

STATE OF TEXAS

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COUNTY OF HIDALGO

**FIRST AMENDED INTERLOCAL COOPERATION AGREEMENT FOR
EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF PHARR,
TEXAS AND
THE COUNTY OF HIDALGO, TEXAS**

This First Amended Interlocal Cooperation Agreement For Emergency Medical Services (“Agreement”) is executed on this the _____ day of **May, 2021**, by and between the **CITY OF PHARR, TEXAS**, hereinafter referred to as “City”, and the **COUNTY OF HIDALGO, TEXAS, by and through County Commissioner Precinct # 3**, hereinafter referred to as "Subscriber", pursuant to the provisions of Chapter 791 of the Texas Government Code (Texas Interlocal Cooperation Act) as follows:

WITNESSETH:

WHEREAS, the City operates and maintains an Emergency Medical Service Department, hereinafter referred to as “Pharr EMS” within the corporate city limits of the City of Pharr and other incorporated cities and unincorporated areas within Hidalgo County which choose to subscribe to and be covered as part of this department established by Ordinance Number O-2021__ on April , 2021; and

WHEREAS, the City is a holder of a valid License issued by the Texas Department of State Health Services for operation of a Mobile Intensive Care (MICU) Ambulance, Advanced Life Support and Basic Life Support Services providing services at the Paramedic Level pursuant to Texas Administrative Code 157.11; and

WHEREAS, the Pharr EMS provides emergency medical services and emergency transportation of injured or ill persons to local hospitals; and

WHEREAS, the Subscriber desires to enter this agreement with the City for the provision of certain emergency medical services within the Subscriber’s jurisdiction in order to preserve and protect the health and safety of persons within the Subscriber’s jurisdiction; and

WHEREAS, the City and Subscriber have determined to enter into this agreement relating to the provision of certain emergency medical services within the Subscriber’s jurisdiction and to set out the terms, rights, duties, and responsibilities and the Subscriber with respect thereto; and

WHEREAS, the City and the Subscriber have determined that the provision of certain emergency medical services is a public purpose within their statutory powers of government; and

WHEREAS, the City and Subscriber, acting in accordance with the Interlocal Cooperation Act, Chapter 791, Texas Government Code, desire to work cooperatively for the purpose of fulfilling their respective public and governmental purposes, needs, objectives, and programs.

WHEREAS, Subscribers now desire in this amended agreement to add one additional ALS Ambulance to the scope of services under this Agreement,

NOW, THEREFORE, the Parties agree to the following terms and conditions, as amended herein:

ARTICLE I Purpose

- 1.01 The purpose of this agreement is to extend the operation of the Pharr EMS as the qualified providers for 9-1-1 Emergency Medical Services and Emergency Medical Priority Dispatching into Subscriber's unincorporated areas within the boundaries of County Commissioner Precinct #3, and the jurisdiction or corporate limits of the City of Palmhurst, City of Granjeno, City of Sullivan City, and the City of Penitas, herein after referred to as the "Service Area"
- 1.02 This agreement is for coverage only and not a partnership or joint venture.
- 1.03 The Parties expressly agree that all services to be performed by the City under this agreement are limited to the exercise of a "governmental function" as defined by Section 101.0215 of the Texas Civil Practice & Remedies Code and Section 791.003 of the Texas Government Code; to wit, the operation of an emergency ambulance service. Tex. Civ. Prac. & Rem. Code §101.0215(18); Tex. Gov't Code §791.003(3)(M).
- 1.04 Nothing in this agreement shall be deemed or construed as a waiver of sovereign immunity of the Parties.
- 1.05 This interlocal agreement shall not be deemed or construed in any way as creating a joint venture, joint enterprise, partnership or any other legal arrangement or relationship between the Parties other than an interlocal cooperation contract under Chapter 791.

ARTICLE II Term

- 2.01 The term of this agreement is for a period of 3 years, commencing May 29, 2021 at 6 am and terminating on May 29, 2024 at 6 am, unless the option to extend for an additional on (1) year term is invoked.
- 2.02 Extension of this Interlocal Agreement may be at the mutual written agreement of both parties.

ARTICLE III
Scope of Services

- 3.01 During the term of this agreement, the Pharr EMS shall respond to all calls for emergency medical assistance initiated by the E-9-1-1 System and non-emergency medical transports at the level of Advanced Life Support (ALS) service or Mobile Intensive Care Unit (MICU) capability (the "Emergency Medical Services") within the Subscriber's Service Area.
- 3.02 Pharr EMS agrees to post or respond within Subscriber's Service Area (see Exhibit "A").
- 3.03 Request for emergency ambulance services initiated by anyone other than the E-9-1-1 system, or fire and police departments are not covered by this interlocal agreement.
- 3.04 In order to provide coverage to persons within the Subscriber's Service Area, the City reserves any and all rights to implement changes or modifications in the operation, personnel facilities, equipment, or management of Pharr EMS.
- 3.04 City shall employ and manage the necessary personnel for the operation of an emergency communications center. Sufficient qualified personnel shall be present at all times to provide for prompt answering of telephone calls, TTYs or text messages. Although no specific number of personnel are required or imposed the City's staffing levels shall be such that callers shall not wait more than 3 rings before a call is answered and a person requesting emergency service shall not be placed on hold once a call has been initiated.
- 3.05 Pharr EMS shall provide sufficient personnel, equipment and ambulances on a 24-hour basis to properly and efficiently answer and service all emergency calls that might arise within the subscriber's Service Area. For purposes of this agreement sufficient number of ambulances shall mean one (1) ALS and one (1) MICU or higher services available ambulances at all times, with comparable units available to respond when primary units are in service. The City of Pharr will add one (1) additional ALS Ambulance to the Subscriber's jurisdiction, described in Exhibit "B"

- 3.06 Pharr EMS shall respond to all emergency calls in the subscriber's Service Area within twenty (20) minutes or sooner 90% of the time or otherwise in accordance with accepted standards of care in the field. PHARR EMS will respond in a safe, reasonable and efficient manner and shall comply with all local laws and state laws governing emergency vehicles. The following guidelines shall apply to calculate response times.
- For all emergency calls within the subscriber's jurisdiction or corporate limits, the response time clock shall start with the initial tone out of an active alarm.
 - For all emergency calls within the subscribers jurisdiction or corporate limits, the response time clock shall end with the unit transmission of "unit has arrived on scene"
- 3.07 As required by state law, Pharr EMS shall contract with other ambulance companies to serve as a mutual aid provider as back-up for Pharr EMS, including but not limited to the City of Palmview EMS.
- 3.08 Pharr EMS shall observe and comply with all applicable federal, state, county, and local laws, rules, ordinances and regulations which in any manner affect the provision of the services described in this agreement and shall perform such services in a professional manner in accordance with standard emergency medical services practice.

ARTICLE IV Vehicle, Equipment and Personnel Standards

- 4.01 All motor vehicles used for the purpose of providing ambulance service shall be of the Type and Module as required by the Texas Department of State Health Services.
- 4.02 All motor vehicles used for the purpose of providing ambulance service shall be designed and constructed to transport ill, sick or injured persons in comfort and safety and shall be maintained in clean sanitary and first-class mechanical condition at all times. All vehicles shall be in compliance with any State and Federal standards.
- 4.03 No ambulance that has been substantially damaged or altered shall be placed in service within the Subscriber's Service Area.
- 4.04 City shall be responsible for maintenance of all vehicles, on-board communications, equipment and communications center facilities in

performance of this inter-local.

- 4.05 All ambulances must be individually identified by letter, numbers or a combination thereof, displayed on the front, sides and rear of the unit with letters or numbers at least four (4") in height and must be legible from at least 500ft.
- 4.06 All persons employed by City in performing this agreement shall hold the appropriate certifications and/or licenses as required by the Texas Department of Health.

ARTICLE V Medical Control

- 5.01 City shall ensure the continuous and reliable availability of qualified physician medical control by radio contact with Pharr EMS field personnel. It is the responsibility of City to ensure that adequate medical field protocols are available at all times.
- 5.02 City shall ensure medical quality control is available at all times. City's Medical Director shall evaluate all medial protocols and standing orders annually and purchase all controlled substances.

ARTICLE VI Record Keeping and Reporting

- 6.01 City agrees to keep true and accurate records of its activities undertaken pursuant to this agreement. Such records shall be maintained in accordance with all applicable federal, state and local regulations.
- 6.02 City shall coordinate a monthly meeting with Subscriber, to review monthly summaries of its activities within the Subscriber's Service Area on or before the 15th of each month during the term of this agreement as follows:
- Listing of all EMS calls for service for the previous month broken down by location/address of the call;
 - Type of call;
 - Time the call was received, time dispatched and time of arrival.
 - Any calls greater than the allotted response time will be accompanied by an explanation of delayed response.

ARTICLE VII Consideration for Services

- 7.01 As consideration for the parties fulfilling their respective public and governmental purposes, needs, objectives, and programs, City shall provide

9-1-1 Emergency Medical Services and Emergency Medical Priority Dispatching into Subscriber's Service Area for no additional cost or fees.

Added to the First Amended ILA as of 6-15-2021. In connection with this updated ILA there has been a 3rd ALS Unit added at the request of The City of Penitas and the City of Sullivan City. Please see Exhibit "B" titled "Pharr – Penitas and Sullivan City Interlocal for a 3rd ALS Ambulance".

ARTICLE VIII Termination

- 8.01 Each entity shall have the option to terminate this agreement by notification, in writing, with at least thirty (30) days notice. Notice shall be address to whomever executes this interlocal.

ARTICLE IX Allowable Charges, Billing and Collections

- 9.01 City is authorized to charge for services no more that the rates prescribed under the Pharr Code of Ordinances. Such rates may be change by prior written approval and action of the Pharr Board of Commissioners. City will be responsible for billing persons receiving services and shall conduct all billing and collection activities and procedures.
- 9.02 In addition to any consideration payable by Subscriber to City under Article VII, and in consideration of the services rendered to be rendered to patients in Subscriber's Service Area, Subscriber authorizes and agrees to allow City: (1) to bill the patients or any third party payors (insurers, Medicare, Medicaid, etc.) for the emergency medical services provided by the City to such patients; and (2) to obtain a written assignment of benefits from the patients allowing City the rights to receive payment of any claims or benefits payable for EMS services under any and all insurance policies, employee benefit or medical plans or policies (or the like) and/or third party actions against any responsible tortfeasors.

ARTICLE X Notices and Addresses

- 10.01 All notices provided to be given under this agreement shall be given in person or by certified or registered mail, addressed to the proper party, at the following address:

SUBSCRIBER:

COUNTY OF HIDALGO, TEXAS:
County Judge's Office
100 E. Cano
Edinburg, Texas 78539

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

ARTICLE XI
Texas Law to Apply

11.01 This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are in Hidalgo, County, Texas. Venue of any action arising out of, or relating to this Agreement shall be in the state district courts of Hidalgo County, Texas

ARTICLE XII
Legal Construction

12.01 In case any one or more of the provisions contained in this agreement shall for any reason be invalid, illegal or unenforceable in any respect, such illegality or unenforceability shall not affect any other thereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE XIII
Prior Agreements Superseded

13.01 This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

ARTICLE XIV
Amendment

14.01 No amendment, modification or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

ARTICLE XV
Other Provisions

- 15.01 **Conflict Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between and provision of their Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provision of this Agreement shall be modified only to The extent necessary to bring them within the legal requirements and only during the times such conflict exists.
- 15.02 **No Waiver.** No waiver by any party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
- 15.03 **Entire Agreement.** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by City and County, and not otherwise.
- 15.04 **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
- 15.05 **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
- 15.06 **No Assignment.** This Agreement shall not be assignable, except that the City may assign this agreement to any non-profit corporation created by the City to perform the EMS services contemplated herein.
- 15.07 **Headings.** The headings and captions contained in this Agreement are solely for convenience reference and shall not be deemed to affect the meaning or interpretation of any provision of paragraph hereof.
- 15.08 **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and so often as may be appropriate.

- 15.09 **Authority to Execute.** The execution and performance of this Agreement by the Parties have been fully and duly authorized by each party's governing body and all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of City and County in accordance with its terms.
- 15.10 **Governmental Purpose.** Each party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.
- 15.11 **No Waiver of Rights:** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or equity to a Party, including the defense of sovereign immunity, nor to create any legal rights or claims on behalf of a person not a party to this Agreement.
- 15.12 **Force Majeure.** If any party hereto is rendered unable, wholly or in part, by "Force Majeure" to carry out its obligations under this agreement, then that party should give to the other party hereto prompt written notice of the Force Majeure with reasonable particularities concerning it. Thereupon, the obligations of the party giving the notice, so long as they are affected by the Force Majeure, shall be suspended during, but no longer than a continuance of the Force Majeure, except for a reasonable time thereafter required to resume performance. "Force Majeure" is defined as an act of God (as that term has been interpreted under Texas common law), an act of a public enemy, war, pandemic, endemic and other causes not reasonably within the control of any party hereto. Notwithstanding the foregoing, the parties recognize that the provision of emergency ambulance services is particularly critical during occurrences that may constitute a Force Majeure. Nothing here in is intended to excuse noncompliance with any applicable disaster response plan. Further, the parties shall use their best efforts to continue uninterrupted and undiminished service notwithstanding a Force Majeure.
- 15.13 **HIPAA Requirements.** To the extent applicable to the Agreement, the Parties agree to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. *Section 1320d et seq.* ("HIPAA") and any current and future regulations promulgated under the HITECH Act or HIPAA, including, without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 ("Federal Privacy Regulations"), the federal security standards contained in 45 C.F.R. Parts 160, 162 and 164 ("Federal

Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162 ("Federal Electronic Transactions Regulations"), all as may be amended from time to time, and all collectively referred to herein as "HIPAA Requirements". The Parties agree not to use or further disclose any "Protected Health Information," including Electronic Protected Health Information (as those terms are defined in the HIPAA Requirements), other than as permitted by the HIPAA Requirements and the terms of this Agreement. The Parties agree to make their internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the HIPAA Requirements. If required by such laws, the Parties shall, execute and deliver a Business Associate Agreement. The Parties agree also to comply with state laws and regulations that govern the confidentiality, privacy, security of, and electronic transactions pertaining to patient information.

15.14 Nondiscrimination. City, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made a part of this agreement for all purposes.

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WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

SUBSCRIBER

THE CITY OF PHARR

BY: _____
Richard F. Cortez, County Judge

BY: _____
Ed Wylie, City Manager

ATTEST:

ATTEST:

BY: _____
XXXX

BY: _____
Imelda Barerra, Asst. City Clerk

Approved as to Form:

BY: _____
Patricia, Rigney, City Attorney

Approved as to Form:

BY: _____
Hidalgo County Attorney