

**AGREEMENT TO ASSIGN PUBLIC HEALTH SERVICE OFFICER DETAIL TO
GERALD L. IGNACE INDIAN HEALTH CENTER, INC.**

(Dental Services)

This Agreement to assign a Public Health Service Officer Detail (“Agreement”) is effective as of the ____ day of _____, 2018 (“Effective Date”), by and between the City of Milwaukee, a municipal corporation (“City”), through its City of Milwaukee Health Department (“MHD”), and Gerald L. Ignace Indian Health Center, Inc. located at 930 W. Historic Mitchell Street, Milwaukee, Wisconsin 53204 (“GLIHC”).

WITNESSETH:

WHEREAS, 42 U.S.C. §§ 215(b) and (d) authorize the United States Public Health Service (“PHS”) to detail a PHS commissioned officer to a political subdivision of a state, including the City, upon request of the political subdivision; and

WHEREAS, the Bemidji Area Office of the Indian Health Service is a division of the United States Department of Health and Human Services and provides service and support to 34 federally-recognized Tribes and four Urban Indian Health programs located in Illinois, Indiana, Michigan, Minnesota and Wisconsin, relying in part on the use of PHS commissioned officers; and

WHEREAS, GLIHC was established in 1999 as a non-profit 501 (c)(3) Title V Urban Indian Health Center and is recognized as a Federally Qualified Health Center to serve Greater Milwaukee’s urban Indian population, as well as all ethnic and racial groups in Milwaukee’s diverse south side communities; and

WHEREAS, in addition to a new onsite pharmacy and dental clinic, GLIHC provides comprehensive adult and pediatric primary care, mental and behavioral health services, preventive health screenings, OB and women’s health, perinatal health care, and social and enabling services in a holistic and culturally responsive way; and

WHEREAS, GLIHC desires to place a PHS commissioned officer from the Bemidji Area Office at GLIHC to offer culturally competent dental services; and

WHEREAS, GLIHC has requested that MHD submit to the Bemidji Area Office a request for the detail of a PHS commissioned dental officer and assign the officer to GLIHC; and

WHEREAS, MHD, as part of its mission, encourages and supports efforts to effectively address the health disparities of historically underserved populations such as Native Americans in an urban setting; and

WHEREAS, the City has authorized the Health Department to enter into this Agreement pursuant to Common Council Resolution Number 180361, dated _____, 2018;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and GLIHC agree as follows:

I. REQUEST FOR DETAIL AND ASSIGNMENT OF OFFICER

A. Request for Detail. The City, through MHD, shall submit to the Bemidji Area Office a written request for the detail (“Detail”) of a PHS commissioned officer (“Officer”) to the City of Milwaukee (“Request”). GLIHC shall assist MHD with the preparation of the Request and shall provide a written job description to MHD prior to MHD’s submission of the Request.

B. Personnel Agreement. If the Bemidji Area Office approves the Request, the City, through MHD, shall, pursuant to 42 U.S.C. § 215 (d), enter into a personnel agreement with the Bemidji Area Office, also referred to as “Indian Health Service (IHS) Memorandum of Agreement: Reimbursable Detail to (State/County Health Department)” (“Personnel Agreement”). As soon as reasonably practicable, the City shall provide GLIHC with an executed copy of the Personnel Agreement, which shall be incorporated into and become a part of this Agreement as **Exhibit A.** Pursuant to the Personnel Agreement:

1. The Officer shall remain at all times an employee of the PHS.
2. The following expenses related to the employment and travel of the Officer (“Officer Expenses”) will be paid by PHS directly to the Officer:
 - a. Pay and allowances, including base pay, subsistence allowances, special pay, basic allowance for housing, COLA, longevity increases, promotion increases and periodic pay increases in accordance with Title 37, United States Code.
 - b. Costs for travel of the Officer and transportation of his/her immediate family, household goods and personal effects to the assigned duty station and from the assigned duty station upon inactivation, retirement, and travel for training or cancellation of the Personnel Agreement in accordance with the Joint Travel Regulations of the Uniformed Services. (Travel and transportation expenses incurred as a result of travel directed by GLIHC will be paid by GLIHC under GLIHC’s regulations and procedures.)
 - c. All costs involving annual leave earned but not used while on duty.
3. Officer Expenses shall also include:

- a. Costs for lump sum payment of leave for Officers separating or retiring from the Commissioned Corps while assigned under the provisions of the Personnel Agreement.
 - b. The Federal Government's share of costs for Servicemen's Group Life Insurance ("SGLI"), Federal Employees Group Life Insurance ("FEGLI"), if applicable, and Social Security coverage.
 - c. The Federal Government's share of costs for the administrative obligations incurred by the Personnel Agreement. These costs will include but not be limited to the following:
 - i. Administrative costs associated with the processing of the Personnel Agreement and permanent change of station ("PCS") documents; and
 - ii. Payroll assessment charges associated with the Personnel Agreement and costs associated for the support for the administration of the Commissioned Corps.
 - d. Routine travel and transportation expenses incurred during the term of this assignment. The amount of per diem to be paid to the Officer while on such routine travel shall be governed by the JTR. All Officers are to have a Federal Travel Order (HHS-1) in their possession when traveling.
4. The Bemidji Area Office will invoice the City on a quarterly basis for the Officer Expenses incurred in the preceding quarter.
- C. Assignment of Officer.** If the Bemidji Area Office approves the Request, the City shall assign the Officer to GLIHC for the purpose of leading a new dental clinic that delivers culturally competent dental services to the patients of GLIHC, which include American Indian/Alaska Natives ("Assignment"). Pursuant to this Assignment, GLIHC shall be bound by the terms of the Personnel Agreement and agrees to undertake all of the City's rights, responsibilities, and obligations set forth in the Personnel Agreement.
- D. Supervision of Officer.** GLIHC shall designate a Non-Federal Supervisor, who will be known as the "Local Supervisor" and who shall be directly responsible for the day-to-day supervision of the Officer while the Officer is on detail to GLIHC.
- 1. The Local Supervisor shall ensure coordination between GLIHC and the Bemidji Area Office Federal Supervisor, who will be the Bemidji Area Chief Medical Officer, and who will exercise general administrative supervision over the Officer while the Officer is on detail to GLIHC. The Local Supervisor will seek counsel from the Federal Supervisor for guidance on procedures, policies and management of the Officer. MHD may designate a Non-Federal Supervisor

“of-record” at MHD, provided that the City shall have no responsibility for the day-to-day supervision of the Officer while the Officer is on detail to GLIHC.

2. The Local Supervisor will assign work, provide the Officer with a work schedule, approve leave, evaluate the Officer’s performance and forward to the Federal Supervisor, and maintain adequate documentation to support any requests for awards for the Officer or for disciplinary actions against the Officer. It is the responsibility of the Local Supervisor to keep appropriate documentation of the Officer’s performance and attendance. Such documentation shall be made available upon request to Federal Supervisors should the need for disciplinary action against the Officer be requested by the City and/or GLIHC.
3. Performance evaluations, also known as “Commissioned Officers Effectiveness Report” (“COER”) shall be submitted for each Officer assigned to GLIHC at least once per year, or more frequently as may be requested by the Federal Supervisor. The COER shall be completed in accordance with procedures established by the Division of Commissioned Corps Personnel and Readiness (“DCCPR”). Officers must provide the Local Supervisor with the COER input and required information within the time frames defined by DCCPR. The Local Supervisor is required to complete the COER for the Officer within the time frames defined by DCCPR or as requested by the Federal Supervisor.

E. Reimbursement to City. GLIHC shall reimburse the City for all Officer Expenses and all other expenses paid by the City as a result of the Personnel Agreement. GLIHC shall make all reimbursement payments within 30 days of invoice from the City, regardless of whether the Bemidji Area Office invoices the City on a quarterly basis or on a lump sum basis.

F. Accreditation and Licensure. GLIHC shall maintain at all times during the term of this Agreement all necessary licensures and approvals from the State of Wisconsin or any other applicable governing authority. GLIHC shall immediately notify MHD of any change in its accreditation or licensure status.

G. Quality Commitment and Review. GLIHC acknowledges that the provision of high quality health care to residents in accordance with accreditation standards and legal requirements is of utmost concern to MHD.

H. “Covered Entity.” GLIHC is a “covered entity” for purposes of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

II. MISCELLANEOUS

A. Indemnification. Notwithstanding any references to the contrary in this Agreement, GLIHC assumes full liability for all of its acts and the acts of its employees, officers, directors, volunteers, agents, contractors, subcontractors, or invitees in the performance of this Agreement. GLIHC will save and indemnify and keep harmless the City against all liabilities, judgments, attorney fees, costs, and

expenses which may be claimed against the City in consequence of this Agreement, or which may result from the carelessness or neglect of GLIHC, its employees, officers, directors, volunteers, agents, contractors, subcontractors, or invitees. The City shall have the right to tender the defense of any claim or action at law or in equity to GLIHC or GLIHC's insurer, and upon such tender it shall be the duty of GLIHC or GLIHC's insurer to defend such claim or action without cost or expense to the City or its officers, agents, or employees.

- B. Non-discrimination.** Both parties agree not to discriminate against individuals on the basis of race, national origin, sex, age, creed, handicap, or veteran status. Additionally, GLIHC agrees not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based on affiliation with or perceived affiliation with any of these protected categories. This requirement shall apply, but not be limited to, the following: tenure, terms or conditions of employment, promotion, demotion or transfer, recruitment or recruitment advertising, employment rules and policies, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. No person in the United States shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. The City and GLIHC will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964. GLIHC agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq.
- C. Non-Exclusive.** This Agreement is not exclusive; both parties are free to participate in similar programs with other entities.
- D. Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes any and all other agreements, either oral or in writing, between GLIHC and the City relating to the subject matter of the Agreement.
- E. Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof; and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- F. Assignment.** This Agreement shall not be assigned without the written consent of the other party.

G. Amendment. This Agreement shall not be amended at any time without the written approval of the City and GLIHC. Such amendments or modifications will be typed separately and signed by the parties, and made a part of this Agreement.

H. Relationship of the Parties. Nothing in this Agreement shall be construed to constitute the parties hereto as employer or employee, partners, joint venturers or as agents of one another or as authorizing either party to obligate the other in any manner, except as otherwise provided in this Agreement. The Officer shall not be an employee of the City and shall not be entitled to any benefits that the City provides to its employees.

I. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in the Circuit Court of Milwaukee County for matters arising under state law and in federal district court in the eastern district of Wisconsin for matters arising under federal jurisdiction.

J. Term and Termination.

1. This Agreement shall commence as of the Effective Date and shall run concurrently with the term of the Personnel Agreement, and any extension thereof, provided that GLIHC's obligation to reimburse the City under sec. I.E. shall survive the expiration of this Agreement.
2. The length of the Detail shall be for a period of two (2) years from the commencement date set forth in the "Period of Assignment" section of the Personnel Agreement, provided that, at the request of GLIHC, the Detail may be extended for an additional two (2)-year period upon the mutual agreement of the Bemidji Area Office, the City, and the Officer concerned. If GLIHC intends not to renew this or subsequent Details of the Officer, GLIHC shall give written notice to the City no less than 210 days prior to the termination of the assignment.
3. This Agreement may be terminated by mutual consent of both parties upon 210 days advance written notice from either party of its intention to terminate the Agreement.
4. GLIHC may request that the City unilaterally terminate the Personnel Agreement for just cause, including but not limited to a material breach of the Personnel Agreement by the Officer or the Bemidji Area Office or based on conduct of the Officer that would constitute a serious violation of his duties as a Commissioned Corps Officer. GLIHC shall, upon demand by the City, provide the City with all documentation supporting just cause for termination, including but not limited to documented unsuitability (medical or otherwise),

misconduct and/or disciplinary problems, or un-resolvable performance issues. The decision to unilaterally terminate the Personnel Agreement for just cause shall be at the sole exclusive discretion of the City, which reserves the right to deny GLIHC's request for unilateral termination. GLIHC shall indemnify and hold the City harmless for any claim arising out of the unilateral termination of the Personnel Agreement, pursuant to Section II.A. of this Agreement.

5. If the Bemidji Area Office denies the Request, this Agreement shall be terminated as of the date of the denial. MHD shall notify GLIHC of the denial as soon as reasonably practicable following notice of denial from the Bemidji Area Office.

K. Notices. All notices or communications required or permitted to be given hereunder shall be in writing and shall be considered to be given and received in all respects when hand-delivered, one (1) business day after sent by next day courier service, or three (3) business days after being deposited in the United States mail, certified mail, postage prepaid, return receipt requested, in each case addressed to a party at its address set forth below or to such other address as shall be designated by like notice duly given.

If to GLIHC: Lyle A. Ignace, M.D., M.P.H.
Executive Director
Gerald L. Ignace Indian Health Center, Inc.
930 W. Historic Mitchell Street
Milwaukee, Wisconsin 53204

If to City: Milwaukee Health Department
841 N. Broadway 3rd floor
Milwaukee, WI 53202-3653
Attn: Commissioner of Health

L. Insurance. GLIHC shall, at its expense, obtain and maintain in place during the entire Term, insurance as described in strict compliance with **Exhibit B** attached hereto, and shall cause the City to be added as an additional insured on such insurance policy(ies). GLIHC shall provide to the City a Certificate of Insurance with the City named as an additional insured prior to the City's execution of the Personnel Agreement.

M. Public Records. This Agreement and certain documents relating hereto are, or may be, subject to Wisconsin's Public Records Law (see Wis. Stat. ch. 19, subch. II, and esp. Wis. Stat. § 19.36(3) which includes records produced or collected by GLIHC under this Agreement). Both parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. sec. 19.21 et. sec. GLIHC acknowledges that it is obligated to assist the City in retaining and

producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement, and that GLIHC must defend and hold the City harmless from liability due to GLIHC's fault under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after termination of this Agreement.

- N. Conflict of Interest.** No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement. No member of the governing body of the City and no other public official of the City who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement shall have any personal interest, direct or indirect, in this Agreement. GLIHC covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its obligations hereunder. GLIHC further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. An interest on the part of GLIHC or its employee must be disclosed to the City.
- O. Signatures; Counterparts.** Facsimile or PDF/email signatures shall be acceptable as originals. This Agreement may be executed in counterparts, each of which, when taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives on the dates below written.

GERALD L. IGNACE INDIAN HEALTH CENTER, INC.

By: _____
Lyle A. Ignace, M.D., M.P.H.
Executive Director

Date Signed: _____

CITY OF MILWAUKEE

By: _____
Dr. Patricia McManus
Commissioner of Health

Date Signed: _____

Reference Common Council File No. 180361

APPROVED AS TO FORM AND EXECUTION:

By: _____
Assistant City Attorney

Date: _____

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