INTERGOVERNMENTAL EMS CONTRACT

Basic Life Support (BLS) High Probability Unit

THIS CONTRACT is made and entered into in duplicate originals this day by and between the COUNTY OF THURSTON, a municipal corporation, hereinafter referred to as the 'COUNTY' and CITY OF OLYMPIA a municipal corporation, hereinafter referred to as the 'AGENCY';

- WHEREAS, Chapter 39.34 RCW authorizes local governments to enter into agreements for joint and cooperative undertakings; and
- **WHEREAS**, regulations over the provision of emergency medical services include Chapters 18.71, 18.73, 70.168 RCW and Chapter 246-976 WAC; and
- WHEREAS, RCW 70.168.120 authorizes the County to establish local emergency medical services care councils; and
- WHEREAS, Thurston County Medic One is supported by a county wide levy in order to provide county wide emergency medical services as provided by law; and
- WHEREAS, certain local agencies have the Basic Life Support (BLS) resources, as defined in State Statute available to provide such services at the requisite level of quality and training; and
- WHEREAS, the COUNTY desires to have the AGENCY perform BLS services as hereinafter set forth; requiring specialized skills and other supportive capabilities; and
 - WHEREAS, sufficient COUNTY resources are not available to provide such services; and
- WHEREAS, On February 29, 2020, the Governor of Washington State adopted Proclamation 20-05 and proclaimed that a State of Emergency exists for all counties in the State of Washington as a result of COVID-19; and
- WHEREAS, On March 12, 2020, the World Health Organization declared COVID-19 a pandemic; and
 - WHEREAS, On March 12, 2020 Thurston County Commissioners declared a local emergency; and
- WHEREAS, On March 12, 2020 Thurston County Commissioners declared a local emergency. On March 13, 2020, the President of the United States declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and
- WHEREAS, the AGENCY represents that it is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise where required, to perform the BLS services set forth in this Contract;

THEREFORE, in consideration of the terms, conditions, covenants, and performance, contained herein, the parties hereto mutually agree as follows:

I. SERVICES

- A. The AGENCY shall perform such services and accomplish such tasks, as are identified and designated as AGENCY responsibilities throughout this Contract (Exhibit 'A').
- B. The COUNTY, through the Thurston County Emergency Medical Services Fund, shall

- reimburse the AGENCY for any expenses associated with the services outlined in this contract (Exhibit 'A')
- C. COUNTY shall provide and manage modems, for the ePCR system, as well as ePCR hardware/software, and associated support. AGENCY is responsible for providing a point of contact to COUNTY's Medic One Business Application Administrator. AGENCY is responsible for providing unlimited cellular data for each modem it uses.
- E. AGENCY shall provide COUNTY with access to COUNTY provided hardware.
- F. AGENCY shall not abuse or misuse COUNTY equipment.

II. <u>EFFECTIVE DATE</u>; <u>DURATION</u>

The term of this Contract and the performance of the AGENCY shall commence on April 13, 2020, and shall renew upon mutual agreement between the parties hereto and pursuant to the terms and conditions herein.

III. THE EMERGENCY MEDICAL SERVICES COUNCIL

- A. The EMS Council is formally established by Thurston County Board of Commissioners Resolution No. 6131, and the EMS Council is recognized by the Washington State Department of Health.
- B. The EMS Council shall advise the COUNTY with regard to the formulation and implementation of an Emergency Medical Services System consistent with State and Federal guidelines, including budget allocations. The EMS Council is not a party to this Contract, and nothing herein shall serve to create third party rights in favour of the EMS Council, or any other person, or entity not specifically identified as a party to this Contract.

IV. COMPENSATION AND METHOD OF PAYMENT

- A. No payment by the COUNTY shall be made for any service rendered by AGENCY except for services identified and set forth in this Contract.
- B. No payment by the COUNTY shall be made for any service rendered by AGENCY without a signed Intergovernmental EMS Contract, for BLS funding.
- C. Invoices and reimbursement requests need to be submitted within 30 days from the date of the service.

V. ESTABLISHMENT AND MAINTENANCE OF RECORDS

A. The AGENCY agrees to maintain books, records and documents and accounting procedures and practices which accurately reflect all direct and indirect costs related to the performance of this Contract. Such fiscal books, records, documents, reports and other data shall be maintained in a manner consistent with the "Budgeting, Accounting, Reporting System for Counties and Cities, and Other Local Governments," referred to as "BARS," as issued by the Office of the State Auditor, State of Washington.

The AGENCY further agrees that the COUNTY and/or State/Federal officials shall have the right to monitor and audit at their own expense the fiscal components of the AGENCY to ensure that actual expenditures remain consistent with the terms of this Contract.

- B. The AGENCY shall retain all books, records, documents and other material relevant to this Contract for the amount of time required by the State of Washington. The AGENCY agrees that the COUNTY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.
- C. The AGENCY'S fiscal management system shall include the capability to provide accurate, current and complete disclosure of the financial status of this Contract upon request.
- D. The patient care records of the Agency as submitted per Exhibit 'A' shall be accessible by the AGENCY for planning, quality control and all applicable public records requests.
- E. If it is determined that a Business Associate Agreement (BAA) is required, it shall be completed as an addendum to this Agreement and incorporated herein.

VI. <u>ASSIGNMENT/SUBCONTRACTING</u>

- A. The AGENCY shall not assign any portion of this Contract without the written consent of the COUNTY, and it is further agreed that said consent must be sought in writing by the AGENCY not less than fifteen (15) days prior to the date of any proposed assignment.
- B. Any work or services assigned hereunder shall be subject to each provision of this Contract and proper bidding procedures where applicable as set forth by local, State and/or Federal statutes, ordinances and guidelines.
- C. The COUNTY will not unreasonably withhold consent. If the COUNTY fails to respond to a request by the agency to assign all or any portion of this Contract within fifteen (15) calendar days, consent shall be deemed to have been given.

VII. FUTURE SUPPORT

The COUNTY makes no commitment to future support and assumes no obligation for future support of the activity contracted for herein, except as may be expressly set forth in this Contract. All compensation methods and formulas shall be reviewed for appropriateness, each contract period.

VIII. COMPLIANCE WITH LAWS

The parties, in performance of this Contract, agrees to comply with all applicable local, State and/or Federal laws and ordinances, including standards for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals and any other standards or criteria as described in this Contract to assure quality of services.

IX. NON-DISCRIMINATION IN EMPLOYMENT AND SERVICES

A. The COUNTY and the AGENCY are equal opportunity employers.

- B. The AGENCY agrees that it shall not discriminate against any employee or applicant on the grounds of race, color, religion, sex, sexual orientation, national origin, creed, marital status, age, veteran status, or the presence of any disability; provided that the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents the particular worker involved from performing the occupational requirements of the job. The AGENCY shall take such action with respect to this Contract as may be required to ensure full compliance with state and federal law.
- C. The AGENCY shall not, on the grounds of race, color, sex, sexual orientation, religion, national origin, creed, marital status, age, veteran status or the presence of any disability deny any individual any services or other benefits provided under this Contract.

X. RELATIONSHIP OF PARTIES

- A. No agent, employee, servant or representative of the AGENCY shall be deemed to be an employee, agent, servant or representative of the COUNTY for any purpose, and the employees of the AGENCY are not entitled to any of the benefits the COUNTY provides for COUNTY employees. The AGENCY shall be solely and entirely responsible for its acts and for the acts of its agents, and employees during the performance of this Contract.
- B. The COUNTY will not exercise control and direction over the work of the AGENCY, with the exception of agency personnel operating under Department of Health's approved protocol, and is interested primarily in the results to be achieved. However, the services contemplated herein must meet the general financial approval of the COUNTY and shall be subject to the COUNTY'S general rights of financial inspection and review to secure the satisfactory completion hereof.
- C. In the event that any of the AGENCY'S employees or agents, carry on activities or conduct themselves in any manner which may jeopardize the funding of this Contract, the AGENCY shall be responsible for taking adequate measures to prevent said employee or agent from performing or providing any of the services contained in this Contract.
- D. Communications between the AGENCY and the COUNTY shall be addressed to the regular place of business:

THURSTON COUNTY c/o MEDIC ONE DIRECTOR 2703 PACIFIC AVE SE, SUITE C OLYMPIA, WA 98501 CITY OF OLYMPIA

E. In the event that the COUNTY or the AGENCY individually or collectively with other AGENCIES providing EMS under this contract have reached an impasse regarding a material portion of this contract, the COUNTY and the AGENCY/AGENCIES may mutually agree to seek the services of a neutral third party for the purposes of fact finding and resolution recommendation regarding the specifics of the impasse. The neutral third-party entity shall be mutually agreed upon by all parties prior to engagement of the neutral third-party entity. Further, all parties shall agree to the purpose for which the neutral third-party entity shall be engaged and said purpose will be reduced to writing and signed by all parties. The recommendation of the third party shall be considered a non-binding recommendation. The cost of neutral third-party fact-finding services and recommendation shall be borne equally by all parties involved.

XI. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.

XII. INDEMNIFICATION; HOLD HARMLESS

- A. All services to be rendered or performed under this Contract shall be performed or rendered entirely at the AGENCY'S own risk and the AGENCY expressly agrees to indemnify and hold harmless the COUNTY and all of its officers, agents, employees, or otherwise, from any and all liability, loss or damage including reasonable costs of defense that they may suffer as a result of claims, demands, actions, or damages to any and all persons or property, costs or judgments against the COUNTY which result from or arise out of the services to be performed by the AGENCY under this Contract; provided, this section shall not apply to liability resulting exclusively from errors or omissions of the COUNTY, its officers, or employees.
- B. The COUNTY expressly agrees to indemnify and hold harmless the AGENCY and all of its officers, agents, employees, or otherwise, from any and all liability, loss or damage including reasonable costs of defense that they may suffer as a result of claims, demands, actions, or damages to any and all persons or property, costs or judgments against the AGENCY which result from or arise out of the failure of products or equipment provided by the COUNTY to the extent such failure results from the negligence of the COUNTY, or the services to be performed by the AGENCY as a result of acting under the express and negligent direction or control of a COUNTY agent or representative, excluding the Medical Program Director or any other medical doctor.
- C. In the event that a claim and/or lawsuit is brought against a party to this Agreement, or against any party's officers, officials or employees for actions arising out of their conduct in responding to a request for assistance, it shall be the duty of each such party to promptly notify the other party that the same has been initiated.
- D. Solely for purposes of enforcing the indemnification obligations of a party under this Section XII, each party expressly waives, by mutual negotiation, its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and agrees that the obligation to indemnify, defend, and hold harmless provided for in this Section XIII extends to any such claim brought against the indemnified party by or on behalf of any employee of the indemnifying party. The foregoing waiver shall not in any way preclude the Indemnifying party from raising such immunity as a defense against any claim brought against the indemnifying party by any of its employees.

XIII. Force Majeure

Neither Agency nor Thurston County Medic One shall be liable for any expenses, losses or damages (except payment of monetary obligations) resulting from delay or failure to perform caused by acts beyond the control of the party delayed or unable to perform including, without limitation, acts or failure to act of government, war, acts of terror, civil unrest, extreme weather conditions, and pandemics (a "Force Majeure Event"). In the event of any delay or failure to perform occasioned by the foregoing, the time for performance will be extended by a period of time equal to the time lost by reason of such delay or failure to perform and any other affected provision(s) of the Agreement including, without limitation, price, shall be equitably adjusted provided that the party delayed or unable to perform provided the other party with written notice of the occurrence and impact of the Force Majeure Event

XIV. INSURANCE

The AGENCY shall maintain insurance coverage sufficient to insure its operations, including professional legal liability and general liability either through membership in a Washington State approved government risk pool or through commercial insurance. Commercial coverage must meet the following minimum requirements:

- Professional Legal Liability: The coverage shall apply to liability for a professional error, act or
 omission arising out of the scope of the AGENCY'S services provided subject to this Contract.
 Coverage shall not exclude bodily injury, property damage or hazards within the scope of the
 AGENCY'S services subject to this Contract.
- 2. **Commercial General Liability**: The AGENCY shall maintain Commercial General Liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than \$1,000,000 per loss, or equivalent coverage provided through a joint self-insurance program approved by the Washington State Risk Manager. This shall automatically increase to a minimum of \$2,000,000 per loss in 2021.
 - a. The AGENCY'S general liability insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3. Other Commercial Insurance Provisions

- a. The AGENCY'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
- b. The AGENCY shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington, or equivalent coverage provided through a joint self-insurance program approved by the Washington State Risk Manager.
- c. Certificates of Insurance or other reasonable notices of coverage shall be provided to the Office or Department issuing the Contract. The address of the Certificate Holder shall be shown as the current address of the Office or Department. Written notice of cancellation or change shall be mailed to the COUNTY at the following address:

Attn: Risk Analyst Human Resources 2000 Lakeridge Drive S.W. Olympia, Washington 98502

XV. SUSPENSION, TERMINATION AND CLOSE-OUT

If the AGENCY fails to comply with the terms and conditions of this Contract, the COUNTY may pursue such remedies as are legally available including, but not limited to, the suspension or termination of this Contract in the manner specified herein.

- Suspension: If the AGENCY fails to comply with the terms of this Contract, or whenever the AGENCY is unable to substantiate full compliance with the provisions of this Contract, the COUNTY may suspend the Contract pending corrective action or investigation, after first allowing a reasonable period for the AGENCY'S cure. The COUNTY shall provide written notice of intent to suspend the Contract, and shall set forth the actions the AGENCY must take, and the time frame within which such action must occur to avoid suspension. If, following such reasonable period for cure the AGENCY fails to cure, the COUNTY may suspend the Contract pending corrective action or investigation by COUNTY employees or their agents. The effective date of suspension shall not be less than seven (7) business days following written notification of suspension to the AGENCY. The suspension shall remain in full force and effect until the AGENCY has taken corrective action to the satisfaction of the COUNTY and is able to substantiate its full compliance with the terms and conditions of this Contract. No obligation incurred by the AGENCY during the period of suspension shall be allowable under the Contract except any reasonable, proper and otherwise allowable costs which the AGENCY could not avoid during the period of suspension. If the AGENCY has corrected its action(s) to the satisfaction of the COUNTY, the COUNTY shall immediately notify the AGENCY in writing that the period of suspension has ended, and shall specify the effective date of the end of such suspension.
- B. Termination for Cause by County: If the AGENCY fails to cure the non-compliance issues that resulted in a suspension of the Contract by the COUNTY, and any of the below-listed conditions exist, the COUNTY may terminate this Contract in whole or in part. If the COUNTY exercises its right to terminate the Contract, it shall notify the AGENCY in writing of the effective date of the termination, and shall set forth the reasons for termination. The COUNTY shall not give less than 21 days' notice of intent to terminate the Contract. After the effective date of termination, no charges incurred by the AGENCY under any terminated portions of the Contract are allowable as against the COUNTY, except for any charges reasonably incurred or encumbered prior to the AGENCY receiving notice of intent to terminate.

Non-compliance, and one of the following conditions provides cause for termination:

- The lack of compliance with the provisions of this Contract are of such scope and nature that the COUNTY deems continuation of this Contract to be substantially detrimental to the interests of the COUNTY;
- The AGENCY has failed to take satisfactory action to correct non-compliance as directed by the COUNTY or its authorized representative within the time specified by same and as set forth in the request to cure notice in Section XIV A.
- C. Termination for Cause by Agency: In the event the COUNTY fails to comply with the terms and conditions of this Contract, the AGENCY shall give notice of such failure and allow a reasonable period for the COUNTY'S cure. Thereafter, in the event the COUNTY fails to cure, the AGENCY may terminate part or all of this Contract upon no less than twenty-one (21) days written notice to the COUNTY.
- D. Termination for Other Grounds: This Contract may also be terminated in whole or in part as follows:
 - 1. By either party with the mutual consent of the other party, in which case the two parties shall devise by mutual written agreement, the conditions of termination including the effective date thereof and in case of termination in part, that portion to be terminated;

- 2. By the COUNTY, if the funds allocated by the COUNTY via this Contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services.
- E. Close-Out: In the event that this Contract is terminated in whole or in part for any reason, the following provisions shall apply:
 - 1. Upon written request by the AGENCY, the COUNTY shall make or arrange for payment to the AGENCY of allowable reimbursable costs not covered by previous payments;
 - 2. The AGENCY shall immediately refund to the COUNTY any monies paid in advance for services not performed;
 - 3. The AGENCY shall submit, within thirty (30) days after the date of expiration of this Contract, all financial, performance and other reports required by this Contract;
 - 4. In the event a financial audit has not been performed prior to close out of this Contract, the COUNTY retains the right to withhold a just and reasonable sum from the final payment to the AGENCY after fully considering the recommendations on disallowed costs resulting from the final audit.

XVI. JURISDICTION

- A. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Contract or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County or in the superior court of the two nearest judicial districts as determined pursuant to RCW 36.01.050.

XVII. SEVERABILITY

- A. It is understood and agreed by the parties hereto that if any part, term or provision of this Contract is held by the courts to be illegal, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with a statute of the State of Washington, said provision which may conflict therewith shall be deemed modified to conform to such statutory provision.

XVIII. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. This agreement replaces all prior interlocal agreements regarding the subject matter contained in this agreement. Further, any modification of this Contract shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and is cause for termination. Both parties recognize time is of the essence in the performance of the provision of

this Contract. It is also agreed by the parties that the forgiveness of the non-performance of any provision of this Contract does not constitute a waiver of the provisions of this Contract.

XIX. NO THIRD PARTY LIABILITY

This Contract shall not be construed to provide any benefits to or create a cause of action for or on behalf of any third parties. Specifically and without limiting the foregoing, this Agreement shall not create or be construed as creating an exception to the Public Duty Doctrine.

XX. DISPUTE RESOLUTION

The parties shall use reasonable efforts to mediate any dispute arising under this Contract. In the event of such a dispute, each party may, upon mutual agreement of both parties, designate, in writing, not more than three (3) candidates it proposes to act as a non-binding mediator within ten (10) days following notification of a dispute. If the parties cannot agree on one of the mediators from the combined list within five (5) days, then the parties shall promptly meet and select a mediator by blind draw. Upon selection of the mediator, the parties shall within forty-five (45) days or as soon thereafter as possible, meet and engage in a mediation of the dispute with the assistance of the mediator. The cost for the mediation services shall be borne equally between the parties, each party paying one-half of the cost. The mediator shall determine reasonable procedures. Testimony and briefing, if any, provided to the mediator shall be inadmissible in any subsequent court proceedings. If mediation fails to resolve the dispute, the parties may thereafter seek redress in a court of competent jurisdiction. Nothing in this section shall be construed to prohibit either party from exercising its right to terminate this Agreement as otherwise provided in this Agreement or be construed as a pre-condition to the exercise of such right to terminate.

XXI. EQUAL OPPORTUNITY TO DRAFT

Each party has had opportunity to consult with counsel in connection with the negotiation, execution and delivery of this Contract. Each of the provisions of this Contract has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would render the provisions of this Contract in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Contract.

XXII. MISCELLANEOUS

Successors. All of the terms, covenants, and conditions in this Contract shall extend to and bind any approved legal successors and assigns of the parties hereto.

Effect of Recitals The headings and recitals in this Contract are for convenience only and do not in any way limit or amplify the provisions of this Contract

Recording. The parties shall ensure that copy of this Contract is filed with the Thurston County Recorder's Office or posted by subject on either party's website.

This Agreement does not establish a separate legal entity, joint board, or administrative section for the purpose of acquiring, managing, or disposing of property or any other financial obligation allowed under the Act.

This Agreement does not provide for jointly owned property. All property presently owned or hereafter acquired by one party to enable it to perform the services required under this Agreement, shall remain the property of the acquiring party in the event of the termination of this agreement.

No Agency Created. This Contract does not create a partnership between the parties and no separate legal entity is created by this Contract. No real or personal property belonging to the COUNTY shall be exchanged with AGENCY during the performance of this Contract. No real or personal property belonging to the AGENCY shall be exchanged with COUNTY during the performance of this Contract.

Contract Administration. This Contract shall be administered by the Fire Chief of the AGENCY and the COUNTY's Emergency Services Director.

Agency Representative

Director, Emergency Services

Thurston County, Washington

JON TUNHEIM
PROSECUTING ATTORNEY

By: Rick Peters Deputy Prosecuting Attorney

EXHIBIT A: SERVICES

I. SERVICE AREA

The following services shall be provided within Thurston County, or for mutual aid response outside of Thurston County, during the term of this Contract.

II. SERVICES

The AGENCY shall provide BLS patient care and follow all applicable COUNTY Medic One protocols. The COUNTY, through the Thurston County Emergency Medical Services Fund, shall provide the AGENCY with financial support, medical supplies, and items in support of Thurston County EMS system. Medic One BLS Funds shall be used to provide additional EMS capacity throughout Thurston County in anticipation of increased demand for EMS services. This includes a partnership between city/county fire agencies and Thurston County Medic One to staff BLS High Probability Units (HPU's) in the county. These HPUs are designed to be scalable to match service demand. The HPUs are not intended to routinely respond to car accidents, rescues, and service calls.

The mission of the HPU is to provide the highest level of service to the citizens of Thurston County, by sending the most appropriate resources at times of high stress on the EMS system. By adding these additional resources, our fire and EMS system will be more capable of surging to meet our community's needs during unprecedented periods of higher stress on the system.

- a. For transporting units, AGENCY shall submit the patient care reporting data before the unit leaves the hospital. If the ePCR system has failed, and patient care reporting data must be submitted in paper form, AGENCY shall submit data within 24 hours.
- B. The AGENCY assumes all responsibility for equipment/supplies received.
- C. AGENCY shall use COUNTY ePCR in the field for patient care, and perform periodic updates as required.
- D. AGENCY shall leave modems, utilized by ePCR, powered on at all times.
- E. AGENCY shall report ePCR outages upon recognition of failure.
- F. AGENCY shall conduct OTEP, in accordance with COUNTY requirements.
- G. AGENCY shall establish, in writing, a BLS POC (point of contact), and provide this to the COUNTY.
- H. Agency shall provide BLS level of service in accordance with State Statute and Department of Health approved protocols.

EXHIBIT B: PAYMENT

- 1. Compensation for this contract will pay for 2 personnel, 10 hours a day based on agency's current rate of pay per hour, per person.
- 2. Volunteers staffing an HPU will be employed by Thurston County Medic One as a Temporary Employee.
- 3. The terms and conditions for compensation are covered in Section IV "Compensation and Methods of Payment" of this agreement.