

**AMENDMENT TO AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND AMI  
EXPEDITIONARY HEALTHCARE**

This Amendment (“Amendment”) is entered into this 28<sup>th</sup> day of April, 2020 and it is between the County of San Mateo, a political subdivision of the State of California (“County”), and AMI Expeditionary Healthcare (“AMI Expeditionary Healthcare” or “Contractor”).

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

WHEREAS, on March 3, 2020, and pursuant to Section 101080 of the California Health and Safety Code, the San Mateo County Health Officer declared a local health emergency throughout San Mateo County related to the novel coronavirus (COVID-19); and

WHEREAS, on March 10, 2020, the Board of Supervisors of the County of San Mateo adopted a resolution to ratify and extend this declaration of local health emergency, and on April 7, 2020, the Board of Supervisors further extended the local health emergency and this local health emergency remains in effect; and

WHEREAS, on March 3, 2020, and pursuant to Section 8630 of the California Government Code and Chapter 2.46 of the San Mateo County Ordinance Code, the San Mateo County Director of Emergency Services proclaimed a local emergency throughout San Mateo County related to COVID-19; and

WHEREAS, March 10, 2020, the Board of Supervisors of the County of San Mateo adopted a resolution to ratify and extend this declaration of local emergency, and on April 7, 2020, the Board of Supervisors further extended the local emergency and this local emergency remains in effect; and

WHEREAS, pursuant to Section 2.83.040 of the San Mateo County Ordinance Code, and in light of the existing local emergency and local health emergency, the County, acting through the County Manager/Purchasing Agent entered into an Agreement with Contractor for the provision of the services of medical and support personnel for County operations in support of the local emergency and local health emergency, for a term of up to forty five days (divided into three fifteen day increments), and for an amount not to exceed \$4,800,861 (“Agreement”); and

WHEREAS, on April 7, 2020, by Resolution 077328, the Board of Supervisors ratified this Agreement, among others; and

WHEREAS, the County has a continuing need for the medical and support personnel services described in the Agreement and Contractor is willing and able to continue providing these services.

**NOW, THEREFORE, THE COUNTY AND CONTRACTOR HEREBY AGREE AS FOLLOWS:**

1. Section 1 (Exhibits and Attachments) to the Agreement is hereby amended in its entirety to read as follows:

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

**Exhibit A – Services**

**Exhibit B – Payment and Rates**

**Attachment E – Emergency Agreement Provisions**

**Attachment H- HIPAA Business Associate Requirements**

2. Section 3 (Payments) of the Agreement is hereby amended in its entirety to read as follows:

In consideration of the services provided by Contractor 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. County reserves the right to withhold payment if Contractor has failed to perform the services in accordance with the requirements of this Agreement. In no event shall County's total fiscal obligation under this Agreement exceed eight million one thousand four hundred and thirty-five dollars (\$8,001,435). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this Agreement.

3. Section 4 (Term) of the Agreement is hereby amended in its entirety to read as follows:

Subject to compliance with all terms and conditions, the term of this Agreement shall begin March 23, 2020, will be divided into five (5) fifteen day increments, with 96-hour written notice from the County to the Contractor in order to extend the service period an *additional 15 days, for up to a maximum total of seventy five (75) days after it is initiated* and may be extended by mutual agreement of the County and Contractor.

4. Section 5 (Termination) of the Agreement is hereby amended in its entirety to read as follows:

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


5. Section 16 (Controlling Law; Venue) of the Agreement is hereby amended in its entirety to read as follows:

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

6. The language within Section 1 of Exhibit A which commences with the asterisk (\*) is hereby deleted in its entirety.
7. The Macro Pricing Schedule for Services set forth in Exhibit B shall be adjusted, proportionally, to reflect up to seventy five days of service and the maximum amount that may be expended under the Agreement shall not exceed eight million one thousand four hundred and thirty five dollars (\$8,001,435).
8. Attachment E (Emergency Agreement Provisions) attached to this Amendment, is hereby incorporated into the Agreement by reference.
9. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.
10. This Amendment, including the revised Exhibit A and Exhibit B, and Attachment E hereto and incorporated by reference, constitutes the entire understanding of the parties hereto with respect to this subject matter herein and correctly states the rights, duties, and obligations of each party as of this document's date. Any understandings, promises, negotiations, or representations between the Parties not expressly stated in this document are not binding. All subsequent modifications of this Amendment shall not be effective unless set forth in a writing and executed by both parties.

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

For Contractor: AMI EXPEDITIONARY HEALTHCARE

 _____	<u>23 APR 20</u> _____	<u>Randy S. Cook</u> _____
Contractor Signature	Date	Contractor Name (please print)

COUNTY OF SAN MATEO

_____	_____	_____
Warren Slocum,	Date	Name (please print)
President, San Mateo County Board of Supervisors		

Attest:

\_\_\_\_\_

## **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. 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.

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.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor 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 Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the 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. 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. 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.

**C. 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.

**D. 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."

**E. Access to Records.**

(1) The Contractor agrees to provide the County of San Mateo, 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.

(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.

(3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(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.

**F. 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 Appendix A, 44 C.F.R. 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.*

Randy S. Cook

Signature of Contractor's Authorized Official

Randy S. Cook CHIEF OPERATING OFFICER

Name and Title of Contractor's Authorized Official

23 APRIL 2020

Date

**G. 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.