
Agreement

THIS AGREEMENT (“Agreement”) is by and between INDIAN RIVER COUNTY, a Political Subdivision of the State of Florida organized and existing under the Laws of the State of Florida, (hereinafter called COUNTY) and EMS Management & Consultants, Inc. (hereinafter called AGENCY). COUNTY and AGENCY, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK. AGENCY will provide professional services for Emergency Medical Services (“EMS”) billing and coding services, in accordance with the specifications outlined in RFP 2023036, also including Lockbox services, beginning May 1, 2024.

ARTICLE 2 – TERM. The agreement shall commence on May 1, 2024, with an initial term of three years, with two three-year extensions available, based on AGENCY acceptance, and determination by COUNTY that renewal is in its best interest. Notice of intent to extend will be submitted to AGENCY no fewer than 90 days prior to expiration of the active term.

ARTICLE 3 – FEE. In consideration of AGENCY performing its obligations under this Agreement, COUNTY will pay AGENCY 4.75 percent of net collections, and other fees as identified in Exhibit A, as total compensation for services which have been authorized by COUNTY, provided proper invoices have been timely submitted by AGENCY in accordance with Article 4 of this Agreement.

ARTICLE 4 – INVOICING AND PAYMENT. AGENCY shall submit invoices at the end of each monthly billing period, in a form acceptable to COUNTY, for services rendered. AGENCY shall provide detail of billing rendered within 15 calendar days of the end of the billing period. Invoices shall be submitted electronically.

COUNTY shall make payment in accordance with the provisions of the Local Government Prompt Payment Act, Florida Statutes section 218.70 et. seq.

ARTICLE 5 – CHANGES, ADDITIONS AND DELETIONS. COUNTY may at any time request changes in the work to be performed hereunder. All such changes, including any increase or decrease in the amount of the AGENCY's compensation, shall be mutually agreed upon by and between COUNTY and AGENCY, and only effective after written amendment to the Agreement has been approved by both parties. No claim for damages for anticipated profits shall accrue to AGENCY.

ARTICLE 6 – INDEMNIFICATION. AGENCY shall indemnify and hold harmless the COUNTY, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the AGENCY and persons employed or utilized by the AGENCY in the performance of the Work.

ARTICLE 7 – STANDARD OF PERFORMANCE. The standard of care for all services performed or furnished by AGENCY under this Contract will be the level of care that is ordinarily used by members of AGENCY's profession practicing under similar conditions. Agency shall adhere to the professional guidelines established by: Fair Debt Collections Practices Act, Centers for Medicare and Medicaid Services (CMS), Private Insurance Companies and HIPPA.

ARTICLE 8 – QUALIFICATION AND COMPLIANCE. AGENCY represents and warrants that it has all licenses

and permits necessary to conduct its business and perform its obligations under this Agreement, and agrees to comply with all applicable federal, state, and local statutes, regulations, codes, ordinances, and policies in performing its obligations under this Agreement.

ARTICLE 9 - SUPERVISION. All services required herein will be performed by the AGENCY under its supervision, and all personnel engaged in the work shall be qualified and authorized or permitted under law to perform such services. AGENCY shall employ certified Ambulance Biller/Coders to provide coding and billing services for COUNTY.

ARTICLE 10 – ACCURACY OF WORK. AGENCY shall endorse all reports, data, and information derived in the performance of this Agreement and shall be responsible for the accuracy of the work. Throughout the work, AGENCY will prepare printed responses to comments received from COUNTY following review of work performance, invoices, and other related documents. AGENCY shall promptly correct errors and omissions in its data, assessments, and/or reports without additional compensation. AGENCY will re-perform any services not meeting acceptable standard without additional compensation. The AGENCY shall give immediate attention to any corrections or changes to minimize delay to others.

ARTICLE 11 – INDEPENDENT CONTRACTOR. The parties agree that AGENCY's relationship to COUNTY in providing services hereunder shall be that of an independent agency. Nothing in this Agreement, nor any performance hereunder, is intended or shall be construed to create a partnership, joint venture or relationship of agency or employment between COUNTY and AGENCY. In providing services hereunder, AGENCY shall represent itself to third parties as an independent agency to COUNTY and shall not hold itself out as having any authority to obligate COUNTY.

ARTICLE 12 – NO CONFLICT. AGENCY represents that it has secured or will secure all personnel necessary to complete this Agreement; none of whom shall be employees of, or have any contractual relationship with COUNTY, to include officers or government officials, without the written permission of COUNTY, except as may otherwise be provided for herein. AGENCY is responsible for the payment of all employees' salaries, and for all other expenses incurred in connection with the performance of the duties and responsibilities established herein, except as otherwise provided. AGENCY covenants that it presently has no interest, nor shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance required under this Agreement. AGENCY further covenants that in the performance of this Agreement, no person having any such interest shall be employed or contracted with. No member, officer, or employee of COUNTY during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE 13 - CONFIDENTIALITY. AGENCY acknowledges that all documents, reports, assessments, information, data, and studies prepared by the AGENCY upon completion of the Agreement, shall be the property of COUNTY and be delivered thereto. Articles, papers, bulletins, reports, materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without prior written approval of COUNTY. Unless required by law, AGENCY agrees that its conclusions and any reports are for the confidential use and information of COUNTY and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to COUNTY, and will only discuss the same with it or its authorized representatives. It is further agreed that, unless required by law, if any information should be released by the AGENCY without prior approval from COUNTY, the release of same shall constitute grounds for termination of this Agreement without indemnity to the AGENCY, but should any such information be released by COUNTY or by the AGENCY with such prior approval, the same shall be

regarded as public information and no longer subject to the restrictions of this Agreement.

ARTICLE 14 – INSURANCE. shall at all times that this Agreement is in effect, cause to be maintained in force and effect an insurance policy(s) that will ensure and indemnify COUNTY against liability or financial loss resulting from injuries occurring to persons or property or occurring as a result of any negligent error, act, or omission of the AGENCY in performance of the work during the term of this Agreement. AGENCY shall provide, at all times that this Agreement is in effect, insurance with limits of not less than:

- a) Workmen's Compensation Insurance in accordance with the State of Florida;
- b) Commercial General Liability Insurance in an amount of not less than One Million (\$1,000,000) Dollars for injuries, including those resulting in death to any one person, and in an amount of not less than One Million (\$1,000,000) Dollars on account of any one occurrence;
- c) Professional Liability Insurance in an amount of not less than One Million (\$1,000,000) Dollars or an amount that correlates to the aggregate fee on the project should it exceed \$1,000,000.

All policies of insurance required under this Paragraph will provide that they may not be canceled nor the coverage materially changed without thirty (30) days prior written notice to COUNTY. COUNTY will be named as an additional insured with respect to AGENCY's liabilities hereunder in insurance coverage identified in items B & C. Such policies shall name COUNTY as a co-insured, except for worker's compensation and professional liability policies, and a copy of such policy or a certificate of insurance shall be filed with the Risk Manager at the time of the execution of this Agreement.

ARTICLE 15 - CONTRACT DOCUMENTS. The Contract Documents consist of the following:

- (1) This Agreement;
- (2) Certificate(s) of Liability Insurance;
- (3) Request for Proposals 2023036 and Addendum 1;
- (4) AGENCY'S Submitted Proposal, including all forms;
- (5) Written Amendments to the agreement, executed by both parties.

ARTICLE 16 - MISCELLANEOUS

16.01 *Terms* - Terms used in this Agreement will have the meanings indicated in the Request for Proposals.

16.02 *Assignment of Agreement* - No assignment by a party hereto of any rights under or interests in the Agreement will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement Documents.

16.03 *Successors and Assigns* - COUNTY and AGENCY each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

16.04 *Severability* - Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon COUNTY and AGENCY, who agree that the Contract Documents shall be reformed to

replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

16.05 *Venue* - This Agreement shall be governed by the laws of the State of Florida. Venue for any lawsuit brought by either party against the other party or otherwise arising out of this Agreement shall be in Indian River County, Florida, or, in the event of a federal jurisdiction, in the United States District Court for the Southern District of Florida.

16.06 *Public Records Compliance* - COUNTY is a public agency subject to Chapter 119, Florida Statutes. AGENCY shall comply with Florida's Public Records Law. Specifically, the AGENCY shall:

- (1) Keep and maintain public records required by the COUNTY to perform the service.
- (2) Upon request from the COUNTY's Custodian of Public Records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the AGENCY does not transfer the records to the COUNTY.
- (4) Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the AGENCY or keep and maintain public records required by the COUNTY to perform the service. If the AGENCY transfers all public records to the COUNTY upon completion of the contract, the AGENCY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the AGENCY shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the Custodian of Public Records, in a format that is compatible with the information technology systems of the County.

IF THE AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

(772) 226-1424

publicrecords@ircgov.com

Indian River County Office of the County Attorney

1801 27th Street

Vero Beach, FL 32960

Failure of the AGENCY to comply with these requirements shall be a material breach of this Agreement.

16.07 *E-Verify* – AGENCY is registered with and will use the Department of Homeland Security's E-Verify system (www.e-verify.gov) to confirm the employment eligibility of all newly hired employees for the

duration of this agreement, as required by Section 448.095, F.S. AGENCY is also responsible for obtaining an affidavit from all subcontractors, stating the subcontractor(s) does not employ, contract with, or subcontract with an unauthorized alien.

16.08 *Foreign Counties of Concern* – AGENCY is not owned by the government of a foreign country of concern, no government of a foreign country of concern has controlling interest in AGENCY, and AGENCY is not organized under the laws of, or has its principal place of business in a foreign country of concern.

Article 17 - TERMINATION

17.01 *Termination for Cause* – Either party may terminate this Agreement if the other party materially breaches this Agreement, unless (i) the breaching party cures the breach within 10 days following receipt of notice describing the breach in reasonable detail, or (ii) with respect to a breach which may not reasonably be cured within a 10-day period, the breaching party commences, is diligently pursuing cure of, and cures the breach as soon as practical following receipt of notice describing the breach in reasonable detail.

17.02 *Immediate Termination* – Either party may terminate this Agreement immediately as a result of the following:

- (1) Failure of COUNTY to make timely payments due under this Agreement;
- (2) Injury to any customer, independent contractor, employee or agent of the other party hereto arising from the gross negligence or willful misconduct of a party;
- (3) Harassment of any employee or contractor of a party or commitment of any act by a party which creates an offensive work environment; or
- (4) Commitment of any unethical or immoral act which harms the other party or could have the effect of harming the other party.
- (5) If AGENCY abandons the work, is adjudged bankrupt, or if AGENCY makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for AGENCY, or for any of its property.

17.03 *Scrutinized Companies* – AGENCY certifies that it and those related entities of AGENCY as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. In addition, if this agreement is for goods or services of one million dollars or more, AGENCY certifies that it and those related entities of AGENCY as defined by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria. COUNTY may terminate this Contract if AGENCY is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, as defined by section 287.135, Florida Statutes. COUNTY may terminate this Contract if AGENCY, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit, is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes.

17.04 *Liability Following Termination* – If the agreement is terminated as a result of paragraphs 17.01, 17.02, except when termination is caused by COUNTY's violation, or 17.03, the AGENCY shall be liable for:

- (1) any new cost incurred by the COUNTY in soliciting bids or proposals for and letting a new contract; and
- (2) the difference between the cost of completing the new contract and the cost of completing this Contract;
- (3) any court costs and attorney's fees associated with any lawsuit undertaken by COUNTY to enforce its rights herein.

ARTICLE 18 – AGENCY REQUIREMENTS

A. Agency agrees to:

- (1) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (2) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (3) Report to COUNTY any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- (4) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the AGENCY agree to the same restrictions, conditions, and requirements that apply to the AGENCY with respect to such information;
- (5) Make available protected health information in a designated record sent to the COUNTY, as necessary to satisfy COUNTY's obligations under 45 CFR 164.524;
- (6) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the COUNTY pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy COUNTY's obligations under 45 CFR 164.526;
- (7) Maintain and make available the information required to provide an accounting of disclosures to the COUNTY, as necessary to satisfy COUNTY's obligations under 45 CFR 164.528;
- (8) To the extent the AGENCY is to carry out one or more of COUNTY's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the COUNTY in the performance of such obligation(s); and
- (9) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

B. Permitted Uses and Disclosures by AGENCY

- (1) AGENCY may only use or disclose protected health information as necessary to perform the services set forth in Agreement.

(2) AGENCY may use or disclose protected health information as required by law.

(3) AGENCY may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164, if done by COUNTY.

IN WITNESS WHEREOF, COUNTY and AGENCY have signed this Agreement in duplicate. One counterpart each has been delivered to COUNTY and AGENCY. All portions of the Contract Documents have been signed or identified by COUNTY and AGENCY or on their behalf.

This Agreement will be effective on _____, 20__ (the date the Agreement is approved by the Indian River County Board of County Commissioners, which is the Effective Date of the Agreement).

COUNTY:

INDIAN RIVER COUNTY

By: _____
Joseph H. Earman, Chairman

By: _____
John A. Titkanich, Jr., County Administrator

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
William K. DeBaal, County Attorney

Ryan L. Butler, Clerk of Court and Comptroller

Attest: _____
Deputy Clerk

(SEAL)

Designated Representative:
David Johnson, Emergency Services Director
4225 43rd Avenue
Vero Beach, FL 32967
772-226-3947
djohnson@ircgov.com

AGENCY:

EMS Management & Consultants, Inc.

By: _____
(Contractor)

(CORPORATE SEAL)

Attest _____

Designated Representative:
Jay Gyure, CFO
2540 Empire Dr., Suite 100, Winston-Salem, NC 27103
336-525-7079
Jay.gyure@emsbilling.com

Exhibit A – Other fees

\$9.50	Per Medicaid Claim
6%	Reimbursements received by County under PEMT program for Medicaid FFS provided by PCG