Approved by ICOC 8/19/2010
Prior versions approved 8/5/2005 and 12/7/2006

Appendix I

Agreement No. CIRM ____

CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE
INDEPENDENT CONSULTANT AGREEMENT

THIS AGREEMENT to furnish certain consultant services is made by and between the California Institute for Regenerative Medicine hereinafter called (CIRM), and _____[Name]_____ (Consultant).

I. NATURE AND PLACE(S) OF SERVICE

A. The Consultant shall furnish to CIRM the following described services including a time schedule by which the Consultant is to produce or provide specified materials or perform certain consulting services as well as reports on the progress of the services:

i. See attachment A.

B. If the Consultant is an entity other than an individual, CIRM requires that staff be assigned according to Attachment A to perform the work set forth herein. No reassignment of work to individuals other than those described in Attachment A may be made without the written approval of CIRM.

C. Place(s) of performance of such services shall be:

Consultant's location:	CIRM's location:
[ ]	210 King Street
[ ]	San Francisco, CA 94107

D. CIRM will provide working space, equipment, furniture, utilities, and services, as follows:

II. TERM OF AGREEMENT

A. The term of this Agreement shall be from _____ through _____.

B. CIRM reserves the right to terminate this Agreement subject to 30 days written notice to the Consultant. Consultant may submit a written notice to terminate this Agreement only if CIRM should substantially fail to perform its responsibilities as provided herein. In addition, CIRM may terminate this Agreement immediately for cause. The term "for cause" shall mean that the Consultant fails to meet the terms, conditions, and/or responsibilities of this Agreement. In this instance, the termination shall be effective as of the date indicated on CIRM's notification to the Consultant.

C. The term of this Agreement may be extended by the mutual, written consent of both parties.

III. COMPENSATION AND REIMBURSEMENT FOR EXPENSES

A. CIRM shall pay the Consultant for services performed on the following basis:

1. Professional Fees:

2. Other Expenses

MAXIMUM TO BE PAID UNDER THIS AGREEMENT

$ _____

* Reimbursement for travel and per diem shall be in accordance with established CIRM rates and policies.

B. Payments shall be made upon the Consultant's submission of invoices indicating the Agreement Number and setting forth charges in accordance with rates detailed in Article III-A. Consultant must submit a completed Payee Data Record (State Standard Form 204) before CIRM will issue payment. Each invoice shall include the Consultant's taxpayer identification number (Social Security or employer identification number). Invoices shall be submitted not more frequently than monthly in arrears to:

California Institute for Regenerative Medicine
Finance Officer
210 King Street
San Francisco, CA 94107

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

IV. REPORTING

In performing consulting services under this Agreement, the Consultant shall be accountable to CIRM and shall provide progress reports to CIRM upon CIRM's request.

V. NOTIFICATION

Notices concerning this Agreement shall be addressed as follows:

CIRM: TO CONSULTANT:

California Institute for Regenerative Medicine
General Counsel
210 King Street
San Francisco, CA 94107

VI. TAXES

The compensation stated in Article III includes all applicable taxes and will not be changed hereafter as the result of Consultant's failure to include any applicable tax or as the result of any change in the Consultant's tax liabilities. The Consultant acknowledges that compensation payable hereunder may be subject to withholding of state and federal income tax, including state income tax subject to withholding pursuant to California Revenue and Taxation Code Sections 18661-18677.

VII. INDEPENDENT CONTRACTOR STATUS

A. Both parties agree that in the performance of this Agreement the Consultant shall not be an agent or employee of CIRM, shall not be covered by the State's Worker's Compensation Insurance or Unemployment Insurance, shall not be eligible to participate in State employee retirement programs, and shall not be entitled to any other CIRM employee benefits.

B. The Consultant shall be solely responsible for the conduct and control of the work to be performed by the Consultant under this Agreement, except that the Consultant is accountable to CIRM for the results of such work. The Consultant's services for CIRM shall be performed in accordance with currently approved methods and ethical standards applicable to the Consultant's professional capacity.

C. California State Contract Code 10515 (a) states: No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract on or after July 1, 2003, for the provision of services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

VIII. ASSIGNMENT OR SUBCONTRACTING

The Consultant may not assign or transfer this Agreement, or any interest or claim, or subcontract any portion of the work, without the prior written approval of CIRM. The withholding or granting of such approval is totally discretionary with CIRM. If CIRM consents to such assignment or transfer, the terms and conditions of this Agreement shall be binding upon any assignee or transferee.

IX. PROPERTY RIGHTS, INCLUDING PATENTS AND COPYRIGHTS

All written and other tangible material ("Material") produced pursuant to this Agreement by the Consultant shall be considered a work-made-for-hire under the Copyright Act. To the extent said Material does not qualify as a work-made-for-hire, Consultant hereby assigns all right, title, and interest, including, but not limited to, copyright and all copyright rights in the Material to CIRM and shall execute any and all documents necessary to effectuate such assignment. In the event Consultant uses any individual who is not a full-time employee of Consultant or uses any other entity to perform any of the work required by Consultant hereunder, Consultant shall require said individual or entity to sign an agreement before commencing work that contains identical wording to the foregoing two sentences except that the word "Consultant" shall be replaced with the individual's or entity's name.

X. CONSULTANT'S LIABILITY AND INSURANCE REQUIREMENTS

A. The Consultant agrees to defend and, at CIRM's election, indemnify and hold harmless CIRM, its officers, agents, and employees from and against any and all claims, losses, expenses (including costs and reasonable attorney's fees), claims for injury, or damages that are caused by or result from the negligent or intentional acts or omissions or breach of this Agreement by the Consultant or its officers, employees, or agents. In addition, Consultant agrees to defend and, at CIRM's election, indemnify, and hold harmless CIRM, its officers, agents, and employees from and against any and all claims, losses, expenses (including costs and reasonable attorney's fees), claims for injury, or damages accruing or resulting to any and all contractors, subcontractors, suppliers, or any other person, firm or corporation furnishing services or supplying goods in connection with Consultant's performance of this Agreement

B. The Consultant shall furnish a Certificate of Insurance or statement of self-insurance (contractual liability included) showing minimum coverage as follows:

1. General Liability: Comprehensive or Commercial Form (Minimum Limits)

(i)	General Aggregate (BI, PD)*	$2,000,000
(ii)	Products, Completed Operations Aggregate	$2,000,000
(iii)	Personal and Advertising Injury	$1,000,000
(iv)	Each Occurrence	$1,000,000

* (not applicable to comprehensive form)

However, if such insurance is written on a claims-made form following termination of this Agreement, coverage shall survive for a period no less than three years. Coverage must include a Primary and Non-Contributory provision and a Severability of Interest provision. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Agreement.

2. Business Auto Liability: (Minimum Limits) for Owned, Scheduled, Non-Owned, or Hired Automobiles with a combined single limit of no less than $1,000,000 per occurrence. [Alternative: Business Auto Liability is waived because Consultant will not drive in the course of performing services for CIRM.]

3. Workers' Compensation: as required under California State Law.

4. Professional Liability Insurance: (Minimum Limits)

(1) Each occurrence	$2,000,000
(2) Project Aggregate	$2,000,000

If this insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement. The insurance must include Contractual Liability Coverage and Defense and Indemnification of CIRM by the contracting party.

5. Other insurance in amounts as from time to time may reasonably be required by the mutual consent of CIRM and the Consultant against such other insurable hazards relating to performance.

6. Certificate(s) of Insurance shall name CIRM as an additional insured under 1, 2 and 4 above, obligate the insurer to notify CIRM at least thirty (30) days prior to cancellation of or changes in any of the required insurance and include a provision that the coverage will be primary and will not participate with nor be excess to any valid and collectible insurance program of self-insurance carried or maintained by CIRM. Premiums on all insurance policies shall be paid directly by the Consultant.

XI. RECORDS ABOUT INDIVIDUALS

A. The Consultant acknowledges that the creation and maintenance of records pertaining to individuals is subject to certain requirements set forth by the California Information Practices Act (Civil Code 1798, et seq.) and by CIRM policy. Such requirements include provisions governing the collection, maintenance, accuracy, dissemination, and

disclosure of information about individuals, including the right of access by the subject individuals.

B. If the Consultant creates confidential or personal records about an individual, as defined by the Information Practices Act, including notes or tape recordings, the information shall be collected to the greatest extent practicable directly from the individual who is the subject of the information. When collecting the information, the Consultant shall inform the individual that the record is being made and of the purpose of the record.

C. Records containing confidential or personal information about individuals are the property of CIRM and subject to CIRM's policies and applicable federal and state laws. The Consultant agrees to deliver all such records, including originals and all copies and summaries, to CIRM upon termination of this Agreement.

D. The Consultant shall not use recording devices in discussions with CIRM's employees without notifying all parties to the discussion that the discussion is being recorded.

XII. EXAMINATION OF RECORDS

The Consultant agrees that CIRM and its authorized agents shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement including, but not limited to, all documents, records and work papers whether obtained or copied from CIRM or developed by the Consultant. Consultant agrees to maintain such records for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated. Consultant agrees to allow CIRM and its authorized agent's access to such records during normal business hours. Further, Consultant agrees to include a similar right of access in any subcontract related to the performance of this Agreement.

In accordance with state law, the Consultant agrees that CIRM, its authorized agents, the State Controller's Office, and the Bureau of State Audits (collectively, the "Auditors") shall have the right, in connection with an audit, to review and copy any records and supporting documentation pertaining to the performance of this Agreement including, but not limited to, all documents, records and work papers whether obtained or copied from CIRM or developed by the Consultant. Consultant agrees to maintain such records for possible audit for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated. Consultant agrees to allow the Auditors access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Consultant agrees to include a similar right of the Auditors to audit records and interview staff in any subcontract related to the performance of this Agreement.

XIII. CONFLICT OF INTEREST

A. The Consultant will not hire any officer or employee of CIRM to perform any service covered by this Agreement. If the work is to be performed in connection with a federal or state contract or grant, the Consultant will not hire any employee of the government agency concerned to perform any service covered by this Agreement.

B. The Consultant affirms that to the best of his/her knowledge there exists no actual or potential conflict between the Consultant's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interests or service under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be raised with CIRM.

C. The Consultant shall not be in a reporting relationship to a CIRM employee who is a near relative, nor shall the near relative be in a decision-making position with respect to the Consultant.

D. The Consultant may be required to execute a Form 700 Statement of Economic Interests as published by the Fair Political Practices Commission. Statements of Economic Interests are public documents. More information about Form 700 is available at www.fppc.ca.gov.

XIV. AFFIRMATIVE ACTION

The Consultant recognizes that as a state government contractor or subcontractor, the Consultant is obligated to comply with all state laws and regulations regarding equal opportunity and affirmative action in government contracts. When applicable, the Consultant agrees that all such laws and their implementing regulations are incorporated herein as though set forth in full. These laws include the nondiscrimination requirements of Government Code sections 12990 and 11135, and the nondiscrimination program and clause required by Title 2, Division 4, Chapter 5 of the California Code of Regulations.

XV. CONFIDENTIALITY

The Consultant shall keep confidential any information provided by CIRM or any information conveyed orally to the Consultant by CIRM with oral notification of its confidentiality (the "Confidential Information"), Consultant agrees to maintain the secrecy of CIRM's Confidential Information and agrees not to use it except in performing the Services under this Agreement and not to disclose it to anyone outside CIRM or anyone within CIRM's organization who does not have a need to know it to perform under this Agreement. This non-disclosure provision shall not apply to any of the following:

1. Information which the Consultant can demonstrate by written records was known to him or her prior to the effective date of this Agreement;
2. Is currently in, or in the future enters, the public domain other than through a breach of this Agreement or through other acts or omissions of the Consultant; or
3. Is obtained lawfully from a third party.

XVI. APPLICABLE LAW

The laws of the State of California shall govern this Agreement.

XVII. TERMS TO BE EXCLUSIVE

This Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and supersedes any prior understanding between the parties, oral or written, regarding the same subject matter.

XVIII. WAIVER OR MODIFICATION OF TERMS

No waiver, amendment or other modifications of the terms of this Agreement shall be binding upon either party unless expressed in writing and signed by both parties hereto.

XIX. STANDARD FOR PERFORMANCE

The parties acknowledge that CIRM, in selecting the Consultant to perform the services hereunder, is relying upon the Consultant's reputation for excellence in the performance of the services required hereunder. The Consultant shall perform the services in the manner of one who is a recognized

specialist in the types of services to be performed. All deadlines set forth in the Agreement are binding and may be modified only by subsequent written agreement of the parties. The Consultant shall devote such time to performance of its, her, or his duties under this Agreement as is reasonably necessary for the satisfactory performance of such duties within the deadlines set forth herein. Nothing in the foregoing shall be construed to alter the requirement that time is of the essence in this Agreement.

XX. EXCLUSION.

Independent Consultant warrants that it is not excluded from participation in any governmental sponsored program, including, without limitation, the Medicare, Medicaid, or Champus programs (http://exclusions.oig hhs.gov/search.aspx) and the Federal Procurement and Nonprocurement Programs (http://www.epls.gov/epls/search.do). This Agreement shall be subject to immediate termination in the event that the Independent Consultant is excluded from participation in any federal healthcare or procurement program.

XXI RESOLUTION OF DISPUTES

If the Consultant disputes any action by CIRM arising under or out of the performance of this contract, the Consultant shall notify CIRM of the dispute in writing and request a claims decision. CIRM shall issue a decision within 30 days of the Consultant's notice. If the Consultant disagrees with CIRM's claims decision, the Consultant shall submit a formal claim to the President of CIRM. The decision by the President of CIRM shall be final and conclusive on the claim unless the decision is arbitrary, capricious or grossly erroneous or if any determination of fact is unsupported by substantial evidence. The decision may encompass facts, interpretation of the contract and determinations or applications of law. The decision shall be in writing following an opportunity for the Consultant to present oral or documentary evidence and arguments in support of the claim. Consultant shall continue with the responsibilities under this Agreement during any dispute.

XXI SURVIVAL.

The following sections survive the expiration or early termination of this Agreement: IX, X, XI, XII, XV, XVI, XXI.

INDEPENDENT CONSULTANT	THE CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE
_____	_____
Signature Date	[Name] Date [Title]
Name _____	
Title _____	
Company _____	

Item 6445-502-6047001/H&S Code 125291.20/Statutes 2004/ FY 09/10
Account/Fund to be charged

STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

PAYEE DATA RECORD

(Required when receiving payment from the State of California in lieu of IRS W-9)

STD. 204 (Rev. 6-2003)

1

INSTRUCTIONS: Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this **fully completed** form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement.

NOTE: Governmental entities, federal, State, and local (including school districts), are not required to submit this form.

2

PAYEE'S LEGAL BUSINESS NAME (Type or Print)

SOLE PROPRIETOR – ENTER NAME AS SHOWN ON SSN (Last, First, M.I.)

E-MAIL ADDRESS

MAILING ADDRESS

BUSINESS ADDRESS

CITY, STATE, ZIP CODE

CITY, STATE, ZIP CODE

3

PAYEE ENTITY TYPE

CHECK ONE BOX ONLY

ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): ___ – _____

☐ **PARTNERSHIP**

☐ **ESTATE OR TRUST**

CORPORATION:

- ☐ **MEDICAL** (e.g., dentistry, psychotherapy, chiropractic, etc.)
- ☐ **LEGAL** (e.g., attorney services)
- ☐ **EXEMPT** (nonprofit)
- ☐ **ALL OTHERS**

☐ **INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER:** ___ – __ – ____

(SSN required by authority of California Revenue and Tax Code Section 18646)

NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.

4

PAYEE RESIDENCY STATUS

☐ California resident - Qualified to do business in California or maintains a permanent place of business in California.

☐ California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding.

- ☐ No services performed in California.
- ☐ Copy of Franchise Tax Board waiver of State withholding attached.

5

I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.

AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)

TITLE

SIGNATURE

DATE

TELEPHONE

( )

6

Please return completed form to:

Department/Office: _____

Unit/Section: _____

Mailing Address: _____

City/State/Zip: _____

Telephone: (___) _____ **Fax:** (___) _____

E-mail Address: _____

SAMPLE

Fillable Form available for download at
http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf

STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	**Requirement to Complete Payee Data Record, STD. 204** A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies. Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.
2	Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.
3	Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a). The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).
4	**Are you a California resident or nonresident?** A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California. A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident. For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident. Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are $1,500 or less for the calendar year. For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below: Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: wscs.gen@ftb.ca.gov For hearing impaired with TDD, call: 1-800-822-6268 Website: www.ftb.ca.gov
5	Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.
6	This section must be completed by the State agency requesting the STD. 204.
	Privacy Statement Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it. It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to $20,000. You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business. All questions should be referred to the requesting State agency listed on the bottom front of this form.

SAMPLE

Fillable Form available for download at
http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf