

PROJECT ACCESS AGREEMENT

by and between:
SEDGWICK COUNTY, KANSAS
and
CENTRAL PLAINS HEALTH CARE PARTNERSHIP, INC.

This Agreement entered into as of this _____ day of _____, 2018, by and between Sedgwick County, Kansas, ("County") and Central Plains Health Care Partnership Inc., a Kansas not-for-profit corporation ("Provider" or "Contractor").

WITNESSETH:

WHEREAS, Provider operates a program called Project Access that coordinates access to donated volunteer medical care and services for uninsured low-income residents of Sedgwick County; and

WHEREAS, Project Access provides access to specialty medical care for eligible participants and there is no equivalent program available to residents of Sedgwick County; and

WHEREAS, County, in partnership with the City of Wichita, has agreed to assist Project Access with the administrative expenses necessary to manage the program as well as to provide funding to assist with the cost of physician-prescribed prescription medications, medical supplies and equipment, and testing conducted by local hospitals and laboratories; and

WHEREAS, County has allocated funding through its budget process to assist uninsured low-income citizens of Sedgwick County with the costs of prescription medications, medical supplies and equipment, and testing conducted by local hospitals and laboratories; and

WHEREAS, Provider warrants that it is capable of providing the services hereinafter described.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto agree as follows:

1. Contractual Relationship. It is agreed that the legal relationship between Provider and County is of a contractual nature. Both parties assert and believe that Provider is acting as an independent contractor in providing the services and performing the duties required by County hereunder. Provider is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Provider, and employees of Provider, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Provider, or employees of Provider, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Provider.

2. Purpose and Scope of Work. It is the purpose of this Agreement to provide assistance to individuals at or below 250% of the federal poverty guideline. The cost of prescription medications, physician-prescribed medical supplies and equipment, and testing shall be donated by local hospitals and laboratories, up to \$3,000.00 per patient per year. Funding is used to provide administrative support for management of the program as well as to provide funds to assist Project Access with the cost of physician-prescribed prescription medications, medical supplies and equipment, and testing conducted by local hospitals and laboratories.

3. Term. The term of this Agreement shall commence on the date first written above and shall expire December 31, 2018. This Agreement may continue for a reasonable time after December 31, 2018, if both parties mutually agree to continue operating under the terms of this Agreement while actively negotiating an agreement for 2019 and funds are available for the 2019 program year.

4. Compensation. Provider agrees to payment on a reimbursement basis. Provider shall provide, on a quarterly basis, a statement of provided services for which it seeks reimbursement, and such statement is due by the 15th day of the month following the end of each quarter. An invoice is required to process all payments and all invoices are due by December 29, 2018. Upon review of said invoice, County shall provide reimbursement in the amount requested, provided that Provider is entitled to the sum. Provider understands and agrees that in no event shall the total, full and complete compensation and reimbursement, if any, paid to Provider for performance of this Agreement exceed the maximum amount of \$200,000.00.

5. Program Goals and Objectives. The following shall serve as Provider's goals and objectives:

- a. Enrolled patients will access the donated care needed to meet their healthcare needs, including prescription medications, physician-prescribed medical supplies and equipment, and testing.
- b. Every patient enrolled in Project Access will have access to the prescribed health care they need, as deemed appropriate by the medical care provider.
- c. At least eighty percent (80%) of enrolled patients that respond to a patient satisfaction survey will report having a positive experience with the program.

6. Incorporation of Documents. Appendix A (Sedgwick County Mandatory Contractual Provisions Attachment) and Appendix B (2018 Budget) are attached hereto and are made a part hereof as if fully set forth herein.

[remainder of this page intentionally left blank]

General Terms and Conditions

1. Authority to Contract. Provider assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Provider's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Provider to act in connection with the application and to provide such additional information as may be required.

2. Notification. Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Notification shall be deemed complete upon mailing.

County: Sedgwick County Division of Health
Attn: Adrienne Byrne, Health Director
1900 E. 9th Street N.
Wichita, KS 67214

and

Sedgwick County Office of the County Counselor
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, KS 67203-3790

Provider: Central Plains Health Care Partnership/Project Access
Attn: Shelley Duncan
1102 S. Hillside
Wichita, KS 67211

3. Termination.

a. Termination for Cause. In the event of any breach of the terms or conditions of this Agreement by Provider, or in the event of any proceedings by or against Provider in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, County may, in addition to any other remedy provided it by law or in equity or other right reserved to it elsewhere in this Agreement, without any liability to Provider on account thereof, by written notice, terminate immediately all or any part of this Agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of County, and Provider shall be liable to pay to County any excess cost or other damages caused by Provider as a result thereof.

b. Termination for Convenience. County shall have the right to terminate this Agreement for convenience in whole, or from time to time, in part, upon thirty (30) days' written notice. Upon receipt of such termination notice, Provider shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, County's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.

c. Reduction in Funds. It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days' written notice.

4. Hold Harmless. Provider shall indemnify County, and its elected and appointed officials, officers, managers, members, employees, and agents, against any and all loss or damages to the extent such loss and/or damage arises out of Provider's negligence and/or willful, wanton or reckless conduct in the provision of goods and equipment

or performance of services under this Agreement. This indemnification shall not be affected by other portions of the Agreement relating to insurance requirements.

5. Liability Insurance. Provider agrees to maintain the following minimum limits of insurance coverage throughout the term of this Agreement:

Worker's Compensation Applicable State Statutory Employer's Liability	
Employer's Liability Insurance:	\$100,000.00
Provider's Liability Insurance: Form of insurance shall be by a Comprehensive General Liability and Comprehensive Automobile Liability	
Bodily Injury: Each occurrence Aggregate	 \$500,000.00 \$500,000.00
Property Damage: Each occurrence Aggregate	 \$500,000.00 \$500,000.00
Personal Injury: Each person aggregate General aggregate	 \$500,000.00 \$500,000.00
Automobile Liability – Owned, Non-Owned, and Hired: Bodily injury each person Bodily injury each occurrence	 \$500,000.00 \$500,000.00

Liability insurance coverage indicated above must be considered as primary and not as excess insurance. Provider shall furnish a certificate evidencing such coverage, with County listed as an additional insured, except for professional liability, workers' compensation and employer's liability. Certificate shall be provided with bid/proposal submittals. Certificate shall remain in force during the duration of the project/services and will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A- and licensed to do business in the State of Kansas. It is the responsibility of Provider to require that any and all approved subcontractors meet the minimum insurance requirements. Provider shall obtain the above referenced certificate(s) of insurance, and in accordance with this Agreement, provide copies of such certificates to County.

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

6. Entire Agreement. This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

7. Assignment. Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

8. Amendments. Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

9. Subcontracting. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. In the event subcontracting is approved by County, Provider shall remain totally responsible for all actions and work performed by its subcontractors. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

10. Severability Clause. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

11. Waiver. Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

12. Force Majeure. Provider shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of Provider. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Provider's employees, and freight embargoes.

13. Order of Preference. Any conflict to the provisions of this Agreement and the documents incorporated by reference shall be determined by the following priority order:

- a. Sedgwick County Contractual Provisions Attachment
- b. Written modifications and addenda to the executed Agreement
- c. This Agreement document

14. Environmental Protection. Provider shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. Provider shall report any violations to the applicable governmental agency. A violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

15. Nondiscrimination and Workplace Safety. Provider agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

16. Retention of Records. Unless otherwise specified in this Agreement, Provider agrees to preserve and make available to County at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.

Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.

17. Ownership of Data. All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by Provider in relation to this Agreement shall be owned by County and shall be handed over and/or returned to County upon the expiration or termination of this Agreement. Provider shall not release any such materials without written approval of the County.


18. Intellectual Property Rights. As applicable, all original software, software code, and/or intellectual property developed or created by County in relation to this Agreement shall remain the sole property of the County. Provider shall surrender all original written materials, including, but not limited to any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, and any and all intellectual property to County upon the expiration or termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

CENTRAL PLAINS HEALTH CARE PARTNERSHIP, INC.

David T. Dennis, Chairman,
Commissioner, Third District



Shelley Duncan
Executive Director

APPROVED AS TO FORM ONLY:



Michael L. Fessinger
Assistant County Counselor



Phillip Brownlee
Secretary of the Board

ATTESTED TO:

Kelly B. Arnold
County Clerk

APPENDIX A
SEDGWICK COUNTY MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in the Sedgwick County Mandatory Contractual Provisions Attachment, which is attached hereto, are hereby incorporated in this Agreement and made a part thereof. In the event of conflict between the provisions of this Agreement and the Sedgwick County Mandatory Contractual Provisions Attachment, the terms of the Sedgwick County Mandatory Contractual Provisions Attachment will control. "

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said contract being the ____ day of _____, 20 ____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Choice of Law:** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.
3. **Termination Due To Lack of Funding Appropriation:** If, in the judgment of the Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to Contractor at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.
4. **Disclaimer of Liability:** County shall not hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
5. **Acceptance of Agreement:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Jury Trial and Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has consented to a jury trial to resolve any disputes that may arise hereunder. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any Agreement and/or this Contractual Provisions Attachment will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
7. **Representative's Authority to Contract:** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.
8. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. County is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, County shall provide to the Contractor a certificate of tax exemption.

County makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.
9. **Insurance:** County shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
10. **Conflict of Interest:** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the County and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the County. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any County employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the County.
11. **Confidentiality:** Contractor may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.
12. **Cash Basis and Budget Laws:** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase “equal opportunity employer;” (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

Parties to this Agreement understand that the provisions of this paragraph 13 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County cumulatively total \$5,000 or less during the County’s fiscal year.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the County in relation to this Agreement prohibits the County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the County in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify County within the same five (5) business days, with the County reserving the same right to terminate for breach as set forth herein.
15. **HIPAA Compliance.** Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended (“HIPAA”); privacy and security regulations promulgated by the United States Department of Health and Human Services (“DHHS”); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended (“HITECH Act”); the Genetic Information Nondiscrimination Act of 2008 (“GINA”); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as “HIPAA”), to the extent that the Contractor uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, Contractor may be required to enter into a Business Associate Agreement pursuant to HIPAA.
16. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.
17. **Tax Set-Off.** If, at any time prior to or during the term of any executed agreement, Contractor is delinquent in the payment of real and/or personal property taxes to Sedgwick County, and the delinquency exists at the time payment is due under the agreement, County will offset said delinquent taxes by the amount of the payment due under the agreement and will continue to do so until the delinquency is satisfied, pursuant to K.S.A. 79-2012.

**APPENDIX B
2018 BUDGET**

Central Plains Health Care Partnership, Inc.
Project Access
Sedgwick County Grant

<u>Receipts</u>	<u>2018 Budget</u>
Sedgwick County Grant	<u>200,000</u>
Total Receipts	<u>200,000</u>
<u>Expenditures</u>	
Salary – Executive Director (.30 FTE)	39,861
Salary – Director of Operations (.20 FTE)	24,000
Salary – Prescription Coordinator (.50 FTE)	17,381
Salary – Service Coordinator (.50 FTE)	19,483
Payroll Taxes and Benefits	23,752
Computer Services	5,000
Supplies	1,500
Professional Fees	5,000
Prescriptions and Durable Medical Equipment	<u>64,023</u>
Total Expenditures	<u>200,000</u>