

SUBJECT: AUTHORIZING THE BOROUGH MANAGER TO ENTER INTO AN AGREEMENT WITH DELTA MEDICAL LLC FOR EMERGENCY MEDICAL SERVICES IN THE LAKE LOUISE AREA FOR THE CONTRACT PERIOD OF JULY 1, 2020 TO JUNE 30, 2021 FOR AN AMOUNT OF 15,000.

AGENDA OF: August 4, 2020

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: Present to the Assembly for consideration.

APPROVED BY GEORGE HAYS, ACTING BOROUGH MANAGER: 

Route To:	Department/Individual	Initials	Remarks
	Originator	CL	
	Purchasing Officer	QS	7/21/2020
	Emergency Services Director	KB	
	Finance Director	CX	
	Borough Attorney	JS	
	Borough Clerk	GMM 7/27/20	KBJ

ATTACHMENT (S) : Fiscal Note: Yes X No
Emergency Medical Services Agreement (4 pp)
Business Associate Agreement (5 pp)

SUMMARY STATEMENT:

Due to the lack of qualified emergency medical responders for the Lake Louise area and the unusable condition of the ambulance storage building, the determination was made in 2019 that contracting out emergency medical services for that area was the most prudent solution to a lack of services.

RECOMMENDATION OF ADMINISTRATION:

Authorize the Borough Manager to enter into an agreement with Delta Medical LLC for Emergency Medical Services in the Lake Louise Area for the contract period of July 1, 2020 TO June 30, 2021 for an amount of \$15,000.

MATANUSKA-SUSITNA BOROUGH
FISCAL NOTE

Agenda Date: August 4, 2020

SUBJECT: Authorizing the Borough Manager to enter into an agreement with Delta Medical LLC for emergency medical services in the Lake Louise area for the contract period of July 1, 2020 to June 30, 2021 for an amount of \$15,000.

ORIGINATOR: Ken Barkley

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT YES NO
AMOUNT REQUESTED \$15,000	FUNDING SOURCE AW EMS Ambulance Operations
FROM ACCOUNT # 100.160.334 429.900	PROJECT
TO ACCOUNT :	PROJECT #
VERIFIED BY: Kim Wilad	CERTIFIED BY:
DATE: 7-20-2020	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026
Personnel Services						
Travel						
Contractual	15					
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	15					

CAPITAL						
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REVENUE						
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FUNDING:

(Thousands of Dollars)

General Fund						
State/Federal Funds						
Other						
TOTAL	15					

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PREPARED BY: _____ PHONE: _____
 DEPARTMENT: Chapman DATE: 7/21/2020
 APPROVED BY: _____ DATE: _____

**MATANUSKA-SUSITNA BOROUGH
DEPARTMENT OF EMERGENCY SERVICES
And
Delta Medical Transport LLC**

EMERGENCY MEDICAL SERVICES AGREEMENT

A. Purpose

This agreement establishes the policies and procedures whereby Delta Medical Transport LLC (DMT) provides Emergency Medical Services in the Lake Louise area beyond Mile 15 of Lake Louise Road, within the geographical areas of the Matanuska-Susitna Borough (MSB).

B. Definition

For the purpose of the document "Emergency Medical Service" means:

- Responding to 911 calls for medical service, as dispatched
- Providing pre-hospital medical care to sick or injured persons
- Transporting sick or injured persons to receive definitive medical care

C. Authority

This agreement for providing Emergency Medical Services between the Matanuska-Susitna Borough and Delta Medical Transport LLC is authorized pursuant to Alaska Constitution, Article 10§ 1, A.S. 29.35.010(11); and AS 29.35.300.

D. Insurance

DMT must maintain its current insurance policy for professional liability, errors and omissions, unemployment insurance, workman's compensation, and vehicle liability insurance. Any change to the current policy would require notification to the Matanuska Susitna Borough DES.

DMT also agrees to add the Borough as an additional insured to the same extent as it insures itself for medical malpractice. The requirement that the Borough be named as an additional insured shall only be required for those activities of DMT in providing Emergency Medical Services under this agreement.

E. Jurisdiction; Choice of Law, Severability

Any civil action arising from this agreement shall be brought in the superior court for the third judicial district of the State of Alaska. The law of the State of Alaska shall govern the rights and obligations of the parties.

If any section or clause of this agreement is held invalid by a court of law of competent jurisdiction, or is otherwise invalid under the law, the remainder of this agreement shall remain in full force and effect.

F. General

In the event of a high profile event in the areas covered by this agreement, the Director of the Matanuska-Susitna Borough Department of Emergency Services, as the designated information coordinator for all parties to the agreement, will coordinate with DMT the release of information concerning the event to the public.

The Director will also be responsible for scheduling and conducting a semi-annual meetings to be attended by representatives of each participating agency. This does not prevent a special meeting to be attended by representatives when requested by a participating agency.

1. This agreement shall only be amended, modified or changed in writing executed by authorized representatives of the parties.
2. For the purpose of any amendment, modification, or changes to the terms and conditions of this agreement, the only authorized representatives of the parties are:
 - a. Matanuska-Susitna Borough, Borough Manager
 - b. Anthony White, owner, Delta Medical Transport LLC
3. Any attempt to amend, modify or change this agreement by either an unauthorized representative or unauthorized means shall be void.

G. Terms of Agreement

1. It is agreed that DMT will provide Emergency Medical Services as defined in this agreement.
2. This agreement does not require DMT to add additional manpower or resources to perform the services provided for in this agreement.

H. Responsibilities

1. The protection area of this agreement shall include all lands, public and private, situated in the Lake Louise area of the Matanuska-Susitna Borough, beyond Mile 15 of Lake Louise road that are accessible by DMT's current fleet of ambulances. This agreement does not include a requirement to provide services beyond the road system.
2. In recognition of the urgent necessity for immediate and swift response in the event of emergency incidents requiring EMS services, and in order to protect human life, DMT agrees to provide primary response, and render assistance to the residents of Lake Louise and the surrounding areas within the Matanuska-Susitna Borough, within DMT operational capability using resources available at the time of dispatch.
3. MatCom Dispatch or Matanuska-Susitna Borough Director of Emergency Services (or designee) may request EMS response from DMT. The dispatch of equipment and personnel pursuant to this Agreement is subject to the following conditions:
 - a. Requests for EMS service within the Matanuska-Susitna Borough, in the Lake Louise area, will be handled per applicable MatCom/MSB dispatch SOP.
 - b. In the event DMT resources are fully committed elsewhere or unable to field a response when dispatched for the Lake Louise area, Matanuska-Susitna Borough EMS and Rescue resources will be dispatched per MatCom/MSB dispatch SOP.
4. This agreement requires DMT to comply with Alaska Public Records Laws.

I. Waiver, Non-Waiver

1. Each party waives all claims against the other for compensation for loss, damage, personal injury or death occurring as a consequence of the performance of this agreement.
2. The failure of the Matanuska-Susitna Borough or DMT at any time to enforce a provision of this agreement shall in no way constitute a waiver of provisions, nor in any way affect the validity of this agreement, or any part thereof, or the right of the Matanuska-Susitna Borough or DMT to thereafter enforce each and every protection thereof.

J. Nondiscrimination

In performing its duties under this agreement, neither party may discriminate against any person on the basis of race, creed, color, religion, national origin, age, sex or marital status, physical handicap, status as a disabled veteran, or veteran of the Vietnam War era.

K. Review, Negotiation or Amendment, Modification

1. This agreement will be reviewed annually by both parties in May of each year.
2. The Matanuska-Susitna Borough and DMT, from time to time, may require modification, special review, negotiation or amendments in the scope and content of this agreement. Requests to modify, review, negotiate or amend may be initiated at any time upon written request from any participant. Such written request will be submitted to the Matanuska-Susitna Borough Department of Emergency Services Director or the owner of DMT.
3. Unless otherwise amended or terminated, this agreement will remain in effect for one (1) year beginning July 1, 2020, with one (1) optional one (1) year extension by addendum. Upon approval by both parties, the amendment(s) or modification(s) will be attached to and become part of this document.

L. Integration

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties.

M. Contract Pricing

The Matanuska-Susitna Borough will pay DMT \$15,000 (Fifteen Thousand Dollars) per year to provide Emergency Medical Services as per this Agreement. DMT will be responsible for billing, and collection for services provided and is entitled to funds collected.

N. Termination for Convenience

The Matanuska-Susitna Borough or DMT may terminate this agreement at any time by giving written notice to the other party of such termination and specifying the effective date of such termination. Each party shall provide at least a ninety (90) day notice of such termination. In that event, all equipment, vehicles, supplies, reports, or other materials shall be returned to their

respective owners. Additionally, Matanuska Susitna Borough may terminate this agreement based on a lack of Assembly appropriation supporting this agreement.

O. Interpretation and Enforcement

Matanuska-Susitna Borough and DMT following negotiations between them are executing this agreement. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in the agreement are not to be construed as limitations or definitions, but are for identification only.

P. Understanding

The Matanuska – Susitna Borough and DMT acknowledge that they have read and understand the terms of this agreement, have had the opportunity to review the same with counsel of their choice, and are executing this agreement of their own free will.

Q. Implementation Clause

This agreement is effective upon the signatures of DMT owner Anthony White and the Matanuska-Susitna Borough Manager.

Matanuska-Susitna Borough

George Hays, Acting Borough Manager

Date

Delta Medical Transport LLC



Anthony White

29 Jun 2020
Date

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is entered into as of the 1st day of July 2020 ("Effective Date"), by and between Matanuska-Susitna Borough ("Covered Entity"), and Delta Medical Transport LLC ("DMT"), each which may be referred to herein as "Party" and collectively "Parties."

WHEREAS, DMT performs emergency medical services ("Services") on behalf of Covered Entity pursuant to one or more agreements executed between the Parties (individually and collectively, the "Underlying Agreement"), which Services may involve the use and/or disclosure of Protected Health Information (defined below);

WHEREAS, Protected Health Information (defined below) is subject to protection under the Health Insurance Portability and Accountability Act of 1996, as amended (the "Act"), and the implementing regulations promulgated thereto by the U.S. Department of Health and Human Services ("DHHS"), including, without limitation, the Standards for Privacy of Individually Identifiable Health Information, set forth at 45 C.F.R. Part 160 and Part 164 (Subparts A and E) (the "Privacy Rule"), the Security Standards for the Protection of Electronic Protected Health Information, set forth at 45 C.F.R. Part 160 and Part 164 (Subparts A and C) (the "Security Rule"), the Standards for Electronic Transactions, set forth at 45 C.F.R. Parts 160 and 162 (the "Electronic Transactions Rule"), and the Breach Notification Rule for Unsecured Protected Health Information, set forth at 45 C.F.R. Parts 160 and 164 (Subpart D) (the "Breach Notification Rule" and together with the Privacy Rule, the Security Rule, the Electronic Transactions Rule and the Act, "HIPAA");

WHEREAS, to the extent that DMT accesses, receives, or uses Protected Health Information (defined below) necessary to provide the Services and, therefore, is a Business Associate, as that term is defined within 45 C.F.R. § 160.103, DMT is required, pursuant to HIPAA, to comply with certain provisions of the Security Rule, the Privacy Rule and the Breach Notification Rule; and

WHEREAS, the Parties desire to enter into this Agreement to comply with the business associate agreement requirements of HIPAA and its implementing regulations;

NOW, THEREFORE, the Parties do hereby agree as follows:

1. **Definitions.** Capitalized terms not otherwise defined in this Agreement shall have the same meaning as those terms in the Privacy Rule, the Security Rule, and the Breach Notification Rule.
 - a) "Electronic Protected Health Information" or "EPHI" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103, limited to information that DMT accesses or receives on behalf of Covered Entity.
 - b) "Protected Health Information" or "PHI" shall have the meaning set forth in the Privacy Rule, limited to information that DMT accesses or receives on behalf of Covered Entity. PHI includes EPHI.
 - c) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103 of the Privacy Rule.
2. **Permitted Uses and Disclosures of PHI.** DMT shall not use or disclose PHI except as set forth within this Section 2.
 - a) Uses and Disclosures on Behalf of Covered Entity. DMT may use and disclose PHI to perform DMT's obligations under the Underlying Agreement and this Agreement, or as Required by Law. DMT

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may provide data aggregation services relating to the health care operations of Covered Entity if required under the Underlying Agreement, and/or de-identify any and all PHI, provided that DMT de-identifies the PHI in accordance with the Privacy Rule. DMT shall not use or further disclose the PHI in a manner that would violate the requirements of HIPAA if done by Covered Entity, except to the extent such use or disclosure is covered by Section 2(b) herein.

b) Business Activities of DMT. Unless otherwise limited herein, DMT may:

i) Use PHI received from or created for Covered Entity that is in DMT's possession for its proper management and administration and to fulfill any present or future legal responsibilities of DMT, including without limitation those responsibilities of DMT under the Underlying Agreement, provided that such uses are permitted under state and federal confidentiality laws, including HIPAA;

ii) Disclose PHI received from or created for Covered Entity that is in its possession to third parties for the purpose of the proper management and administration of DMT or to fulfill any present or future legal responsibilities of DMT, provided that (i) the disclosures are Required by Law, or

(ii) that DMT has received from any such third party written assurances regarding the third party's confidential handling of such PHI, as required under 45 C.F.R. § 164.504(e)(4), and written assurances that the third party will promptly report to DMT any breach of confidentiality of the PHI provided to such third party which becomes known to such third party.

3. **DMT Obligations.** DMT acknowledges and agrees that it shall comply with the following as well as any applicable state laws that are more restrictive:

a) Use & Disclosure. DMT shall not use or further disclose PHI other than as permitted or required by Section 2 above. To the extent that DMT carries out Covered Entity's obligations under HIPAA, DMT shall comply with those requirements of HIPAA that apply to Covered Entity's performance of such obligations.

b) Minimum Necessary. DMT agrees to request, use, or disclose PHI to the minimum extent necessary, in accordance with HIPAA.

c) Safeguards. DMT shall use reasonably appropriate safeguards to prevent any use or disclosure of the PHI not permitted or required by this Agreement. DMT agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI and to comply with the policy, procedure, and documentation requirements of the Security Rule.

d) Reporting of Improper Use or Disclosure. DMT shall report to Covered Entity any use or disclosure of PHI not permitted or required by this Agreement, including but not limited to breaches of unsecured PHI in accordance with Section 3(e) below and any Security Incident of which it becomes aware.

e) Reporting of Breaches of Unsecured PHI. In the event that DMT determines that a Breach of Unsecured PHI has occurred, DMT shall report to Covered Entity such Breach of Unsecured PHI, without unreasonable delay. DMT shall provide written notice to Covered Entity in accordance with 45 C.F.R. § 164.410 within enough time for Covered Entity to meet the notification requirements imposed on Covered Entity under 45 C.F.R. § 164.404. Such notice shall include, to the extent possible, the identification of the Individual(s) whose PHI has been or is reasonably believed to have been breached.

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DMT shall provide to Covered Entity any additional information Required by Law to be included in the notice to an Individual promptly after such information becomes available to DMT.

f) Mitigation. DMT shall mitigate promptly, to the extent practicable, any harmful effect that is known to DMT of a use or disclosure of PHI by DMT in violation of this Agreement, the Privacy Rule, the Security Rule.

g) Subcontractors. DMT shall ensure that each of its Subcontractors, as that term is defined under the Privacy Rule, that creates, receives, maintains, or transmits PHI on behalf of DMT to perform a function, activity, or service that DMT has agreed to perform on behalf of Covered Entity, executes an agreement binding such Subcontractor to the same restrictions, conditions, and requirements that apply to DMT with respect to such information in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2).

h) Patient Rights.

i) Patient Right to Access. DMT shall not maintain PHI in a Designated Record Set. However, should DMT ever maintain PHI in a Designated Record Set, then within thirty (30) calendar days of receipt of written notice from Covered Entity that an Individual has requested access to his or her own PHI, DMT shall make such PHI available to Covered Entity to respond to the Individual's request, and, if any Individual requests access to his or her own PHI from DMT, within ten (10) business days, DMT shall notify Covered Entity of the details of such request. Following receipt of such notice, Covered Entity shall handle the request.

ii) Patient Right to Amend. DMT shall not maintain PHI in a Designated Record Set. However, should DMT ever maintain PHI in a Designated Record Set, then within thirty (30) calendar days of receipt of Covered Entity's request, DMT shall incorporate amendments into the PHI as directed by Covered Entity, and, if any Individual submits to DMT a request to amend his or her own PHI, DMT shall, within ten (10) calendar days, notify Covered Entity of the details of such request. Following receipt of such notice, Covered Entity shall handle such request.

iii) Accounting of Disclosures. DMT shall maintain a record of its disclosures of PHI to the extent necessary to provide an accounting of disclosures to Covered Entity such that Covered Entity may comply with its obligation under 45 C.F.R. § 164.528. DMT shall make such records of disclosures available to Covered Entity within thirty (30) business days of Covered Entity's written request.

i) Availability of Books and Records. DMT shall make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by DMT on behalf of Covered Entity available to the Secretary of Health and Human Services, upon request, for purposes of determining and facilitating Covered Entity's compliance with HIPAA.

4. Covered Entity Obligations.

a) Covered Entity agrees and represents and warrants to DMT that it shall not request that DMT use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

b) Covered Entity shall promptly provide to DMT written notice of limitation(s) in its notice of privacy practices more restrictive than required under HIPAA or other any other self-imposed restrictions by Covered Entity.

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- c) Covered Entity shall promptly provide to DMT written notice of any changes to or revocation of the permission from an Individual to use PHI, if such change or revocation affects DMT's required uses or disclosures of the PHI.
- d) Covered Entity shall promptly provide to DMT written notice of any restriction on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent such restrictions may affect DMT's use or disclosure of PHI.

5. **Term & Termination.**

- a) **Term.** The Term of this Agreement shall begin on the Effective Date, and shall terminate when all of the PHI provided by Covered Entity to DMT is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- b) **Termination for Failure to Comply.** Either Party may terminate this Agreement upon thirty (30) calendar days' prior written notice to the other Party, if such other Party has violated a material term of this Agreement and if following notification to such other Party of the material breach, the breaching Party is unable or unwilling to take steps to cure the breach within such thirty (30) day period. In the event of such a cure, this Agreement shall remain in full force and effect. If both cure of the material breach and return or destruction of the PHI are not feasible, DMT will extend protections to the PHI that cannot be returned or destroyed in accordance with Section (5)(c) herein.
- c) **Effect of Termination.** At termination of the Agreement, to the extent feasible, DMT shall return or destroy all PHI that DMT still maintains in any form and retain no copies of the PHI. If the return or destruction of certain PHI is not feasible, DMT shall:
 - i) retain only that PHI which is necessary for DMT to continue its proper management and administration or to carry out its legal responsibilities;
 - ii) extend the protections of PHI set forth under this Agreement to the remaining PHI; and
 - iii) limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI infeasible; and
- d) **Survival.** The terms of this Section 5 shall survive the termination or expiration of this Agreement.

6. **Underlying Agreement.** Except as specifically required to implement the purposes of this Agreement, and except to the extent inconsistent with this Agreement, all terms of the Underlying Agreement shall remain in full force and effect. In the event of a conflict between the terms of the Underlying Agreement and this Agreement, this Agreement shall control.

7. **Amendment.** The Parties shall as necessary amend this Agreement by mutual written agreement in order to ensure this Agreement is consistent with any changes made to the HIPAA laws or regulations in effect as of the date of this Agreement. Either Party may terminate the Agreement in whole or in part if the Parties are unable to agree to such changes by the compliance date for such new or revised HIPAA laws or regulations and the Party reasonably believes that such termination is necessary to remain in compliance with HIPAA.

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IN WITNESS WHEREOF, the Parties have executed this Agreement, effective as of the day and year first written above.

Matanuska-Susitna Borough

George Hays, Acting Borough Manager

Date

Delta Medical Transport LLC



Anthony White

29 June 2020
Date

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