

CONSULTING SERVICES AGREEMENT

I. The Parties. This Consulting & Retainer Agreement ("Agreement") is made effective as of September 19, 2022, by and between an individual known as Elizabeth Heckathorn with a mailing address of 5240 SE 113th Ave, Portland, Oregon, 97266 ("Consultant") and a business entity known as Morrow County with a mailing address of PO Box 788, Heppner, Oregon, 97836 ("Client").

II. Services. Consultant agrees to provide the following services ("Services"): Consultant will provide a high-level overview of Oregon's Emergency Medical Services System with emphasis on Ambulance Service Area (ASA) plan(s) to include pertinent statute (ORS), rule (OAR and practices).

Consultant will lead a review of Morrow County's current ASA Plan and moderate a discussion to include potential options for modernization of the current Morrow County ASA Plan, (this will include any housekeeping changes to the current ASA plan).

Consultant is prepared to mediate disputes between providers of EMS in Morrow County.

Ultimately, the duty of updating the Morrow County ASA Plan is the responsibility of the Morrow County Board of Commissioners.

Consultant, upon request, will assist the Morrow County Board of Commissioners to update and modernize the current ASA Plan with any changes deemed as a result of meeting with the involved providers of EMS in Morrow County, the Morrow County Board of Commissioners and other parties who share in and contribute to EMS in Morrow County.

III. Term. The Services shall commence upon payment of the retainer, and end upon completion of the Services.

IV. Payment. In consideration for the Services provided, the Consultant is to be paid the following:

\$138.00 per hour ("Payment").

In compliance with Oregon procurement law (ORS 279A, B, and C), total payment to Consultant shall not exceed \$10,000.00 without prior approval of the Board of Commissioners.

V. Payment Interval. Consultant shall be paid, in accordance with Section IV, when the Consultant sends an invoice to the Client. After the Client receives the invoice by the Consultant, it shall be paid within 30 days.

VII. Retainer. The Client is required to pay a retainer as part of this Agreement. The retainer shall be applied to future Payments by the Client. The retainer amount shall be \$552.00. Consultant will refund any unused portion of the Retainer upon completion of the Services.

VIII. Expenses. The Consultant shall be responsible for the following Expenses: The Consultant is responsible for all their expenses EXCEPT: Milage for travel (to be paid at current federal rate), Pier Diem for lodging (to be paid at current federal rate).

IX. Termination Clause. Either the Consultant or Client may terminate this Agreement at any time with at least 5-day(s) notice to the other party.

X. Return of Records. Upon termination of this Agreement, the Consultant shall deliver all records, notes, and data of any nature that are in the Consultant's possession or under the Consultant's control and that are of the Client's property or relate to Client's business.

XI. Disputes. If any dispute arises under this Agreement, the Consultant and the Client shall negotiate in good faith to settle such dispute. If the parties cannot resolve such dispute themselves, then either party may submit the dispute to mediation by a mediator approved by both parties. If the parties cannot agree with any mediator or if either party does not wish to abide by any decision of the mediator, they shall submit the dispute to arbitration by any mutually acceptable arbitrator, or the American Arbitration Association (AAA). The costs of the arbitration proceeding shall be borne according to the decision of the arbitrator, who may apportion costs equally or in accordance with any finding of fault or lack of good faith of either party. If either party does not wish to abide by any decision of the arbitrator, they shall submit the dispute to litigation. The jurisdiction for any dispute shall be administered and decided upon the Client.

XII. Liability Insurance. The Consultant agrees to bear all responsibility for the actions related to themselves and their employees or personnel under this Agreement. In addition, the Consultant agrees to obtain comprehensive liability insurance coverage in case of bodily injury, personal injury, property damage, contractual liability, and cross-liability. The Consultant shall not be required to have liability insurance covering any potential liabilities they may possess with providing their Services to the Client.

XIII. Legal Notice. All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in-person or deposited in the United States Postal Service via Certified Mail with return receipt.

XIV. Non-Compete. During the term of this Agreement, and for the maximum term allowed under State and Federal laws following its termination, the Consultant shall not engage in any activity that would compete in any way whatsoever with the activities of the Client in which the Consultant was or is involved, or where the Consultant gained confidential or sensitive information of the Client, directly or indirectly through the delivery of the Services. For further clarity, this section is to be geographically limited to areas and locations that the Customer operates and conducts its business activity.

XV. Non-Solicitation. During the term of this Agreement, and for the maximum term allowed under State and Federal laws following its termination (“Solicitation Period”), the Consultant shall not, without the written consent of the Client, directly or indirectly, solicit or attempt to solicit any person who was:

- (a) A customer of the Client as of the date of this Agreement was terminated;
- (b) A customer of the Client at any time within the Solicitation Period immediately before the date of the termination of this Agreement;
- (c) Solicited as a prospective customer by the Client at any time during the provision of Services under this Agreement, should the Consultant have had knowledge of this pursuit; or,
- (d) An employee or contractor of the Client as of the date this Agreement was terminated or within the one-year period immediately before the date of the termination of this Agreement.

XVI. Waiver of Contractual Right. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

XVII. Independent Contractor Status. The Consultant, under the code of the Internal Revenue (IRS), is an independent contractor and neither the Consultant's employees or contract personnel are, or shall be deemed, the Client's employees. In its capacity as an independent contractor, the Consultant agrees and represents:

- a.) Consultant has the right to perform Services for others during the term of this Agreement;
- b.) Consultant has the sole right to control and direct the means, manner, and method by which the Services required under this Agreement will be performed; Consultant shall select the routes taken, starting and ending times, days of work, and order the work that performed;
- c.) Consultant has the right to hire assistant(s) as subcontractors or to use employees to provide the Services under this Agreement.

- d.) Neither Consultant nor the Consultant's employees or personnel shall be required to wear any uniforms provided by the Client;
- e.) The Services required by this Agreement shall be performed by the Consultant, Consultant's employees or personnel, and the Client will not hire, supervise, or pay assistants to help the Consultant;
- f.) Neither the Consultant nor the Consultant's employees or personnel shall receive any training from the Client for the professional skills necessary to perform the Services required by this Agreement; and
- g.) Neither the Consultant nor Consultant's employees or personnel shall be required by the Client to devote full-time to the performance of the Services required by this Agreement.

XVIII. State and Federal Licenses. The Consultant represents and warrants that all employees and personnel associated shall comply with federal, state, and local laws requiring any required licenses, permits, and certificates necessary to perform the Services under this Agreement.

XIX. Payment of Taxes. Under this Agreement, the Client shall not be responsible for:

- a.) Withholding FICA, Medicare, Social Security, or any other Federal or State withholding taxes from the Consultant's payments to employees or personnel or make payments on behalf of the Consultant;
- b.) Making Federal and/or State unemployment compensation contributions on the Consultant's behalf; and
- c.) Making payments of taxes incurred while performing the Services under this Agreement, including all applicable income taxes and, if the Consultant is not a business entity, all applicable self-employment taxes. Upon demand, the Consultant shall provide the Client with proof that such payments have been made.

XX. Employees' Compensation. The Consultant shall be solely responsible for the following:

- a.) Employee Benefits. The Consultant understands and agrees that they are solely responsible and shall be liable to all benefits that are provided to their employees including, but not limited to, retirement plans, health insurance, vacation time-off, sick pay, personal leave, or any other benefit provided.
- b.) Unemployment Compensation. The Consultant shall be solely responsible for the unemployment compensation payments on behalf of their employees and personnel. The Consultant themselves shall not be entitled to unemployment compensation with the Services performed under this Agreement.
- c.) Workers' Compensation. The Consultant shall be responsible for providing all workers' compensation insurance on behalf of their employees. If the Consultant hires employees to

perform any work under this Agreement, the Consultant agrees to grant workers' compensation coverage to the extent required by law. Upon request by the Client, the Consultant must provide certificates proving workers' compensation insurance at any time during the performance of the Services.

XXI. Indemnity. Consultant shall release, defend, indemnify, and hold harmless the Client and its officers, agents, and employees from all suits, actions, or claims of any character, name, or description including reasonable attorney fees, brought on account of any injuries or damage, or loss (real or alleged) received or sustained by any person, persons, or property, arising out of services provided under this Agreement or Consultant's failure to perform or comply with any requirements of this Agreement including, but not limited to any claims for personal injury, property damage, or infringement of copyright, patent, or other proprietary rights. Client reserves the right to retain whatever funds which would be due to the Consultant under this Agreement until such suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and satisfactory evidence to that effect furnished.

XXII. Confidentiality & Proprietary Information. The Consultant acknowledges that it will be necessary for the Client to disclose certain confidential and proprietary information to the Consultant in order for the Consultant to perform their duties under this Agreement. The Consultant acknowledges that disclosure to a third (3rd) party or misuse of this proprietary or confidential information would irreparably harm the Client. Accordingly, the Consultant will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the Client without the Client's prior written permission except to the extent necessary to perform the Services on the Client's behalf.

Proprietary or confidential information includes, but is not limited to:

- a.) The written, printed, graphic, or electronically recorded materials furnished by Client for Consultant to use;
- b.) Any written or tangible information stamped "confidential," "proprietary," or with a similar legend, or any information that Client makes reasonable efforts to maintain the secrecy of, business or marketing plans or strategies, customer lists, operating procedures, trade secrets, design formulas, know-how and processes, computer programs and inventories, discoveries and improvements of any kind, sales projections, and pricing information; and
- c.) Information belonging to customers and suppliers of the Client about whom the Consultant gained knowledge as a result of the Consultant's Services to the Client.

Upon termination of the Consultant's Services to the Client, or at the Client's request, the Consultant shall deliver all materials to the Client in the Consultant's possession relating to the Client's business. The Consultant acknowledges any breach or threatened breach of confidentiality under this Agreement

will result in irreparable harm to the Client for which damages would be an inadequate remedy. Therefore, the Client shall be entitled to equitable relief, including an injunction, in the event of such breach or threatened breach of confidentiality. Such equitable relief shall be in addition to Client's rights and remedies otherwise available at law.

Furthermore, proprietary information, under this Agreement, shall include:

- a.) The product of all work performed under this Agreement ("Work Product"), including without limitation all notes, reports, documentation, drawings, computer programs, inventions, creations, works, devices, models, works-in-progress and deliverables, will be the sole property of the Client, and Consultant hereby assigns to the Client all right, title, and interest therein, including, but not limited to, all audiovisual, literary, moral rights and other copyrights, patent rights, trade secret rights, and other proprietary rights therein. Consultant retains no right to use the Work Product and agrees not to challenge the validity of the Client's ownership in the Work Product;
- b.) Consultant hereby assigns to the Client all right, title, and interest in any and all photographic images and videos or audio recordings made by the Client during Consultant's work for them, including, but not limited to, any royalties, proceeds, or other benefits derived from such photographs or recordings; and
- c.) The Client will be entitled to use the Consultant's name and/or likeness in advertising and other materials.

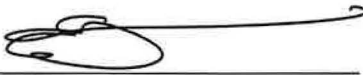
XXIII. Assignment and Delegation. The Consultant may assign rights and may delegate duties under this Agreement to other individuals or entities acting as a subcontractor ("Subcontractor"). The Consultant recognizes that they shall be liable for all work performed by the Subcontractor and shall hold the Client harmless of any liability in connection with their performed work.

The Consultant shall be responsible for any confidential or proprietary information that is shared with the Subcontractor in accordance with this section. If any such information is shared by the Subcontractor to third (3rd) parties, the Consultant shall be made liable.

XXIV. Governing Law. This Agreement shall be governed under the laws in the State of Oregon.

XXV. Severability. This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

XXVI. Entire Agreement. This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between the Client and Consultant. This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

Consultant's Signature  Date 09/09/2022

Print Name Elizabeth Heckathorn

Client's Signature  Date 9/14/2022

Print Name Don Russell
Commissioner
Morrow County