

Agreement No. __

**AGREEMENT AMONG THE COUNTY OF SAN MATEO,
AMI EXPEDITIONARY HEALTHCARE AND DIGNITY COMMUNITY CARE**

This Agreement is entered into this 18th day of December 2020, among the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," AMI Expeditionary Healthcare, hereinafter called "Contractor" and Dignity Community Care, a Colorado nonprofit corporation dba Sequoia Hospital, hereinafter called "Sequoia" (together, the "Parties").

* * *

WHEREAS, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

WHEREAS, on March 3, 2020, the County's Health Officer issued a "Declaration of Local Health Emergency Regarding Novel Coronavirus 2019," and the County Manager, as the County's Director of Emergency Services (the "Director"), issued a proclamation of local emergency pursuant to Government Code section 8630 and Chapter 2.46 of the County's Ordinance Code, which proclamation was ratified by the Board of Supervisors (the "Board") on March 10, 2020, pursuant to Government Code section 8630, and extended by the Board on April 7, 2020, until such time as the local emergency is terminated (the "COVID-19 Local Emergency"); and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a State of Emergency related to COVID-19 throughout the State of California; and

WHEREAS, on March 13, 2020, the President of the United States proclaimed that the COVID-19 outbreak in the United States constituted a national emergency, beginning March 1, 2020; and

WHEREAS, on March 24, 2020, the Board approved Resolution No. 077305 which, pursuant to Government Code Section 25502.7, authorized the Director to execute agreements for goods and services up to and including \$500,000, and any amendments to such agreements within such fiscal provisions; and

WHEREAS, on December 18, 2020, the County's Director of Emergency Services ("Director") promulgated Director's Emergency Regulation No. 2, which authorizes the Director, acting in consultation and coordination with the Chief of San Mateo County Health and the County Counsel, to execute, on behalf of the County, agreements in any amount for healthcare services in response to the COVID-19 public health emergency, subject to future ratification by the Board of Supervisors; and

WHEREAS, in furtherance of the County's efforts to save lives and protect health and safety in response to the COVID-19 emergency as declared by the federal, state, and local governments, the parties desire to enter into this agreement for the provision of the services described herein; and

WHEREAS, a looming shortage of medical personnel, supplies and / or equipment may compromise the health and safety of residents of San Mateo County and the region known as "California Governor's Office of Emergency Services Mutual Aid Region II", hereinafter referred to as "Coastal Region", and Contractor is uniquely situated to provide such medical personnel, durable goods and equipment and logistical support to the County in the event that a surge of COVID-19 cases so necessitates; and

WHEREAS, Sequoia, an acute care hospital situated in Redwood City, is in a unique position to assist the County and its regional partners to address surge capacity as COVID-19 cases increase by expanding the number of its Intensive Care Unit ("ICU") beds to address increased needs of the Coastal Region, with the assistance of physician and non-physician staffing of these ICU beds by the Contractor; and

WHEREAS, the Parties wish to enter into this Agreement to provide for surge ICU bed and staffing capacity needs and provide for flexibility of medical staffing within the Coastal Region;

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

Statement of Intent

It is the intent of Sequoia and the County to enter into this Agreement to form a collaborative and consultative relationship to support the ICU capacity needs of the Coastal Region during the COVID-19 pandemic crisis.

The Parties acknowledge that there is currently a "surge" of critically ill COVID-19 positive patients occurring in California, resulting in ICU capacity falling below the 15% threshold set by the State of California in most of the State, including in the Coastal Region, indicative of an extreme crisis in ICU capacity which could lead to the implementation of crisis standards of care for employment of critical care resources.

The Parties' goal in entering into this Agreement is to avoid the employment of crisis standards of care by adding ICU capacity, through the provision of staffing and other required resources to support the mobilization of an increased number of licensed ICU beds. Sequoia and the County acknowledge that this is a mutually beneficial relationship in that it provides Sequoia with additional staffing to open licensed ICU beds and provides the County with resources to assist in meeting the needs of the Coastal Region, while ensuring equity and access to appropriate care for Californians affected by COVID-19 disease.

The Parties agree to work collaboratively and in consultation to manage this resource of ICU beds to best meet the needs of both Sequoia and the Coastal Region. In so doing, the Parties acknowledge the following:

- Sequoia is a licensed acute care facility and retains autonomy in the medical direction of its resources, including in directing patients to the licensed ICU beds put into service through this Agreement ("Subject ICU Beds") in accordance with its license obligations.
- This Agreement with Contractor, as outlined herein and in Exhibit A, is to ensure that the County may supplement staffing and other needs of acute care, skilled nursing and other congregate care facilities throughout San Mateo County that may be adversely impacted by a surge in COVID-19 cases within the Coastal Region.
- In balancing Sequoia's need under its license to have final determination over the placement of patients within its facility and the County's need to address the COVID-19 crisis through management of emergency resources for the Coastal Region and its contract with AMI, the Parties agree that cooperation, consultation and communication regarding the use and allocation of the Subject ICU Beds (as later defined hereunder) are paramount to address the COVID-19 surge crisis.
- The Parties agree, understand and acknowledge, that the County, in providing the staffing and other resources necessary to open the Subject ICU Beds, will manage this Agreement with Contractor to support Sequoia's staffing of the Subject ICU Beds, and the County will not unreasonably withdraw such support.
- The Parties agree, understand and acknowledge that to protect Sequoia's licensure and medical decision-making autonomy, Sequoia must be able to direct patients present within the hospital to available beds at an appropriate level of care. County agrees, understands and acknowledges that it may not "hold" open beds for unknown patients in order to preserve ICU surge capacity where Sequoia has immediate need for that ICU resource. Sequoia agrees, understands and acknowledges that it shall discuss and coordinate with the County's Medical Health Operational Area Coordinator ("MHOAC") regarding the transfer of patients from other Dignity Health entity hospitals to any of the Subject

ICU Beds. The Parties acknowledge that if the MHOAC has already directed a known patient from another hospital to a Subject ICU Bed, that Subject ICU Bed shall be held for that patient even if Sequoia has a later need for that ICU bed before the known patient has arrived.

- The Parties agree, understand and acknowledge that the nature of this COVID-19 surge crisis is quickly evolving and that the Parties shall continually consult and cooperate and be ready for compromise and flexibility to manage the surging needs of the Coastal Region within available resources mobilized through this Agreement.

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A—Contractor Services
- Exhibit B—Payments and Rates
- Exhibit C—Sequoia Requirements for Non-Physician Health Care Providers
- Exhibit D—Sequoia Requirements for Physician Providers
- Attachment E—Emergency Agreement Requirements
- Attachment H—HIPAA Business Associate Requirements

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall provide clinical staffing services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Obligations of Sequoia and the County

County and Sequoia confirm that the terms of this Agreement with the Contractor are not in conflict with or infringe on the terms of any collective bargaining agreements the County or Sequoia may have entered into.

4. Services to be performed by Sequoia

In consideration of the ongoing public health emergency and the need to improve access to care for critically ill Covid-19 positive patients, Sequoia shall, in cooperation and collaboration with the County MHOAC, expand Sequoia's number of available ICU beds by two five (5) bed increments for a total of ten (10) additional beds with further expansion in five (5) bed increments upon the mutual written agreement of the Parties. Each (5) bed increment shall be known as an "ICU Pod" and collectively the "ICU Bed Expansion". The ICU Bed Expansion shall be staffed by physician and non-physician staff provided to Sequoia by Contractor in accordance with the terms set forth in this Agreement and the specifications and requirements set forth in Exhibit C and Exhibit D. Contractor acknowledges and agrees that Contractor shall comply with the requirements set forth in Exhibit C and Exhibit D in order to provide services at Sequoia as contemplated by this Agreement. Sequoia solely retains the right to bill and collect for hospital services provided by Sequoia in connection with the ICU Bed Expansion.

5. Payments

In consideration of the services provided by Contractor to Sequoia, in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B.

In no event shall County's total fiscal obligation under this Agreement exceed Four Million Eight Hundred Thousand Dollars (\$4,800,000).

Contractor is not entitled to payment for work not performed as required by this Agreement. County shall be solely responsible to pay Contractor for staffing services provided by Contractor to Sequoia. Sequoia shall have no financial

obligations to either County or Contractor as part of this Agreement. Contractor shall look solely to County for payment for services provided by Contractor at Sequoia under the terms of this Agreement.

6. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be for thirty (30) days beginning on December 26, 2020. Five (5) days before the end of each thirty-day period, County will determine whether to renew the contract services in whole or part for a subsequent thirty days.

7. Termination

See Attachment E for provisions setting forth the terms of termination.

8. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

9. Relationship of Parties

Contractor and Sequoia agree and understand that the work/services performed under this Agreement are performed as independent contractors and not as employees of County and that neither Contractor, Sequoia nor their employees acquire any of the rights, privileges, powers, or advantages of County employees.

10. Hold Harmless

a. General Hold Harmless – All Parties

Each party (the "Indemnifying Party") shall at all times indemnify and hold harmless each of the other parties and said other parties' respective successors, assigns, shareholders, partners, directors, officers, agents, affiliates, subsidiaries, parent company, and employees (collectively, the "Indemnified Parties") from and against any and all liabilities, damages, penalties, settlements, judgments, orders, losses, costs, charges, attorneys' fees, and all other expenses and shall, further, defend the Indemnified Parties from any and all claims, actions, suits, prosecutions, and all other legal and/or equitable proceedings resulting from or relating to (whether directly or indirectly) any allegation (whether founded or unfounded and regardless of the nature or character thereof) regarding: (i) any negligent, willful, reckless, or wrongful act or omission of the Indemnifying Party, its employees, representatives, contractors or agents; (ii) any breach of, or inaccuracy in, any representation and/or warranty made by the Indemnifying Party herein including, without limitation, claims for personal injury, death or damage to property or other demands; (iii) any alleged violation by the Indemnifying Party of any law, statute, regulation or ordinance, or (iv) any failure to perform by the Indemnifying Party, or any defect in said party's performance of, its obligations and duties pursuant to this Agreement, the performance of any work or services required of any party under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor, County, Sequoia or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;

(c) any sanctions, penalties, or claims of damages resulting from any party's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(d) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of the Indemnifying Party and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. Hold Harmless/Indemnity – Sequoia

In addition to any other indemnities provided among and between the parties under the terms of this Agreement, County shall defend, indemnify and hold Sequoia, its parents, officers, directors, and affiliates (collectively, "Dignity Health") harmless for any and all claims, action, damages, losses or other liabilities (including interest, penalties, costs, attorneys' and other professional fees and expenses) suffered or incurred by Dignity Health, arising out of or resulting from (a) any material breach or non-performance of this Agreement by County; or (b) any partial or full reimbursement or recoupment of governmental funds by or from any government or other sources from County for amounts paid by County for services provided under this Agreement.

11. Assignability and Subcontracting

Neither Contractor nor Sequoia shall assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor or Sequoia under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

12. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Agreement has been obtained and such insurance has been approved by County's Risk Management and Sequoia, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County and Sequoia with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County and Sequoia of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which

Version 2020-05-11 (CCO-449967_2)

require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability... \$1,000,000
- (b) Motor Vehicle Liability Insurance... \$1,000,000
- (c) Professional Liability..... \$2,000,000 per incident and \$4,000,000 Aggregate

County, Sequoia, and their officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County, Sequoia, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County, Sequoia, or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County or Sequoia, at their option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

13. Compliance With Laws

All services to be performed by County, Contractor and Sequoia pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

County, Contractor and Sequoia will timely and accurately complete, sign, and submit all necessary documentation of compliance.

14. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor and Sequoia shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's or Sequoia's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor and Sequoia shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor and Sequoia shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's or Sequoia's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor, Sequoia and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor and Sequoia certify that no finding of discrimination has been issued in the past 365 days against Contractor or Sequoia by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor or Sequoia within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor or Sequoia shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting: Violation of Non-discrimination Provisions

Version 2020-05-11 (CCO-449967_2)

Contractor and Sequoia shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor or Sequoia that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor and Sequoia certify all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

15. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter

2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

16. Retention of Records; Right to Monitor and Audit

See Attachment E for provisions setting forth the terms of Contractor's retention of records and the County's right to monitor and audit.

17. Merger Clause; Amendments

See Attachment E for provisions setting forth the terms regarding merger and amendment of the Agreement.

18. Dispute Resolution; Controlling Law; Venue

See Attachment E for provisions setting forth the terms of controlling law and venue.

19. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: County of San Mateo
Address: San Mateo County EMS Agency
801 Gateway Blvd, Second Floor
South San Francisco, CA 94080
Attn: Travis Kusman
Telephone: (650) 304-4837
Email: tkusman@smcgov.org

In the case of Contractor, to:

Name/Title: AMI Expeditionary Healthcare LLC
Address: 12030 Sunrise Valley Drive, Suite 240
Reston, VA 20190
Attn: Randy Cook, Chief Operating Officer
Email: randy.cook@ami.health

In the case of Sequoia, to:

Name/Title: Sequoia Hospital
Address: 170 Alameda de las Pulgas
Redwood City, CA 94062
Attn: Bill Graham, President
Email: bill.graham@dignityhealth.org

20. Electronic Signature

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County’s Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

21. Payment of Permits/Licenses

Contractor and Sequoia each bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor’s or Sequoia’s own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

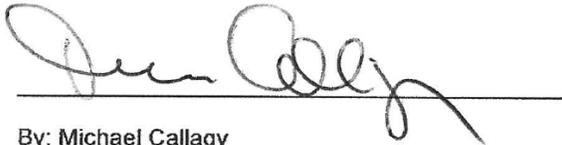
* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

Contractor: AMI Expeditionary Healthcare

Randy Cook 18 December 2020 Randy Cook
Signature Date Randy Cook COO

COUNTY OF SAN MATEO

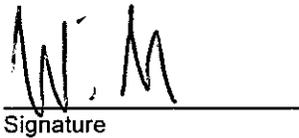


By: Michael Callagy

Director of Emergency Services, San Mateo County

Date: 12/18/2020

SEQUOIA HOSPITAL


Signature

12/18/20
Date

William Graham, President

Exhibit A

Terms of Service Agreement Between County and AMI:

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services: Medical Task Force (MTF) Services for San Mateo County.

Contractor shall provide the services of the medical and support personnel listed below. All clinical personnel shall possess the appropriate licensing and certifications to engage in their scope of practice within the State of California for the full term of the Agreement and shall at all times perform within their respective scope of practice, making a best effort to deliver the highest quality care and services possible in light of prevailing circumstances.

All personnel shall conduct themselves professionally and strictly adhere to infection control guidance provided by and standards of the United States Centers for Disease Control and Prevention, California Department of Public Health and San Mateo County Health.

The County's Emergency Medical Services Director (EMS Director), Emergency Medical Services Medical Director, Health Officer, or their respective designee(s) shall have the authority consistent with their obligations under the law to direct the services provided by and / or remove from delivering service any of Contractor's personnel who in their sole determination provide unacceptable risk to the public health and safety.

Contractor shall replace any member of the MTF who for any reason is unable to continue providing services under the terms of this Agreement, providing a suitable and like provider within 48 hours of such MTF member becoming unavailable.

The MTF composition will be:

- Six (6) Senior Registered Nurses
- Six (6) ICU Medical Doctors
- Twenty-two (22) ICU Registered Nurses
- Six (6) Registered Respiratory Therapists
- Two (2) Program Managers / Liaisons
- Four (4) Logisticians

The MTF will form two (2) teams, with each team enabling provision of medical care on a continuous basis to a minimum of five (5) patients at the Intensive / Critical Care level, on site at a licensed Acute Care General Hospital. The EMS Director shall retain the discretion to assign the location(s) at which Contractor's personnel shall deliver services and to reconfigure and / or redirect the MTF resources to meet evolving and overall medical health objectives of the County's disaster response, subject to meeting the current inpatient staffing requirements for the Sequoia ICU Bed Expansion patients.

Durable medical equipment, supplies and consumables shall be obtained and provided as mutually agreed upon by Sequoia, County and Contractor.

Contractor shall maintain appropriate records of all activities performed pursuant to this Agreement. Upon request, Contractor shall ensure transfer of all such records to the County.

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

COVENANT TO PAY

County shall pay Contractor all monies due and owing to Contractor within (thirty) 30 days of the date of each invoice from Contractor, failing which, Contractor shall charge and County agrees to pay 1.5% interest per month until such invoice is paid.

Contractor will submit detailed invoices to the County on a monthly basis to include billed hours for each position, hours billed at applicable rates, locations where Contractor’s assigned personnel are working and supporting documentation including timesheets or time logs for staff with a description of the work performed and no greater than quarter hour billing increments. Contractor will certify the timesheets and/or time logs.

Table 1 - MTF headcount:

SM: Regional ICU Support MTFs - shifts/FTE and total headcount			
Position	Shift total (12 hours)	FTE	Headcount on project
Senior RN	2	4	6
ICU-MD	2	4	6
ICU-Nurse	8	16	22
RRT/CC Paramedics	2	4	6
Program Manager/Liasion	2	2	2
Logistician	4	4	4
** Note LNO and Logs are not on set shifts		Total:	46

Table 2 – Micro level pricing:

SM: Regional ICU Support MTFs - Micro Pricing		
Staffing	Price	Unit
Senior RN	\$ 283.41	Hourly
ICU-MD	\$ 631.61	Hourly
ICU-Nurse	\$ 283.41	Hourly
RRT/CC Paramedics	\$ 259.12	Hourly
Staffing -Management/Support	Price	Unit
Program Manager/Liasion	\$ 121.38	Hourly
Logistician	\$ 80.98	Hourly
Clinical PMO	\$ 153.85	Fixed
Life Support Services	Price	Unit
Staff Travel and local transport	\$ 2,000.00	Monthly/One time
Lodging	\$ 193.00	Daily per person 46 pax
Perdium	\$ 66.00	Daily per person 46 pax

Table 3 - Macro level pricing 30 days

SM: Regional ICU Support MTFs - 30 day totals	
Staffing	Price
Senior RN	\$ 465,249.96
ICU-MD	\$ 1,036,842.77
ICU-Nurse	\$ 1,723,148.00
RRT/CC Paramedics	\$ 421,432.77
Staffing - Management/Support	price
Program Manager/Liasion	\$ 92,251.04
Logistician	\$ 123,082.00
Clinical PMO	\$ 175,391.85
Life Support Services	Price
Staff Travel and local transport	\$ 92,976.00
Lodging	\$ 269,165.52
Perdium	\$ 92,046.24
Total	\$ 4,491,586.15

Exhibit C

Sequoia Requirements for Non-Physician Health Care Providers

In order for Contractor to provide professional health care services through Contractor Professionals (as defined below) at the Sequoia ICU Bed Expansion on behalf of County, Contractor must adhere to the following requirements:

1. Background Information. Contractor shall provide and keep on file general background information on each health care non-physician professional who will be providing services at Sequoia (each, a "Contractor Professional" and, collectively, "Contractor Professionals"). Such background information shall include, but not be limited to the following: employment application; a skills assessment for each area of specialty in a format acceptable to Sequoia of the clinical skills and knowledge base for each Contractor Professional; at least two (2) professional references obtained prior to start of employment; copies of licenses, including a valid California license or valid temporary California; current Basic Cardiac Life Support certification for health care providers; and other data as requested by Sequoia. Contractor shall notify Sequoia of any adverse action taken or pending against the license of any Contractor Professional.

2. Qualifications and Requirements. Contractor shall ensure that all Contractor Professionals have met the following requirements, evidence of which shall be provided to Sequoia upon request:

(a) Drug and Health screening. All drug screening specified in this paragraph shall be provided at the sole expense of Contractor:

(i) Negative result to a panel drug screen (consistent with testing done on Sequoia's employees, but no less than ten panel);

(ii) Health History and Physical Examination Reports, including documentation that Contractor Professional is free from communicable disease and physically capable of performing the essential functions relative to the services to be provided by Contractor Professional hereunder;

(iii) Flu: Proof of current flu season vaccination prior to the first day of presentation of Contractor Professional to Sequoia, or written documentation of the Contractor Professional declining such vaccination because of medical reasons; Contractor Professionals who decline such vaccine will be required to wear a mask at all times while at Sequoia, based on county mandates and Sequoia policy;

(iv) Hepatitis B: three dose series (dose #1 now, dose #2 in 1 month, dose #3 in 5 months after #2). Obtain anti-HB's serologic testing one to two months after dose #3, or titer indicating immunity (positive HbsAb level at any point in time), or statement of refusal (consistent with testing on Hospital's employees);

(v) Meningococcal: one dose within the past five years to microbiologists who are routinely exposed to isolates of *N. meningitidis* (use MCV4 for persons younger than 56, MPSV4 for persons older than age 55);

(vii) MMR (Measles, Mumps, Rubella): documentation of two vaccinations or positive titer for each individual disease; one dose of MMR needed if Rubella is negative; four weeks apart regardless of year of birth;

(viii) Tetanus, Diphtheria, Pertussis (Tdap): Proof of vaccination or one time dose (regardless of age) of Tdap to protect infants (Tdap can be given regardless of the interval since the

last Tdap was given), or written documentation of the Placement declining such vaccination because of medical reasons;

(ix) Tuberculosis: If Contractor Professional has written documentation of a negative TST within the past 12 months documented in millimeters, only a single TST shall be required; one complete TST must be completed prior to start of assignment at Sequoia;

If Contractor Professional does not have documentation of a TST within 12 months, a second TST will be placed 7 – 21 days after administration of the first TST;

If the Contractor Professional's TST is read as positive, a second TB skin test will not be required. Contractor Professional with recent positive TST must be evaluated clinically, including obtaining a chest x-ray and complete a TB symptom review questionnaire. Contractor Professional may not start until a physician has declared Contractor Professional free from communicable disease and evaluated him/her for treatment needs;

Contractor Professionals who have a history of receiving *Bacille Calmette- Guérin* ("BCG") vaccination will be required to have a TST unless they have a documented positive TST (in mm) since receiving the BCG vaccination;

Quantiferon or T-spot testing will be accepted instead of TST, but must be completed prior to start of assignment at Hospital, and annually thereafter unless positive;

Annual completion of TB Questionnaire;

(x) Varicella (Chicken Pox): Proof of vaccination, history, serology indicating immunity, or two doses of varicella vaccine four to eight weeks apart (documentation of disease by a physician may be accepted).

(b) Criminal Background Investigation and OIG List of Excluded Providers.

(i) Contractor represents and warrants that it has engaged an independent entity to conduct a background screening as required hereunder for each Contractor Professional, and that each Contractor Professional has successfully completed that background screening in accordance with Sequoia's background screening scoring guidelines as set forth in Exhibit C-1. Such background screening shall include a criminal background investigation within thirty (30) days prior to the first day of Placement's assignment, and not less than on an annual basis thereafter an outstanding warrants search, statewide criminal search, fingerprinting, as required by law (required by law in Nevada and Arizona), a Department of Motor Vehicle Records search, and civil and criminal public filings for the state in which the Contractor Professional resides and for the state in which Sequoia is located (hereinafter collectively referred to as the "Background Information"). In addition, Contractor represents and warrants that it has conducted a search of the National Sex Offender Registry ("Registry") and that no Contractor Professional appears on the Registry.

(ii) Agency represents and warrants that it has checked the OIG List of Excluded Providers and the General Services Administration list of parties excluded from participation in federal health care programs (collectively the "List") no more than thirty (30) days prior to the first day of any Contractor Professional providing services at Sequoia, and will continue to do so every month thereafter, and upon request shall provide proof to Sequoia that neither Contractor, nor any of Contractor's employees, Contractor Professionals, agents, or personnel providing services at Sequoia, appear on said List. Further, Contractor represents and warrants that neither Contractor, nor any of Contractor's employees, Contractor Professionals, agents, or personnel providing services at Sequoia, is subject to sanction or exclusion from participation under any Federal or State health care program. In the event that Contractor becomes so sanctioned or excluded, Sequoia may immediately terminate this Agreement. In addition, any Contractor

Professional who becomes so sanctioned or excluded during the term of this Agreement shall be immediately removed by Contractor and shall be thereafter excluded from the provision of services to Sequoia under this Agreement. Removal of any excluded personnel pursuant to this Section shall not preclude Sequoia's right to immediately terminate this Agreement.

(iii) Contractor further represents that neither Contractor, nor any of its employees or Contractor Professionals providing services to Sequoia have:

(a) been listed by any federal or state agency as excluded, debarred, suspended, or otherwise ineligible to participate in federal and/or state programs;

(b) been convicted (including a plea of nolo contendere) of any crime relating to any federal and/or state program; or

(c) been convicted (including a plea of nolo contendere) of any crime involving fraud, theft, embezzlement, or other financial misconduct.

(iv) Contractor shall execute the Criminal Background Verification ("Verification"), attached hereto as Exhibit C-2, and provide Verification to Sequoia upon execution of this Agreement.

(d) Related Experience and Additional Certifications. Each Contractor Professional must possess the work experience and certifications, as applicable, and must have the demonstrated and documented clinical and supervisory competency, as applicable, as defined by Sequoia's standards of performance for each patient care unit in which Contractor Professional will provide services.

(e) Identification. At all times while on assignment, Contractor Professional shall wear in an easily visible location on his/her clothing an identification badge which prominently displays a photograph of Contractor Professional, Contractor's name, and Contractor Professional's full name and licensure or certification while providing services at Sequoia. Contractor shall require each Contractor Professional to wear an identifying uniform when providing services at Sequoia, as required by Hospital.

(f) Instruction and Examinations. Prior to providing services at Sequoia, Contractor Professionals must complete instruction conducted by Contractor in Infection Control, Body Mechanics, Documentation, Dress Code, Age Specific competencies, Code Situation Policies and Procedures, Medication Administration, as applicable to licensure and assignment, and written examination appropriate to the area of specialty or prospective assignment, education regarding recognizing and reporting elder abuse, sexual abuse and sexual harassment, and any additional education requested by Hospital. All hours spent by Contractor Professional in completing the instruction, education, and examinations set forth in this paragraph shall be compensated solely by Contractor.

(g) Contractor Professionals shall possess and carry a current and valid license and/or certification issued by California, as well as a current and valid Basic Cardiac Life Support certification card during all times Contractor Professional is on assignment at Sequoia.

(h) In accordance with Cal-OSHA Respirator Standard Section 5144, Placements who enter a room wherein a patient is in respiratory isolation, must be "fit tested" with a "N-95 mask."

(i) Workplace Violence. Not more than 180 days prior to providing services at Sequoia, Contractor Professionals must complete workplace violence training in accordance with laws, rules, regulations, Joint Commission requirements, and Dignity Health Policy 120.6.007.

3. Regulatory, Policy and Licensing Compliance.

(a) Contractor shall provide to Contractor Professionals, in the manner set forth in Exhibit C-3 attached hereto, basic information regarding the Occupational Exposure to Bloodborne Pathogens regulations ("Regulations") issued by the Department of Labor (29 C.F.R. 1910.1030) prior to any Contractor Professional providing services at Sequoia and to instruct Contractor Professionals to refuse to participate in situations where they are placed in unwarranted danger of exposure due to failure of Sequoia to follow Universal Precautions. Contractor agrees to maintain records evidencing compliance with the Regulations.

(b) Contractor shall comply, and shall cause its employees, agents and Contractor Professionals to comply with all applicable local, state and federal laws, rules and regulations, Sequoia's Rules and Regulations, Sequoia's Medical Staff Bylaws Rules and Regulations, and the standards of the Joint Commission in Contractor's provision of services to Sequoia.

(c) Contractor represents and warrants that each Contractor Professional providing services to Sequoia under this Agreement shall be duly qualified in accordance with the requirements of this Exhibit C.

(d) Contractor shall at all times during the term of this Agreement have a business license, current with the city or other jurisdiction in which Contractor is located (as determined by Contractor business address), and shall provide Sequoia with a copy of its current validated business license. Contractor shall obtain and maintain a certificate of qualification from the Secretary of State of the state in which Contractor is conducting business prior to execution of this Agreement.

(e) Contractor shall cooperate with Sequoia in meeting or exceeding the standards of The Joint Commission ("JC") regarding the use of non-employee healthcare professionals including, but not limited to annual competency validation and performance appraisals.

(f) Contractor shall require and assure that Contractor Professionals comply with all policies and procedures of Sequoia including, but not limited to those which pertain to the practice of universal precautions, the reporting of incidents affecting the quality of patient care, and the periodic reporting of specific quality control indicators (including applicable OSHA and Cal/OSHA requirements) and the reporting of absences.

(g) Contractor shall require that Contractor Professionals timely cooperate with Sequoia regarding the investigation of any potentially compensable event, sentinel event, or hospital quality process. Placement shall be made available for interviews, committee meetings or requests for information from Sequoia.

4. Compliance with Sequoia's Standards. Contractor acknowledges that Sequoia and any service or activity operated or sponsored by Sequoia is governed by the Statement of Common Values, as adopted or amended by Dignity Community Care from time to time (the "Statement"), a copy of which is available from Sequoia's administration. Contractor and Contractor Professionals shall comply with the Statement to the extent it relates to the provision of services at Sequoia as contemplated by this Agreement.

5. Regulatory and Licensing Compliance.

(a) Sequoia shall provide training for personal protective equipment ("PPE"), engineering, housekeeping and workplace controls, including but not limited to: PPE in appropriate sizes at accessible locations; accounting for hypoallergenic materials as needed, closable, puncture-resistant leak proof containers readily accessible for sharps; readily accessible hand washing facilities; decontamination of work sites; laundering; and treatment of staff, including Contractor Professionals, in the event of exposure incidents.

(b) Sequoia shall provide each Contractor Professional who consents to receive the Hepatitis B vaccination series with the appropriate doses of the vaccine, according to written authorization provided by Contractor. Sequoia agrees to administer the doses at cost and bill Contractor for the amount due. Sequoia agrees to complete the required documentation and provide copies of such documentation to Contractor, to include: date vaccinated; vaccine lot #; expiration date of vaccine; and name and signature of the individual administering the dose.

(c) Sequoia shall notify Contractor in writing as soon as practicable upon becoming aware of any reported exposure incident involving any Contractor Professional subject to Contractor Professional's authorization and consent, and applicable state and federal laws. Sequoia shall conduct a confidential medical evaluation of the exposure incident, provide a written report to Contractor describing the exposure incident, treatment provided, medical evaluation and follow-up, which will include documentation of the route and circumstances of the exposure, identification and documentation of the source individual, unless unavailable or prohibited by state, federal, or local law, and test results of the source individual's blood to determine Hepatitis B or HIV infection. No obligations hereunder shall be construed as establishing a hospital-patient relationship or otherwise extending a duty to the Contractor Professional regarding the Contractor Professional's diagnosis and care.

(i) Sequoia shall bill Contractor at reasonable and customary charges for treatment and care provided in Section 5(c) if the exposure incident is work related. Contractor will process all billings to their appropriate workers' compensation insurance carrier.

6. Unsatisfactory Performance. Sequoia may immediately request that Contractor remove a Contractor Professional from providing services at Sequoia if Sequoia determines, in its sole discretion, that the Contractor Professional: (i) is incapable of performing the services under the terms and conditions hereunder; (ii) is failing to adequately perform his/her duties; (iii) has violated any of Sequoia's policies and procedures; or, (iv) fails to meet the qualifications of the position set forth under this Agreement.

7. Professional and Administrative Responsibility. Sequoia shall retain professional and administrative responsibility for the operation of the hospital, as and to the extent required by Title 22, California Code of Regulations, Section 70713. Sequoia's retention of such responsibility is not intended and shall not be construed to diminish, limit, alter, or otherwise modify in any way the obligation of Contractor under this Agreement, including without limitation, the obligations under the insurance and indemnification provisions set forth in the Agreement.

8. Orientation. In addition to Contractor's obligations set forth above, each Contractor Professional shall attend Sequoia orientation as determined necessary in the sole discretion of the Sequoia, including, but not limited to training regarding Dignity Health's Network Usage Policy and Code of Conduct, and Contractor Professional's written acknowledgement thereof. Contractor shall be solely responsible to compensate Contractor Professionals for all hours spent in Sequoia orientation.

9. Insurance.

(a) Professional Liability Coverage. Contractor shall pay for professional liability insurance coverage for each Contractor Professional while providing professional services at Sequoia to cover all incidents which may occur during such time, regardless of when a claim is made, in limits of Two Million Dollars (\$2,000,000) per incident and Four Million Dollars (\$4,000,000) annual aggregate or such higher limits as may be required by law, through Contractor's insurance carrier. Contractor shall maintain continuous coverage of policies of malpractice insurance coverage for not less than three (3) years following the expiration or earlier termination of this Agreement (the "**Insurance Period**"). If for any reason the insurance policy maintained by Contractor is terminated, reduced below the minimum coverage requirements set forth in this

Section, not renewed or cancelled (whether by action of the insurance company or Contractor) prior to the expiration of the Insurance Period, Contractor shall: (i) cause a replacement insurance policy meeting the requirements of this Section to be in effect as of the effective date of the termination, reduction, non-renewal or cancellation of the prior insurance policy; and (ii) purchase either extended reporting coverage (i.e., “**tail**” coverage) or prior acts coverage (i.e., “**nose**” coverage) as necessary to meet the requirements of this Section. Tail coverage must provide for either an unlimited discovery/reporting period or a discovery/reporting period that would extend through the end of the Insurance Period, and nose coverage must provide for a retroactive discovery/reporting period at least as of the start of the Insurance Period.

(b) General Liability Coverage. Contractor shall pay for general liability insurance coverage for each Contractor Professional while providing professional services at Sequoia in an amount not less than One Million Dollars (\$1,000,000) combined single limit, each occurrence, including personal injury and contractual liability. In order to maintain continuous coverage for the entire relevant term, Contractor agrees that, if it changes insurers for any reason, it will provide continuous coverage by either obtaining “tail” insurance from the preceding carrier or “nose” insurance from the subsequent carrier. It is understood and agreed that, in order to satisfy the requirements of this section, the “tail” insurance must be of either an unlimited type or of the type that would extend through the end of the Insurance Period and “nose” coverage must provide for a retroactive discovery/reporting period at least as of the start of the Insurance Period.

(c) Worker’s compensation insurance for each Contractor Professional in compliance with the laws and statutes of the jurisdiction in which the work is performed. Such insurance shall include employers’ liability insurance with a limit of not less than One Million Dollars (\$1,000,000) each occurrence.

(d) Unemployment insurance and disability benefits for each Contractor Professional.

EXHIBIT C-1

Background Screening Assessment Guidelines for Criminal Histories and Credit Histories

Definitions

Non-Conviction: Any disposition other than a plea of guilty, no contest or a finding of guilt. Non- Convictions can be one of three categories.

- o Passing: Non-Conviction leading to charge being dismissed, sealed, Nolle Prose, Nolle Prosequi, Expunged, Not Guilty verdict or acquittal of defendant.
- o Disqualifying: Any adjudication withheld/deferred where the charge was not dismissed, expunged, Nolle Prose or Nolle Prosequi.
- o Provisional: Any active or pending case.

Passing Disposition: Any Non-Conviction disposition leading to the case being dismissed, Nolle Prose, Nolle Prosequi, Expunged, Not Guilty verdict or acquittal of defendant.

Disqualifying Disposition: Any disposition resulting in a Conviction or Non-Conviction (adjudication deferred/withheld that has **not** led to the case being dismissed or expunged).

Pass

The following results shall not be considered Disqualifying. Assess the following results as “Pass”:

- Any Misdemeanor or Felony with a Passing Disposition.
- Any Misdemeanor (or lower) for a traffic violation (DUI and driving without a license are not considered traffic violations).
- For California: Any Misdemeanor or Felony with a disposition date older than 7 years.
- For California: Any Misdemeanor Marijuana offense over two years old.
- For California: Any arrest, detention, processing, diversion, supervision, adjudication or court disposition that

- occurred while a person was subject to the process and jurisdiction of the juvenile justice system.
- For California: Any referral or participation in a pre or post-trial diversion program.
- For San Francisco: Any participation in a deferral of judgment program.
- For San Francisco: Any conviction for decriminalized behavior, including convictions for the non-commercial use and cultivation of cannabis.
- For Nevada facilities and system offices: Any Misdemeanor or Felony with a disposition date older than 7 years, with the exception of any of the following crimes with a Disqualifying Disposition: murder; voluntary manslaughter; mayhem; assault or battery with intent to kill or to commit sexual assault or mayhem; sexual assault; statutory sexual seduction; incest; lewdness or indecent exposure; any other sexually related crime that is punished as a felony; a crime involving domestic violence that is punished as felony; abuse or neglect of a child or contributory delinquency; abuse, neglect exploitation or isolation of older persons or vulnerable persons; any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon.

Provisional

The following results are potentially disqualifying and are thus designated “Provisional” pending further individualized assessment and evaluation. Applicants with a “Provisional” record may be approved for hire by the head of Human Resources for the Dignity Health facility or system office. The head of Human Resources shall consult with Dignity Health legal counsel in making such decisions when appropriate.

The following results shall be considered “Provisional”:

- Any Misdemeanor or Felony case that is currently active or pending.
- For Nevada: Any one of the crimes specifically enumerated above with a Disqualifying disposition.
- Any Misdemeanor with a Disqualifying Disposition greater than 2 years, but less than 7 years.
- Any outstanding warrants.
- Any bankruptcy within the last 10 years or tax liens
- More than 5 accounts past due or more than 2 accounts in collections within the last 7 years where the balance owing exceeds \$5,000.
- Any SSN Trace where the SSN was reported as used in a Death Benefits Claim.
- Any other finding determined to be significant enough for further review and an individualized assessment.

Disqualifying

The following conditions will generally disqualify a candidate unless in the course of the individualized assessment it is determined that there are significant mitigating factors or other compelling information. Where appropriate, the individualized assessment shall consider individual circumstances and whether the conviction or offense is job-related and consistent with business necessity. This assessment shall be performed by the Service Area Vice President of Human Resources.

- Any Felony with a Disqualifying Disposition within the last 7 years.
- Any Misdemeanor with a Disqualifying Disposition within the last 2 years.

EXHIBIT C-2
Criminal Background Verification

Contractor acknowledges Contractor's responsibility for the successful completion of a criminal background check of all Contractor Professionals prior to their presentation at Sequoia for the provision of professional services. Additionally, Contractor understands that the Contractor's responsibility is pursuant to the terms of the Agreement and compliance with Joint Commission ("JC") Standards, and applicable State and Federal laws and regulations, and Contractor agrees to comply with these standards for all Contractor Professionals.

Signature_____

Date_____

Printed Name_____

Title_____

EXHIBIT C-3
Occupational Exposure to Bloodborne Pathogens

The Department of Labor has published its final rule #29 CFR Part 1910.1030 "Occupational Exposure to Bloodborne Pathogens". Whereas Sequoia and Contractor wish to insure compliance with this rule for all Contractor Professionals, and whereas both Sequoia and Contractor recognize that compliance will require the joint effort of the Sequoia and Contractor, then Sequoia and Contractor agree as follows:

CONTRACTOR AGREES TO:

1. Provide Contractor Professionals with information and training which includes but is not limited to the following:
 - a. Contractor Professional's responsibility to implement Universal Precautions for every patient receiving care.
 - b. An explanation of the regulatory text and a copy of the regulatory text.
 - c. A general explanation of the epidemiology and symptoms of bloodborne diseases.
 - d. An explanation of how bloodborne diseases are spread.
 - e. An explanation of risk identification.
 - f. An explanation of its exposure control plan and how the Placement can obtain a copy.
 - g. An explanation of work practices, engineering controls and personal protective equipment (e.g. gloves, gowns, masks, and eye protection) that will prevent or reduce contact with bloodborne diseases.
 - h. Information on the types and proper use of personal protective equipment as well as proper ways to remove, handle, clean and dispose of protective equipment.
 - i. An explanation of the basis for selecting personal protective equipment.
 - j. Information on the hepatitis B vaccine including its effectiveness, safety, how the three shots are given, and benefits of being vaccinated.
 - k. An explanation that the hepatitis B vaccine is offered free of charge and that a declination must be signed by Contractor Professional if the vaccine is refused.
 - l. Information on what to do and who to call (both at Sequoia and Contractor) in an emergency involving blood or potentially infectious materials.
 - m. An explanation of the procedure to follow if an exposure incident occurs, how the incident should be reported and the medical care that should be given.
 - n. Information on the post exposure process and follow up that will be provided at the Hospital following an exposure incident.

- o. An explanation of the signs, labels and color-coding used to identify biohazardous material.
 - p. Information on how to submit worker's compensation insurance claims.
 - q. An interactive question and answer session by "knowledgeable persons."
2. Maintain training records.

SEQUOIA AGREES TO:

1. Comply with the provisions of the OSHA regulations regarding bloodborne pathogens.
2. During orientation, inform Contractor Professionals of any specific information about Hospital's Exposure Control Plan, work practices, and Sequoia's procedures to follow should an exposure incident occur while working at the Sequoia.
3. Inform Contractor Professionals as to where personal protective equipment used to protect against bloodborne pathogens is located and provide such equipment free of charge to Contractor Professionals.
4. Provide an opportunity for Contractor Professionals to ask questions about Sequoia's bloodborne pathogen Exposure Control Plan, work practices, engineering controls, personal protective equipment, and emergency procedures for reporting exposure incidents within the hospital.
5. Should an exposure incident occur, Sequoia shall:
 - a. Evaluate an exposure incident and provide post exposure care for an incident occurring at Sequoia and immediately forward an incident report and invoice for treatment to the Contractor insurance department.
 - b. If Contractor Professional consents, take a blood sample from Contractor Professional and test for HIV, or preserve sample for 90 days, if Contractor Professional does not consent to the HIV test.
 - c. If permitted, test the source individual's blood for HIV and HBV and communicate test results to Contractor Professional along with written follow-up recommendations.
 - d. Maintain confidential medical records related to the exposure incident with Contractor Professional performing the post exposure testing and follow-up.

Exhibit D

Sequoia Requirements for Physician Providers

1. Screening. Contractor shall pre-screen all physician providers who will be providing professional services at Sequoia's ICU Bed Expansion pursuant to this Agreement (collectively, the "Contractor Physicians"), including a Federation of State Medical Boards (FSMB) query on each Contractor Physician and verification of the good standing status of each Contractor Physician's California Medical Board license or Osteopathic Medical Board license. All Contractor Physicians shall be subject to meeting Sequoia's health screening requirements and criminal background check requirements as set forth in Exhibit C, Sections 2(a) and (b).

2. Medical Staff Privileges. Prior to the commencement of any Contractor Physician providing professional services at Sequoia pursuant to this Agreement, such Contractor Physician shall apply for temporary/emergency privileges in the relevant specialty to join Sequoia's Medical Staff. As timing is of the essence given the public health crisis giving rise to this Agreement, Sequoia shall process such applications on an expedited basis.

3. Practice Standards, Risk Management and Quality Assurance. Contractor shall require Contractor Physicians to comply with all relevant accreditation standards, federal, state and local laws and regulations. In addition, Contractor shall require in writing Contractor Physicians to comply with Sequoia's medical staff's and Sequoia's policies and procedures, professional standards and practices. Contractor shall require in writing Contractor Physicians to participate in Sequoia's risk management and quality assurance programs. Sequoia shall promptly notify Contractor of any incidents or claims which may give rise to a claim under Contractor's insurance. Both Contractor and Sequoia agree to abide by all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to licensure and regulation of Contractor Physicians and to the services provided.

(a) Removal of a Contractor Physician. Sequoia has sole and complete discretion to request the removal of any Contractor Physician from the provision of professional services at Sequoia. In the event Sequoia makes such a request, Contractor shall remove such Contractor Physician within three (3) business days' of Contractor's receipt of written notice. Contractor shall not remove a Contractor Physician for discriminatory or other unlawful reasons.

4. Contractor Physicians as Independent Contractors of Contractor. Each Contractor Physician shall be an independent contractor of Contractor, who shall be solely responsible for compensating Contractor Physicians directly. Neither Contractor nor Sequoia shall exercise control over Contractor Physicians' medical judgment or the clinical services provided by Contractor Physicians.

5. Compliance with Sequoia Standards.

(a) Statement of Common Values. Contractor acknowledges that Sequoia and any service or activity operated or sponsored by Hospital are governed by the Statement of Common Values, as may be amended from time to time (the "Statement"), a copy of which is available from Hospital's administration. Contractor shall comply, and shall cause each Contractor Physician to comply, with the Statement to the extent applicable to the provision of professional services at Sequoia or the obligations of Contractor under this Agreement.

(b) Corporate Integrity Program. Contractor acknowledges that Sequoia operates under the Corporate Integrity Program of Dignity Health. Contractor further acknowledges that notwithstanding anything contained herein, neither Party shall engage in any conduct that may violate any policies, procedures, or directives of the Corporate

Integrity Program. Contractor shall cooperate with Sequoia corporate compliance audits, reviews and investigations which relate to Sequoia and/or any of the services provided by Contractor under this Agreement.

(c) Standards of Conduct. Contractor hereby acknowledges that it has reviewed or will review a copy of the Dignity Health Standards of Conduct ("**Standards of Conduct**"), which is available from Sequoia administration. Contractor shall comply with the Standards of Conduct as it relates to its business relationships with Sequoia, its affiliates or any Sequoia directors, officers, employees, contractors, agents, or suppliers of any kind.

6. Medical Records. Contractor shall require Contractor Physicians to prepare complete, timely, accurate and legible medical and other records with respect to the services and treatment provided by Contractor Physicians to patients in accordance with Sequoia rules, the Medical Staff Bylaws, applicable laws, and the Joint Commission standards and recommendations. All information and records relating to patients shall be the sole property of Sequoia.

7. Billing Rights. Sequoia shall have no right to bill or collect for services provided by Contractor Physicians.

8. No Requirement to Refer. Nothing in this Agreement, whether written or oral, nor any consideration in connection herewith, contemplates or requires the referral of any patient by Contractor or Contractor Physicians to Sequoia. This Agreement is not intended to influence the judgment of any Contractor Physicians in choosing the medical facility or facilities appropriate for the proper care and treatment of patients. Contractor Physicians shall not receive any compensation or remuneration for referrals, if any, to Sequoia. Sequoia and Contractor support a patient's right to select the medical facility or facilities of his/her choice.

9. Insurance. Contractor shall pay for professional liability insurance coverage for each Contractor Physician while providing professional services at Sequoia to cover all incidents which may occur during such time, regardless of when a claim is made, in limits of Two Million Dollars (\$2,000,000) per incident and Four Million Dollars (\$4,000,000) annual aggregate or such higher limits as may be required by law, through Contractor's insurance carrier. Contractor shall maintain continuous coverage of policies of malpractice insurance coverage for not less than three (3) years following the expiration or earlier termination of this Agreement (the "**Insurance Period**"). If for any reason the insurance policy maintained by Contractor is terminated, reduced below the minimum coverage requirements set forth in this Section, not renewed or cancelled (whether by action of the insurance company or Contractor) prior to the expiration of the Insurance Period, Contractor shall: (i) cause a replacement insurance policy meeting the requirements of this Section to be in effect as of the effective date of the termination, reduction, non-renewal or cancellation of the prior insurance policy; and (ii) purchase either extended reporting coverage (i.e., "**tail**" coverage) or prior acts coverage (i.e., "**nose**" coverage) as necessary to meet the requirements of this Section. Tail coverage must provide for either an unlimited discovery/reporting period or a discovery/reporting period that would extend through the end of the Insurance Period, and nose coverage must provide for a retroactive discovery/reporting period at least as of the start of the Insurance Period.

Attachment E – Emergency Agreement Provisions

A. Termination

This Agreement may be terminated by Contractor or by the Director of Emergency Services or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement. Contractor shall look solely to County for payment for services provided by Contractor at Sequoia under the terms of this Agreement.

Sequoia shall have the discretion to determine, every 30 days during the term of this Agreement, that any given ICU Pod within the ICU Bed Expansion shall be closed to additional admissions with the result that when all patients are discharged from such ICU Pod, the ICU Pod closes down permanently.

Notwithstanding the expiration or earlier termination of this Agreement, County and Contractor shall continue to perform and provide services under this Agreement, including Contractor's provision of sufficient staffing of Contractor Professionals and Contractor Physicians, to allow for the clinically appropriate discharge of patients of the ICU Bed Expansion consistent with the Parties' obligations as set forth in this Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

Any Party may terminate this Agreement for cause. In order to terminate for cause, the Party alleging breach must first give the non-breaching Party or Parties notice of the alleged breach. The Party alleged to be in breach of the Agreement shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If such Party fails to cure the breach within this period, the other Party or Parties may immediately terminate this Agreement without further action. The option available in this paragraph is separate from County's ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph, subject to Contractor's continued obligation to provide staff for current ICU Bed Expansion patients through discharge. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination. Subject to availability of funding, Contractor shall be entitled to receive payment on a prorated basis for work/services actually completed and delivered prior to termination of the Agreement and for which there is no dispute.

B. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after CalOES closes out the County's application for reimbursement. County will notify Contractor of any audit release date after which Contractor shall no longer be required to maintain the records referenced herein. Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

C. Merger Clause; Amendments

The Agreement, including the Exhibits and Attachments attached to the Agreement and incorporated by reference, constitutes the sole Agreement of the parties to the Agreement and correctly states the rights, duties, and obligations of each party as of the Agreement's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of the Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to the Agreement, the provisions of the body of the Agreement shall prevail; provided, however, that, in the event that any term, condition, provision, requirement, or specification set forth in the body of the Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in Attachment E, the provisions of Attachment E shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

D. Dispute Resolution; Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California. In the event of breach or other dispute arising out of this Agreement, County reserves the right to pursue all remedies, legal, contractual, administrative or otherwise against Contractor, including the recovery of any sanctions and penalties authorized by law.

E. Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) Contractor agrees to comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, throughout the term of this Agreement and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by County. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

F. Procurement of Recovered Materials

In the performance of this contract, Contractor shall make maximum use of products containing recovered materials that are United States Environmental Protection Agency ("EPA")-designated items unless the product cannot be acquired. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

G. Access to Records.

(1) The Contractor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the

Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions as permitted under applicable Federal and State laws.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed as permitted under applicable Federal and State laws.

(4) In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

H. Clean Air Act and Water Pollution Act Compliance

(1) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Act, as amended 33 U.S.C. 1251. et. seq.

(2) Contractor agrees to report each violation to the County understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

I. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file with the County the required certification (see below). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

The required certification shall state the following (see 44 C.F.R. Appendix A to Part 18):

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

J. Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contract will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened

with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

M. Compliance with the Contract Work Hours and Safety Standards Act

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

Attachment H

Health Insurance Portability and Accountability Act (HIPAA)

Business Associate Requirements

DEFINITIONS

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations (CFR) sections 160.103, 164.304, and 164.501. All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the parties to this agreement shall mean Contractor.
- b. **Covered Entity.** "Covered entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement shall mean County.
- c. **HIPAA Rules.** "HIPAA rules" shall mean the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR part 160 and part 164, as amended and supplemented by Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009.
- d. **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- e. **Electronic Protected Health Information.** "Electronic Protected Health Information" (EPHI) means individually identifiable health information that is transmitted or maintained in electronic media; it is limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- f. **Individual.** "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- g. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- h. **Protected Health Information.** "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 160.103 and is limited to the information created or received by Business Associate from or on behalf of County.
- i. **Required By Law.** "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.
- j. **Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- k. **Breach.** The acquisition, access, use, or disclosure of PHI in violation of the Privacy Rule that compromises the security or privacy of the PHI and subject to the exclusions set forth in Section 164.402. Unless an exception applies, an impermissible use or disclosure of PHI *is presumed* to be a breach, unless it can be demonstrated there is a low probability that the PHI has been compromised based upon, at minimum, a four-part risk assessment:
 - 1. Nature and extent of PHI included, identifiers and likelihood of re-identification;
 - 2. Identity of the unauthorized person or to whom impermissible disclosure was made;
 - 3. Whether PHI was actually viewed or only the opportunity to do so existed;
 - 4. The extent to which the risk has been mitigated.
- l. **Security Rule.** "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.
- m. **Unsecured PHI.** "Unsecured PHI" is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in relevant HHS guidance.
- n. **Security Incident.** "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. "Security Incident" includes all incidents that constitute breaches of unsecured protected health information.

OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

- a. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Business Associate agrees to use appropriate safeguards to comply with Subpart C of 45 CFR part 164 with respect to EPHI and PHI, and to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to make uses and disclosures requests for Protected Health Information consistent with minimum necessary policy and procedures.
- d. Business Associate may not use or disclose protected health information in a manner that would violate subpart E of 45 CFR part 164.504 if used or disclosed by Covered Entity.
- e. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- f. Business Associate agrees to report to County any use or disclosure of Protected Health Information not authorized by this Agreement.
- g. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of County, agrees to adhere to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- h. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- i. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- j. Business Associate agrees to make books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of County, available to the County at the request of County or the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- k. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- l. Business Associate agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (k) of this Schedule, in order to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- m. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of County.
- n. Business Associate shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- o. Business Associate shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- p. Business Associate shall report to County any Security Incident within three (3) business days of becoming aware of such incident. Business Associate shall also facilitate breach notification(s) to the appropriate governing body (i.e. HHS, OCR, etc.) as required by law. As appropriate and after consulting with County, Business Associate shall also notify affected individuals and the media of a qualifying breach.
- q. Business Associate understands that it is directly liable under the HIPAA rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of Protected Health Information that are not authorized by this Attachment, the underlying contract as or required by law.

PERMITTED USES AND DISCLOSURES BY CONTRACTOR AS BUSINESS ASSOCIATE

Except as otherwise limited in this Schedule, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

OBLIGATIONS OF COUNTY

- a. County shall provide Business Associate with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- c. County shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

PERMISSIBLE REQUESTS BY COUNTY

County shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if so requested by County, unless the Business Associate will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Business Associate.

DUTIES UPON TERMINATION OF AGREEMENT

- a. Upon termination of the Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from County, or created, maintained, or received by Business Associate on behalf of County, that Business Associate still maintains in any form. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- b. In the event that Business Associate determines that returning or destroying Protected Health Information is infeasible, Business Associate shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS

- a. **Regulatory References.** A reference in this Schedule to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. **Survival.** The respective rights and obligations of Business Associate under this Schedule shall survive the termination of the Agreement.
- d. **Interpretation.** Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. **Reservation of Right to Monitor Activities.** County reserves the right to monitor the security policies and procedures of Business Associate.