

**THIRD AMENDMENT  
TO  
CONTRACT NO. 2015109  
BETWEEN  
MERCED COUNTY  
AND  
AMS.NET, INC.**

THIS Third Amendment is by and between the County of Merced, a political subdivision of the State of California, (hereinafter called "County"), and AMS.NET, Inc. (hereinafter called "Contractor").

WHEREAS, the original term of Contract No. 2015109 commenced on July 7, 2015 and continues through July 6, 2018; and,

WHEREAS, the First Amendment to Contract No. 2015109 modified Section 5, Program Utilization Requirements which outlines procedures for other public agencies wishing to utilize the Fast Open Contracts Utilization Services (FOCUS) Program; and,

WHEREAS, the Second Amendment to Contract No. 2015109 modified Section 2, Term with the Agreement commencing on July 7, 2015 and continuing through July 6, 2019; and,

WHEREAS, in each instance in which the provisions of this Third Amendment shall contradict or be inconsistent with the provisions of the printed portion of the Agreement, the provisions of this Amendment shall prevail and govern and the contradicted or inconsistent provisions shall be deemed amended accordingly.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

**MODIFICATIONS:**

- 1) Section 2, entitled "TERM", is amended as follows:

The term of this Agreement shall commence on the 7th day of July, 2015, and continue until the 6th day of July, 2020, subject to the right of termination as set forth herein.

- 2) Section 12, entitled "INSURANCE", is amended as follows:

A. Prior to the commencement of work, and as a precondition to this contract, CONTRACTOR shall purchase and maintain the following types of insurance for the stated minimum limits indicated during the term of this Agreement. CONTRACTOR shall provide a certificate of insurance and endorsements naming COUNTY as an additional insured on each policy. The insurance carrier shall be required to give COUNTY notice of termination at least 10 days prior to the intended termination of any specified policy. Each certificate of insurance shall specify if CONTRACTOR has a SIR, and if so, CONTRACTOR shall be required to provide the entire policy of insurance with which it has a SIR and/or deductible. All deductibles and self-insured retentions shall be fully disclosed in the Certificates of Insurance and are subject to the express written permission of the COUNTY Risk Manager.

1. Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 annual aggregate covering bodily injury, personal injury and property damage. The County and its officers, employees and agents shall be endorsed to above policies as additional insured, using ISO form CG2026 or an alternate form that is at least as broad as form CG2026, as to any liability arising from the performance of this Agreement.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage, or alternatively split limits of \$500,000 per person and \$1,000,000 per accident for bodily injury with \$250,000 per accident for property damage.

3. Workers Compensation: Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the County.
4. Technology Professional Liability Errors and Omissions Insurance appropriate to the CONTRACTOR's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the CONTRACTOR in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
  - a. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the CONTRACTOR. If not covered under the CONTRACTOR's liability policy, such "property" coverage of the Agency may be endorsed onto the CONTRACTOR's Cyber Liability Policy as covered property as follows:

Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency that will be in the care, custody, or control of CONTRACTOR.

B. Insurance Conditions

1. Insurance is to be primary and non-contributory with any insurance of the County and placed with admitted insurers rated by A.M. Best Co. as A: VII or higher. Lower rated, or approved but not admitted insurers, or any other requirement changes (such as limits) are subject to the prior approval of the County Risk Manager.
2. Each of the above required policies shall be endorsed to provide County with 30 days prior written notice of cancellation. County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Contractor to furnish insurance during the term of this Agreement.
3. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.
4. If the Contractor uses Sub-Contractors or others to perform work under this contract, such Sub-Contractor or other persons shall be Named Insured or Additionally Insured to the Contractor's required insurance coverage, or required by the Contractor to comply with equivalent insurance and conditions of this Section.

Except as herein modified, all terms and conditions in said Agreement as heretofore approved remain unchanged and in full force and effect.

County of Merced

  
\_\_\_\_\_  
Signature

Lloyd Pareira JUN 4 2019  
\_\_\_\_\_  
Name

Chairman, Board of Supervisors  
\_\_\_\_\_  
Title


AMS.NET, Inc. Corporate Officer

  
\_\_\_\_\_  
Signature

Diana Monaghan  
\_\_\_\_\_  
Name

Vice President  
\_\_\_\_\_  
Title

APPROVED AS TO LEGAL FORM:  
James N. Fincher  
Merced County Counsel

  
\_\_\_\_\_  
for Jeff Grant, Deputy County Counsel IV  
Janinda Gunawardene