach and the breach has not been cured. For purposes of this MOU "cause" shall include a determination by either Party that any of the following events has occurred: (4a) that the other Party is in breach of any material term or condition of this MOU; or (2b) in the event of the inability of the other Party to perform the duties described in this MOU.

19. Entire Understanding. This MOU constitutes the entire understanding with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements or understandings as to this particular subject matter. This MOU may not be amended except by the written agreement signed by authorized representatives of both Parties.

20. Governing Law. This MOU shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions, and subject matter which have legal contacts and relationships exclusively within the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for Inyo County, subject to any motion for transfer of venue.

21. Binding upon Successors and Assigns. All covenants, terms, provisions, and agreements contained herein shall be binding upon and inure to the benefit of the permitted successors, executors, heirs, representatives, administrators, and assigns of the Parties hereto.

22. Assignment/Subcontracting. Unless otherwise provided in this MOU, the District is relying on the personal skill, expertise, training, and experience of NIH and NIH's employees in providing Services under this MOU, and no part of this MOU may be assigned or subcontracted by NIH without prior written consent of District; provided, however, NIH shall have the right, without obtaining District's prior consent, to assign or subcontract all or any portion of its obligations under this MOU to any affiliate of NIH. As used in this paragraph "affiliate of NIH" means an entity that controls, is controlled by, or is under common control with NIH.

23. Severability. If any provision of this MOU shall for any reason and to any extent be deemed invalid or unenforceable, the remainder of this MOU and application of such provisions to other persons or circumstances shall remain valid and enforceable to the fullest extent of the law.

24. No Waiver. The failure of any party to enforce any provision of this MOU shall not be construed to be a waiver of the right of such a party thereafter to enforce such provisions.

25. Headings. Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

26. Notices. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission, or sent by first class mail, postage prepaid and addressed as follows:

DISTRICT:

Bishop Unified School District
Attn: Superintendent
301 N. Fowler Street,
Bishop, CA 93514
Telephone No.: (760) 872-3680
Fax No.: (760) 872-6016

NIH:

Northern Inyo Healthcare District
150 Pioneer Lane
Bishop, CA 93514
Telephone No. : (760) 873-5811
Fax No.: (760) 872-5800

Except as otherwise provided by law, any and all notices or other communications required or permitted by this MOU or by law to be served on or given to either Party by the other shall be in writing and shall be deemed duly served and given when personally delivered to any representative of the Party to whom they are directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the Party at the address set forth above. Either Party may change its address for purposes of this paragraph by giving written notice of such change to the other Party in the manner provided by this paragraph.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties hereto have executed this MOU on the date last set forth below.

Executed: June 21, 2021

BISHOP UNIFIED SCHOOL DISTRICT

By  _____
Katherine Kolker
Superintendent

Executed: _____, 2021

NORTHERN INYO HEALTHCARE DISTRICT
dba Northern Inyo Hospital

By _____
Kelli Davis, MBA
Interim Chief Executive Officer

EXHIBIT A

Services to be provided by NIH to Eligible Students

The School-based health center will provide the following services:

1. Diagnosis and treatment of minor illness, injury and medical conditions
2. STD screening and treatment
3. Reproductive health related services
4. Health education for students and families
5. Coordinate care, including appropriate follow-up and referrals to health and social service providers on and off site

EXHIBIT B

Site Map

(to be attached)

EXHIBIT C

INSURANCE REQUIREMENTS

1. NIH Coverage. NIH shall, at its own cost and expense, secure promptly after the effective date of this MOU and the commencement of the MOU term, and maintain during the entire term of this MOU, the following insurance coverage from a California licensed, authorized and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best acceptable to District, or a program of self-insurance acceptable to District, sufficient to cover any claims, damages, liabilities, costs, losses, liabilities and expenses (including counsel fees) arising out of or in connection with NIH's fulfillment of any of its obligations under this Agreement and/or use and occupation of the Health Center:

A. Broad Form Comprehensive General Liability and Hospital Professional Liability (medical malpractice) (GL/HPL) occurrence based coverage including both bodily injury and property damage caused by its acts, errors or omissions, with limits as follows: \$5,000,000 per occurrence, \$15,000,000 aggregate.

The general liability insurance policy shall include coverage for liabilities arising out of premises, operations, personal & advertising injury, and liability assumed under an insured contract.

B. Business Auto Liability insurance to cover bodily, injury, personal injury, and property damage for all owned, non-owned or hired automobiles with a \$1,000,000 combined single limit. NIH's automobile liability policy shall include as an insured, anyone held liable for NIH's conduct to the extent of that liability.

C. Workers' Compensation and Employer's Liability insurance or a program of self-insurance covering NIH's full liability in accordance with California and federal laws, with statutory limits.

2. NIH Endorsements. Each comprehensive general liability, insurance policy required hereunder will be endorsed with wording to secure the following effects:

(a) The District, its officers, agents and employees, are named as additional insureds/coverage participants for all liability arising out of the operations by or on behalf of NIH in the performance of this MOU.

(b) The inclusion of more than one insured will not operate to impair the rights of one insured against another insured, and the coverage afforded will apply separately to each additional coverage participant; but the inclusion of more than one coverage participant will not operate to increase the limits of NIH's coverage.

(c) NIH coverage shall be primary to and not contributing with any other insurance maintained by the District but with respect to the acts, errors and omissions of NIH.

(d) NIH's insurance policy will not be canceled or materially changed without first giving 30 calendar days' prior written notice to the District.

3. NIH's Documentation. NIH will provide the District with the following documentation after the signing of this MOU:

(a) Properly executed certificates of coverage evidencing all coverages, limits, and endorsements required above in this MOU. This documentation will be submitted within 10 days after the effective date of this MOU and the commencement of its term.

4. NIH's Policy Obligations. NIH's indemnity and other obligations will not be limited by the foregoing insurance requirements.

5. NIH's Material Breach. If NIH, for any reason, fails to maintain insurance coverage which is required pursuant to this MOU, this failure is deemed to be a material breach of the MOU. In that event, the District at its sole option may immediately terminate this MOU.

6. District's Coverage. During the entire term of this MOU and any extension or modification thereof, District shall keep in effect a policy or policies of general liability and general automobile liability insurance, or a program of self-insurance, including coverage of owned and non-owned vehicles used to provide any service in connection with this MOU, of at least \$1,000,000 combined single limit for all damages arising from each accident or occurrence and \$3,000,000 excess umbrella liability coverage for all damages arising out of injury to or destruction of property for each accident or occurrence.

7. District's Endorsements. Each comprehensive general liability policy, or a program of self-insurance, required hereunder will be endorsed with language to secure the following effects:

(a) NIH, its officers, agents and employees, are named as additional insureds/coverage participants for all liability arising out of the operations by or on behalf of District in the performance of this MOU.

(b) The inclusion of more than one insured will not operate to impair the rights of one insured against another insured, and the coverage afforded will apply as though separate policies had been issued to each insured; but the inclusion of more than one insured will not operate to increase the limits of District's insurance company's liability.

(c) District's insurance policy will not be canceled or materially changed without first giving 30 calendar days' prior written notice to NIH.

8. District's Documentation. District will provide NIH with the following documentation after the signing of this Agreement:

(a) Properly executed certificates of coverage evidencing all coverages, limits, and endorsements required above in this MOU. This documentation will be submitted within 10 days after the effective date of this MOU and the commencement of its term.

9. District's Policy Obligations.

(a) District's indemnity and other obligations will not be limited by the foregoing insurance requirements.

(b) The District can fulfill these insurance requirements through its customary insurance policies and programs, and need not purchase separate policies, as long as its customary insurance policies and programs provide coverage equivalent to the coverage required hereunder.

10. District's Material Breach. If District, for any reason, fails to maintain insurance coverage which is required pursuant to this MOU, this failure is deemed to be a material breach of the MOU. In that event, NIH at its sole option may immediately terminate this MOU.