

**City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277**

GRANTOR: Whidbey Island Public Hospital District
GRANTEE: City of Oak Harbor
LEGAL DESCRIPTION: Interlocal Agreement City of Oak Harbor
No property exchanging hands
PARCEL NO: n/a

INTERLOCAL AGREEMENT FOR EMS SERVICES

WHEREAS, the City of Oak Harbor, a municipal corporation, hereinafter referred to as "City", and Whidbey Island Public Hospital District, hereinafter referred to as "District", concur on entering into an agreement pertaining to the District reimbursing the City in part for assisting with pre-hospital emergency medical responses in Oak Harbor, Washington; and

WHEREAS, the District is supported by a levy to provide emergency medical services to all of Whidbey Island;

WHEREAS, the parties along with other Fire Departments on Whidbey Island have made arrangements relating to the provision of emergency medical services for Whidbey Island;

Now, therefore,

The parties hereto agree as follows:

1. Term. This Agreement commences on January 1, 2016 ("Commencement Date"), and will continue in effect for two (2) years until December 31, 2017, unless terminated earlier under Section 8 below.
2. EMS Services. The City shall provide the emergency medical services listed on Exhibit A (the "EMS Services") for the District. The City shall provide EMS Services in the manner required to ensure the District's compliance with the guidelines of applicable accrediting agencies, with all rules and regulations promulgated by local, state, and federal regulatory agencies and with all requirements necessary for the District to bill patients and third party payers for the EMS services should the District decide to do so. The City shall provide EMS services only through City Fire Department personnel who are appropriately trained and licensed first responders or emergency medical technicians.
3. Payment and Calculation. The District shall compensate the City for the EMS Services provided under this Agreement according to a payment methodology set forth below.
 - a. The District will pay to the City a fixed amount of \$98.75 per call based on the City's number of emergency medical responses excluding motor vehicle accidents, patient entrapment and high angle rescues each year. Only CPR calls and requests for medical response by the District will be used in total run calculation.
 - b. The City's number is based on the City's total pre-hospital emergency medical responses made by the City's fire department. For example, if the City completed 400 responses, they would be compensated at \$98.75 per call for a total of \$39,500. Only those responses where the City documents that they arrived at the scene of an emergency and were prepared to provide EMS Services or that they had initiated an EMS response that was cancelled by the District prior to the City's arrival at the scene shall be included in the calculation. The City and the District shall agree to necessary documentation which the District must be able to audit for verification of the payment calculation.
 - c. The City will invoice the District semi-annually for the current contract year. Invoicing will occur during July for the previous 6 months of service (January 1 – June 30) and during January for the previous 6 months of service (July 1 – December 31). The District will remit payment within 30 days of invoicing. All calls for service as entered into the Records Management System (RMS) using 311 (assist other EMS agency) code will be used as the basis for billing.
 - d. Payments to the City under this Agreement can be used to provide emergency medical care or emergency medical services, including related

personnel costs, training for such personnel and related equipment, supplies, vehicles, and structures needed to provide the EMS Services.

4. Financial Responsibility. Each party shall bear financial responsibility for its own respective activities except to extent set out above.
5. Relationship to Existing Agreements. Unless expressly provided otherwise in this Agreement, this Agreement is not intended to modify or supersede existing agreements and shall be construed in a manner which is consistent therewith.
6. Amendments. This Agreement may be amended from time to time by written amendment. All amendments must be agreed to by the City and the District.
7. Termination.
 - a. Termination Without Cause. Either party may terminate this Agreement at any time by giving written notice to the other party at least one hundred twenty (120) days in advance of the termination date.
 - b. Immediate Termination by the District for Cause. The District may terminate this Agreement immediately upon written notice to the City if the City fails to perform any term or condition of this Agreement, or fails to comply with the policies, standards or regulations of the District after written notice and a reasonable opportunity to cure.
8. Administration.
 - a. The provisions of this Agreement shall be managed by District Administrator and Oak Harbor Fire Chief. They shall meet as necessary to ensure that the provisions of this Agreement are fulfilled, and shall maintain records of all actions as required to accomplish the work of the Agreement. They may delegate responsibilities under this Agreement as they chose fit.
 - b. This Agreement is not intended to create an independent government body to manage the provisions of this Agreement.
9. Property. There is no joint property to be held under this agreement.
10. Indemnification.
 - a. The District shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the District, its officers, agents and employees, or any of them, in the performance of activities carried out under this Agreement. In the event that any such suit based upon such a claim, action, loss or damage is brought against the City,

the District shall defend the same at its sole cost and expense. If final judgment be rendered against the City and its officers, agents and employees, or any of them, or jointly against the City and the District and their respective officers, agents and employees, or any of them, the District shall satisfy same.

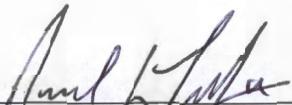
- b. In executing this Agreement, the District does not assume liability or responsibility for, or in any way release the City from liability or responsibility which arises in whole or in part from the existence or effect of City's own negligence, act or omission. If any cause, claim, suit or action is commenced in which the City's negligent act or omission is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the District, or both, the City shall satisfy the same, including all chargeable costs and attorney's fees.
- c. The City shall indemnify and hold harmless the District and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the City, its officers, agents and employees, or any of them, in the performance of the activities it undertakes pursuant to this Agreement. In the event that any such suit based upon such a claim, action, loss or damage is brought against the District, the City shall defend the same at its sole cost and expense. If final judgment be rendered against the District and its officers, agents and employees, or any of them, or jointly against the City and the District and their respective officers, agents and employees, or any of them, the City shall satisfy the same.
- d. In executing this Agreement, the City does not assume liability or responsibility for, or in any way release the District from liability or responsibility which arises in whole or in part from the existence or effect of the District's negligence, act or omission. If any cause, claim, suit or action proceeding is commenced which the source of liability is the Hospital's negligence, act or omission of care, the District shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the District, or both, the District shall satisfy the same, including all chargeable costs and attorney's fees.

- 11. Insurance. The City shall maintain and/or ensure the maintenance of, at its sole expense, policies of professional liability insurance issued by reputable commercial insurers licensed to do business in Washington or a system of self insurance or membership in an insurance pool that is acceptable to the District and that cover the City and any City personnel against claims of professional malpractice or negligence that arise out of or relate to EMS Services provided under this Agreement. The insurance or self-insurance or insurance pool shall have minimum policy limits of One Million Dollars (\$1,000,000) per incident and Five

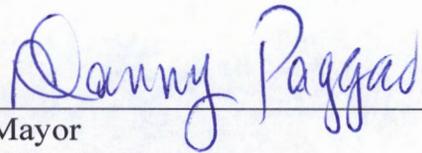
Million Dollars (\$5,000,000) in the annual aggregate.

12. Dispute Resolution. All disputes between the parties, including, without limitation, disputes missing from or relating to this Agreement or the relationship between the parties, shall be resolved by the dispute resolution process set forth in Exhibit B.
13. Severability. In the event that any provision of this Agreement is declared invalid or illegal, such declaration shall in no way affect or invalidate any other provisions thereof, and such other provisions shall remain in full force and effect.

DATED this 15th day of December, 2015.

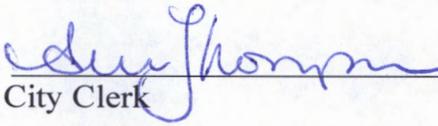


Administrator
Whidbey Island Public Hospital District



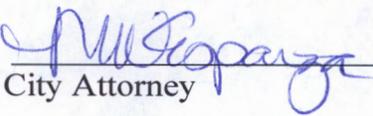
Mayor
City of Oak Harbor

ATTEST:



City Clerk

Approved as to Form:



City Attorney

EXHIBIT A

EMS SERVICES

The City shall provide the following EMS Services for the District:

1. First responder services for any medical emergency that occurs within the boundaries for which the City provides Fire Protection Services, including but not limited to first aid for soft tissue and bone injuries, assist in childbirth and assistance with extracting, packaging, moving and transporting patients.
2. Assistance to District EMS personnel who arrive at the scene, including emergency medical assistance, patient extraction, patient movement and transportation. Such assistance shall be at the Direction of District EMS personnel.
3. Maintain equipment, vehicles and supplies necessary to provide the EMS Services.
4. Ensure that all City personnel who provide services under this Agreement are adequately trained emergency medical technicians or first responders, as deemed appropriate by City and District.

EXHIBIT B

DISPUTE RESOLUTION

1. **POLICY**. The parties hope there will be no disputes arising from this Interlocal Agreement for EMS Services (the "Agreement"). If a dispute arises, the parties shall first try to negotiate a fair and prompt resolution through an internal process. If they are unsuccessful, the dispute shall be resolved by binding arbitration, the parties acknowledging that they intend to give up their right to have any dispute arising out of this Agreement decided in court by a judge or jury. The provisions of the Washington arbitration statute, Chapter 7.04A RCW, are incorporated herein to the extent not inconsistent with the other terms of this Agreement.

2. **INTERNAL DISPUTE RESOLUTION PROCESS**. Each party agrees that if a dispute arises it will promptly notify the other party. The parties shall attempt in good faith to resolve the dispute pursuant to District's internal dispute resolution process. This process shall entail at least one meeting between Hospital administration and the City to discuss the dispute and such meeting may be facilitated, at the request of either party, by an independent facilitator. The cost of the facilitator shall be divided equally between the parties. If the parties are unable to resolve the dispute within 60 days, the dispute shall be resolved by binding arbitration as set forth in Section 3.

3. **BINDING ARBITRATION**. Any controversy or claim between the parties arising from or relating to this Agreement shall be resolved by an arbitration to be commenced in the manner provided in RCW Chapter 7.04A; provided, however, that all statutes of limitations that would otherwise apply shall apply to disputes submitted to arbitration. This process applies regardless of when the dispute arises and will remain in effect after termination of this Agreement.

3.1 **Commencement**. Arbitration shall be commenced by serving a written demand for arbitration on the other party, either personally or by both regular first class mail and certified mail, return receipt requested in accordance with the terms of RCW 7.04.060.

3.2 **Arbitrator**. There shall be one arbitrator selected by mutual agreement of the parties. If the parties cannot, within 15 days after commencement of the Arbitration, agree on an arbitrator, he/she shall be selected by the administrator of the Judicial Dispute Resolution ("JDR") office in Seattle, Washington, within 15 days thereafter. In the event JDR no longer operates in Seattle, the mediator shall be chosen by the administrator of the American Arbitration Association ("AAA") in Seattle, Washington.

When the arbitrator cannot be mutually agreed upon, the party seeking arbitration shall apply to JDR or AAA within 10 days of completion of the internal process and shall request arbitration within 120 days. The venue of the arbitration shall be Coupeville, Washington, or another location agreed to by the parties.

3.3 Arbitrability. The arbitrator shall determine whether a controversy or claim is covered by this Agreement.

3.4 Third-Party Intervention. If either party so requests at any time within 75 days of the submission of the dispute to arbitration, the parties shall try to resolve it by nonbinding third-party intervention, including mediation, evaluation or both, but without delaying the arbitration hearing date.

3.5 Arbitration Procedures. The arbitration shall be conducted under the JDR Dispute Resolution Rules or the AAA Commercial Arbitration Rules, whichever entity presides over the arbitration, in effect on the date that the arbitrator is selected, to the extent consistent with this Exhibit B. Any discovery authorized by the arbitrator shall not extend the time limits established by this section. The arbitrator shall not be bound by the rules of evidence or of civil procedure, but rather may consider such evidence as reasonable business people would consider in the conduct of their day-to-day affairs. The parties wish to minimize the cost of the dispute resolution process. To that end, the arbitrator shall have the authority to limit live testimony and cross-examination and may require the parties to submit some or all of their case by written declaration, but only to the extent the arbitrator determines that such procedure can be done without jeopardizing a fair hearing of the dispute.

3.6 Time Limits. The arbitrator and the parties shall do what is reasonably necessary to conduct the arbitration hearing within 120 days of the date the arbitrator is selected, and the arbitrator shall make every effort to limit the hearing to two days and to render his/her opinion within 14 days after the hearing. The parties have specified these time limits to expedite the proceeding, but they are not jurisdictional, and the arbitrator may for good cause afford or permit reasonable extensions or delays, which shall not affect the validity of the award.

3.7 Construction of Agreement. The arbitrator shall have no authority to add to, subtract from, or otherwise change or modify the provisions of this Agreement and shall only interpret existing provisions of this Agreement as they may apply to the specific facts of the issue in dispute.

3.8 Award. The arbitrator shall render his/her decision in writing. The decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator shall apply applicable law.

Absent fraud, collusion or willful misconduct by the arbitrator, the award shall be final, and judgment may be entered in any court having jurisdiction. The arbitrator may award injunctive relief or any other remedy available from a judge, including the joinder of parties or consolidation of this arbitration with any other involving common issues of law or fact or that may promote judicial economy. If a court, applying applicable substantive state law, would be authorized to award punitive or exemplary damages, the arbitrators shall have the same power, but the arbitrators otherwise shall not award punitive or exemplary damages.

3.9 Representation by Counsel. All parties shall have the right to representation by legal counsel at any stage of the proceedings.

3.10 Costs. The parties shall share equally the cost of the arbitrator's fees, filing fees and any other expenses such as court reporter fees that are jointly incurred. All other costs and expenses, including attorney fees, shall be paid by the party incurring them.

3.11 Failure to Pay Arbitrator's Fee. In the event that any party fails or refuses to pay that party's designated portion of the fees above, the other party who has paid that party's share of the arbitrator's fee may request of the arbitrator an award of default against the non-paying party, which shall be granted absent extenuating circumstances that in the arbitrator's judgment exist making it unfair to grant a default award to the requesting party.