

Attachment 2:
First Amendment to K'ima:w Medical Center Memorandum of Understanding

**FIRST AMENDMENT
MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
K'IMA:W MEDICAL CENTER
FOR FISCAL YEAR 2017-2018**

This First Amendment to the Memorandum of Understanding ("MOU") dated October 24, 2017, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and K'ima:w Medical Center, a duly chartered entity of the Hoopa Valley Tribe, a sovereign Tribal government, hereinafter referred to as "KMC," is entered into this 6th day of February, 2018.

WHEREAS, COUNTY placed a one-half (.5) cent local sales and use tax measure, known as "Measure Z," on the November 2014 ballot to maintain and improve essential services; and

WHEREAS, Measure Z was passed by the voters of Humboldt County on November 4, 2014 and became operative on April 1, 2015; and

WHEREAS, on June 27, 2017, the Humboldt County Board of Supervisors approved an allocation of Measure Z funding to KMC in the amount of Three Hundred Twelve Thousand Eight Hundred One Dollars (\$312,801.00) for the purpose of paying the costs and expenses associated with providing emergency medical services in the eastern portion of Humboldt County; and

WHEREAS, on October 24, 2017, COUNTY and KMC entered into a MOU which sets forth each party's rights and responsibilities regarding the expenditure of Measure Z funds allocated to KMC for the purpose of paying the costs and expenses associated with providing emergency medical services in the eastern portion of Humboldt County; and

WHEREAS, on November 14, 2017, the Humboldt County Board of Supervisors approved an additional allocation of Measure Z funding to KMC in the amount of Twenty-One Thousand Nine Hundred Thirty-One Dollars (\$21,931.00) for the purpose of paying the costs and expenses associated with purchasing digital radios to ensure reliable communication with emergency personnel in the eastern portion of Humboldt County; and

WHEREAS, the parties now desire to amend certain provisions of the MOU to adjust the obligations set forth therein.

NOW THEREFORE, the parties mutually agree as follows:

1. Section 1 – "County Obligations" of the MOU is hereby amended to read as follows:

1. COUNTY OBLIGATIONS:

A. Payment for Emergency Medical Services. COUNTY will provide KMC with an amount not to exceed Three Hundred Twelve Thousand Eight Hundred One Dollars (\$312,801.00) for the purpose of paying the costs and expenses associated with providing emergency medical services in the eastern portion of Humboldt County

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- B. Payment for Equipment-Related Purchases. COUNTY will provide KMC with an amount not to exceed Twenty-One Thousand Nine Hundred and Thirty-One Dollars (\$21,931.00) for the purpose of paying the costs and expenses associated with purchasing five (5) digital radios and the batteries, antennas and chargers necessary for the operation thereof.

2. Section 2 – “KMC Obligations” of the MOU is hereby amended to read as follows:

2. KMC OBLIGATIONS:

- A. Emergency Medical Services. KMC will continue to provide emergency medical services, including, without limitation, Advance Life Support services administered by appropriately trained paramedics, twenty-four (24) hours per day, seven (7) days per week, to the residents, vendors and visitors, within the service coverage area set forth in Exhibit G – Service Coverage Area, which is attached hereto and incorporated herein by reference.
- B. Willow Creek Ambulance Base. KMC will continue to operate and maintain one (1) ambulance in the Willow Creek Ambulance Base which shall provide emergency medical services to the eastern portion of Humboldt County.
- C. Equipment-Related Purchases. KMC shall purchase five (5) digital radios, and the batteries, antennas and chargers necessary for the operation, thereof in order to ensure reliable communication with emergency personnel in the eastern portion of Humboldt County. All equipment purchased pursuant to the terms and conditions of this MOU shall become the property of KMC.
- D. Quarterly and Final Reports. KMC will provide quarterly and final reports to COUNTY as set forth in Exhibit B – Quarterly and Final Summary Reports – which is attached hereto and incorporated herein by reference. Any and all quarterly and final reports required hereunder shall be prepared using COUNTY’s standard Measure Z report form, which is attached hereto as Exhibit C – Quarterly and Final Report Form – and incorporated herein by reference.
- E. Social Media. KMC will post summaries of the information contained in the quarterly and final reports submitted pursuant to the terms and conditions of this MOU on KMC-maintained social media accounts as set forth in Exhibit D – Social Media Reporting Requirements – which is attached hereto and incorporated herein by reference. For purposes of this MOU, social media includes, but is not limited to, Facebook, Twitter, Instagram and Snapchat.
- F. Recognition of Measure Z Funding. KMC shall cooperate with COUNTY efforts to recognize Measure Z funding. Such recognition may take the form of press releases, photos and adhesives to equipment.

3. Section 4 – “Termination” of the MOU is hereby amended to read as follows:

4. TERMINATION:

- A. Breach of Contract. Either party may immediately terminate this MOU, upon written notice, in the event that the other party materially defaults in performing any obligation under this MOU, or violates any ordinance, regulation or other law

applicable to its performance herein.

- B. Without Cause. Either party may terminate this MOU without cause by providing the other party with thirty (30) days advanced written notice. Receipt of such notice by either party shall begin the thirty (30) day period required for termination. KMC shall be entitled to an appeal to the Humboldt County Board of Supervisors upon receipt of the termination notice.
- C. Insufficient Funding. COUNTY's obligations under this MOU are contingent upon the availability of local funding resulting from the sales and use tax established by Measure Z. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this MOU shall be terminated. COUNTY shall provide KMC thirty (30) days advance written notice of its intent to terminate this MOU due to insufficient funding.
- D. Compensation Upon Termination. In the event this MOU is terminated, KMC shall be entitled to compensation for uncompensated costs and expenses incurred pursuant to the terms and conditions of this MOU through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this MOU by KMC.

4. Section 5 – “Compensation” of the MOU is hereby amended to read as follows:

5. Compensation:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for the costs and expenses incurred pursuant to the terms and conditions of this MOU is Three Hundred Thirty-Four Thousand Seven Hundred Thirty-Two Dollars (\$334,732.00). KMC agrees to perform all of its obligations hereunder for an amount not to exceed such maximum dollar amount. However, if the allocation of local funding resulting from the sales and use tax established by Measure Z is reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable hereunder, or terminate this MOU as provided herein.
- B. Schedule of Rates. KMC shall set forth the specific rates and costs applicable to this MOU using COUNTY's standard Measure Z budget form, which is attached hereto as Exhibit E – Schedule of Rates – and incorporated herein by reference.
- C. Additional Costs and Expenses. Any additional costs and expenses not otherwise provided for herein shall not be incurred by KMC, or compensated by COUNTY, without written authorization by COUNTY. All unauthorized costs and expenses incurred above the maximum payable amount set forth herein shall be the responsibility of KMC. KMC shall notify COUNTY, in writing, at least six (6) weeks prior to the date upon which KMC estimates that the maximum payable amount will be reached.

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5. Section 6 – “Payment” of the MOU is hereby amended to read as follows:

6. PAYMENT:

KMC shall submit to COUNTY quarterly invoices itemizing all costs and expenses incurred, pursuant to the terms and conditions of this MOU. Invoices shall be in the format set forth in Exhibit F – Measure Z Invoice Form – which is attached hereto and incorporated herein by reference. KMC shall submit a final undisputed invoice for payment within thirty (30) days following the expiration or termination date of this MOU. Payment for the costs and expenses incurred pursuant to the terms and conditions of this MOU will be made within thirty (30) days after the receipt of approved invoices. All invoices submitted by KMC shall be sent to COUNTY at the following address:

COUNTY: Humboldt County Administrative Office
Attention: Elishia Hayes, Senior Administrative Analyst
825 Fifth Street, Room 112
Eureka, California 95501

6. Section 8 – “Record Retention and Inspection” of the MOU is hereby amended to read as follows:

8. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. KMC agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the costs and expenses incurred pursuant to the terms and conditions of this MOU, and to maintain and preserve said records for at least three (3) years from the date of final payment hereunder, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. Such records shall be original entry books with a general ledger itemizing all debits and credits for the costs and expenses incurred pursuant to the terms and conditions of this MOU.
- B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of KMC, and its subcontractors, related to the costs and expenses incurred pursuant to the terms and conditions of this MOU, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after the date of final payment hereunder. KMC hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by COUNTY and any other duly authorized local, state and/or federal agencies. COUNTY, and any other duly authorized local, state and/or federal agencies, may request interviews of KMC employees who have information related to such records. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the costs and expenses incurred pursuant to the terms and conditions of this MOU, including, but not limited to, the costs of administering this MOU.
- C. Submittal of Records to North Coast Emergency Medical Services. KMC will continue to maintain and provide financial and performance records to North Coast Emergency Medical Services in accordance with COUNTY’s record retention requirements.

7. Section 9 – “Monitoring” of the MOU is hereby amended to read as follows:

9. MONITORING:

KMC agrees that COUNTY has the right to monitor all activities related to the Willow Creek ambulance service, including, without limitations the right to review and monitor records, programs or procedures related thereto, at any time, as well as the overall operation of KMC's programs in order to ensure compliance with the terms and conditions of this MOU. KMC will cooperate with a corrective action plan, if deficiencies in KMC's records, programs or procedures are identified by COUNTY. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of KMC's performance hereunder.

8. Section 13 – “Indemnification” of the MOU is hereby amended to read as follows:

13. INDEMNIFICATION:

A. Hold Harmless, Defense and Indemnification. KMC shall hold harmless, defend and indemnify COUNTY and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, KMC's negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. Effect of Insurance. Acceptance of the insurance required by this MOU shall not relieve KMC from liability under this provision. This provision shall apply to all claims for damages related to KMC's performance hereunder, regardless of whether any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by KMC hereunder.

9. Section 16 – “Compliance with Applicable Laws and Licensure Requirements” of the MOU is hereby amended to read as follows:

16. COMPLIANCE WITH APPLICABLE LAWS AND LICENSURE REQUIREMENTS:

KMC agrees to comply with any and all local, state, federal and tribal laws and regulations applicable to KMC's performance hereunder. KMC further agrees to comply with any and all applicable local, state and federal licensure and certification requirements.

10. Except as modified herein, the MOU dated October 24, 2017 shall remain in full force and effect. In the event of a conflict between the provisions of this First Amendment and the original MOU, the provisions of this First Amendment shall govern.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have entered into this First Amendment as of the first date written above.

K'IMA:W MEDICAL CENTER:

By: Mary Benedict
Name: Mary Benedict
Title: ICEO

Date: 12/8/17

COUNTY OF HUMBOLDT:

By: Ryan Sundberg
Ryan Sundberg
Chair, Humboldt County Board of Supervisors

Date: 2/6/18

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: K. Barr
Risk Management

Date: 1/11/18