

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into this 7th day of July, 2005, by and between the following parties:

Grays Harbor County Fire Protection District No. 3, a Washington municipal corporation (hereinafter referred to as "District 3" or "District");

Grays Harbor County Fire Protection District No. 11, a Washington municipal corporation (hereinafter referred to as "District 11" or "District"); and,

Grays Harbor County Fire Protection District No. 14, a Washington municipal corporation (hereinafter referred to as "District 14" or "District"); and,

Pacific County Fire Protection District No. 5, a Washington municipal corporation (hereinafter referred to as "District 5" or "District"); and

The City of Westport, a Washington municipal corporation (hereinafter referred to as the "City").

Hereinafter all of the foregoing districts may be referred to individually as "District" and collectively referred to as the "Districts" and all of the foregoing agencies may be referred to collectively as the "Parties."

I. RECITALS

WHEREAS, In 1988 the Parties entered into an Interlocal Cooperation Agreement to jointly provide emergency medical services within each Parties' respective jurisdiction and to equip, maintain and operate a joint emergency medical services agency designated as the SOUTH BEACH AMBULANCE SERVICE ("SBAS"); and

WHEREAS, The Parties desire to substantively amend the 1988 Interlocal Agreement and intend this Agreement to completely replace the 1988 Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

II. TERMS AND CONDITIONS

1. **Services.** The Parties shall jointly provide emergency medical services including ambulance and advance life support services and limited rescue services in all incorporated and unincorporated areas served by the Parties and to areas covered by mutual aid agreements, as shown in Attachment" A," which by this reference is incorporated herein as "Services." Such Services shall be provided in a manner consistent with the requirements set forth in chapter 18.71 and 18.73 RCW and chapter 246-976 WAC.

2. **SBAS Creation.** There is hereby created a joint emergency medical services agency, such agency hereinafter to be called the "South Beach Ambulance Service" or the "SBAS". The Parties assign to SBAS the responsibility for providing the Services defined above. SBAS shall be an operational organization established to carry out the tasks involved in providing the Services.

3. **SBAS Organization.** SBAS shall be governed by an Administrative Board which shall be organized and operated as provided herein. The Administrative Board shall constitute a "joint board" as that term is used in RCW 39.34.030 (4) (a). The day to day operations of SBAS shall be controlled and managed by a Director appointed by the Administrative Board.

4. **Administrative Board Composition.** The SBAS Administrative Board shall consist of five voting members:

4.1. A representative appointed by the Board of Fire Commissioners from Grays Harbor Fire Protection District No.3.

4.2. A representative appointed by the Board of Fire Commissioners from Grays Harbor Fire Protection District No. 11.

4.3. A representative appointed by the Board of Fire Commissioners from Grays Harbor Fire Protection District No. 14.

4.4. A representative appointed by the Board of Fire Commissioners from Pacific County Fire Protection District No.5.

4.5. A representative appointed by the Westport City Council.

Each member shall serve at the pleasure of the appointing Party. No member of the Administrative Board shall be paid by SBAS for service as a Board member but reasonable expenses for attendance at meetings may be paid by SBAS.

5. **Administrative Board Voting.** Each voting member of the Administrative Board shall have an equal vote in Administrative Board decisions. Each Party shall provide its representative with full authority to vote on all issues that have been placed on any Administrative Board agenda prior to an Administrative Board meeting. Provided, however, that agenda items that arise subsequent to the most recent meeting of a Party's governing body but prior to the Administrative Board's regular meeting shall not be acted upon until after the next regular meeting of a Party's governing body. In a bona-fide emergency, such an item may be brought forward for action by a majority plus one vote of the Administrative Board.

5.1. For purposes of this section, the phrase "bona-fide emergency" shall mean any circumstance involving the risk of injury or threat to the health or safety of the services employees; or damage to or failure of equipment or property that would decrease the response capability of the service or reduce the quality of care the service provides to its citizens; or have a substantial financial impact to the service (greater than \$100), when the

time requirements for action upon agenda items contained herein would increase the likelihood of such impacts. In the event of a bona-fide emergency, the minutes of the meeting shall state the nature of the emergency and the facts supporting the Administrative Board's declaration of the emergency

6. Administrative Board Meetings. The Administrative Board shall meet on a monthly basis at a time, date and location as determined by the Administrative Board. Administrative Board meetings shall be conducted in a manner consistent with chapter 42.30 RCW, the Open Public Meetings Act.

7. Administrative Board Duties and Authority. The Administrative Board shall be responsible for performing the following duties and authority:

7.1. Appoint, supervise, discipline and/or terminate the SBAS Director.

7.2. Establish a job description for the SBAS Director.

7.3. Review and approve or disapprove operational priorities, policies and procedures for system development, programming, operation and written rules and regulations for the operation of SBAS as recommended by the Director.

7.4. Establish an annual budget and expend funds within that budget. Make budget recommendations to the governing bodies of the Parties to this Agreement.

7.5. Approve or disapprove of new equipment needs recommended by the Director.

7.6. Review, approve or disapprove of staffing levels and personnel needs as recommended by the Director.

7.7. Provide for appropriate insurance coverage with minimum limits and coverage as specified herein.

8. SBAS Director. The Administrative Board shall appoint a Director on the basis of technical and administrative competence. The Director shall be responsible to the Administrative Board for the day to day operation and management of all Services provided by SBAS and shall perform such services for SBAS as directed from time to time by the Administrative Board in the manner and to the extent permitted by the laws of the State of Washington. The Director shall perform all duties established by the job description of the position of Director which is incorporated into this Agreement by this reference. As provided in the job description, the Director shall administer the Services in a manner consistent with the operational and administrative policies established by the Administrative Board. The Director shall prepare, for the consideration of the governing bodies of the Parties and of the Administrative Board, as hereinafter detailed, proposed annual budgets for the SBAS and shall be the Financial Officer for the Administrative Board; provided, disbursements shall be made only after vouchers are approved by the Administrative

Board. The Director shall have the authority to hire, discipline and terminate all personnel subject to administrative procedures and policies set forth by the Administrative Board.

9. **SBAS Offices.** The SBAS office is currently located in the Ambulance Building at the Westport Fire Station. The building was built with SBAS donations on property owned by the City of Westport. As long as SBAS uses the building for SBAS Services and Westport remains a participant in this Agreement, no charge shall be made for lease of the property. Utilities, building maintenance, operational costs and insurance attributed to the Services shall be the responsibility of SBAS.

10. **SBAS Budget.** The Director shall, each year, in accordance with the Grays Harbor County budget timetable, present to the Administrative Board a proposed budget of revenues and expenditures for operation of the SBAS for the next calendar year. Upon approval of the Administrative Board, the budget and any amendments thereto shall be submitted to the governing bodies of each of the Parties for approval.

11. **SBAS Funding.** SBAS operations shall be funded in part by User Fees and Required Contributions from each Party as defined below. Each Party's Required Contribution for its share of the annual SBAS budget shall be determined based on the proportion of the Party's total assessed valuation to the total assessed valuation of all Parties. Each Party's Required Contribution shall be calculated based on SBAS revenue needs after deducting the budgeted revenue generated by User Fees and other miscellaneous income. The Board shall notify each Party of its estimated Required Contribution for the succeeding year on or before July 1st.

12. **Required Contributions.** Each Party is responsible for determining the funding source for its Required Contribution. In the event a Party decides to fund its Required Contribution through an EMS Levy as authorized by RCW 84.52.069 or an excess levy as authorized by RCW 84.52052, the Party agrees to use its best efforts to obtain voter approval of the levy. Best efforts shall include, at a minimum, timely placing the levy on the ballot in the year preceding the year the Party needs to collect the revenues generated by the levy. The responsibility for each Party to place an appropriate levy before its voters resides with each Party. In the event a Party, whether by failure to pass a levy, or for any other reason, is unable to contribute its Required Contribution, the provisions of Paragraph 17.3 shall apply.

13. **User Fees.** The Administrative Board, at the time it prepares the proposed budget shall also establish Base User Fees. The Base User Fees shall be calculated as the full cost for each type of response by SBAS.

14. **Contract Services.** The Administrative Board may agree with other entities, public or private, to provide services for them pursuant to written contracts which shall provide for payment by such other bodies at rates established by the Administrative Board.

15. **Grant Funding.** The SBAS shall cooperate with local, state and federal government agencies to maximize the use of available grant funds for equipment and operations.

16. **Property Ownership.** All property acquired by SBAS to enable it to perform the Services under this Agreement is owned by SBAS. In the event of the termination of this Agreement by one or more Parties, the provisions of paragraph 17 shall apply to the disposition of property owned by SBAS.

17. **Termination.** This Agreement may be terminated in accordance with the following provisions.

17.1. **Unanimous Termination.** This Agreement may be terminated at any time by the unanimous consent of each Party. In the event of termination by this method, the assets of SBAS shall be distributed in such manner as is agreed among the Parties.

17.2. **Party Initiated Termination.** Any Party may terminate its participation in this Agreement by giving one year prior written notice to the Administrative Board before December 31st of the year prior to the year the termination is to be effective. The termination date shall be December 31st. In the event of termination by this method, the Terminating Party shall be entitled to fair compensation for any equipment it contributed to the SBAS and shall be compensated for its Proportionate Share of any unexpended and uncommitted cash and accounts receivable of SBAS, the amount of which shall be computed at the close of business on December 31st of the year the Party's participation terminates. A Party's Proportionate Share shall be calculated by determining the percentage share such withdrawing Party contributed to the revenue of the SBAS. In making such determination, the decision of the Administrative Board in determining the Proportionate Share and the fair compensation shall be final. The Terminating Party's Proportionate Share and fair compensation shall be determined at a meeting of the Administrative Board during the one year prior notice period and the Terminating Party shall have a vote in the determination of its Proportionate Share and fair compensation. All liabilities not covered by insurance shall be born equally by the Parties and withdrawal from membership shall not terminate responsibility for liabilities incurred prior to withdrawal. If a Party has borrowed against its reserves, as provided in paragraph 17.4, the amounts borrowed shall reduce the amount SBAS owes to the Terminating Party. In the event the Terminating Party has borrowed funds from the SBAS reserve fund in excess of its Proportionate Share, the terminating Party agrees to repay the borrowed funds with an annual interest rate set by the Board at a minimal fair rate over a time period negotiated between the Administrative Board and the Terminating Party which shall in no event exceed three years.

17.3. **Board Initiated Termination.** The Administrative Board may terminate this Agreement with sixty days written notice as to any Party if the Party fails to budget for its Required Contribution on or before December 31st of the year prior to the year the Required Contribution is due or make its Required Contribution within thirty days of the quarterly due date. In the event a Party fails to budget for or make any Required Contribution, the Administrative Board may, if sufficient reserve funds exist, allow the Party to continue as a Probationary Party to this Agreement under the procedures specified in Paragraph 17.4.

17.4. **Probationary Status.** The Administrative Board may allow a Party to continue as a Probationary Party for the calendar year in which a Party fails to make a Required Contribution, provided that the Probationary Party has a sufficient Proportionate Share in the SBAS reserve fund. SBAS shall permit the Probationary Party to draw from its Proportionate Share of the SBAS reserve fund an amount up to a maximum of its Proportionate Share for payment of its Required Contribution for the calendar year. The Probationary Party shall agree to replace the funds drawn from the reserve fund with semi-annual payments over a five (5) year period with nominal interest at a rate established by the Board.

In the event the Probationary Party is terminated subsequent to drawing on its reserves pursuant to this Paragraph and prior to replacing the funds, the Terminated Party shall not be required to replace the withdrawn reserves.

During such time as a Party is on Probationary status, SBAS shall charge the Base User Fees for all Services rendered to patients within the Probationary Party's jurisdiction.

17.5. **Reserve Funds Loan.** In the event the Probationary Party has insufficient reserves to cover the Required Contribution under Paragraph 17.4 and in the event the Reserve Fund has sufficient funds, the Board may loan up to the maximum of the balance due to the Probationary Party. Except as provided in paragraph 17.2. The Probationary Party shall agree to repay the loaned funds with semi-annual payments over a 5-year period with interest at a rate set by the Board.

18. **Insurance.** SBAS shall provide insurance coverage for facilities, equipment, operations and personnel of SBAS. Such insurance shall include all risk property insurance, insuring SBAS equipment and buildings at replacement cost; general liability insurance, including errors and omissions and malpractice coverage; complete auto insurance, including comprehensive and collision coverage at replacement cost; and liability coverage. The SBAS shall furnish to each Party; appropriate documentation showing that such coverage is in effect and that Party is a named as an additional insured on the policy.

19. **Records and Inspection.** Each Party to this Agreement shall have the right to review and monitor the financial records and service components of the SBAS. Such review may occur with reasonable notice, and may include, but is not limited to, on-site inspection by authorized representatives of each Party, inspection of all records or other material which a Party deems pertinent to the Agreement and its performance.

19.1 In the event this Agreement is terminated, the Administrative Board shall designate a records custodian to preserve and maintain all financial records and such records relating to the Services performed according to this Agreement for three (3) years after this Agreement is terminated and shall make them available for review, upon request, unless State or Federal law requires otherwise.

20. **Dispute Resolution Process.** In the event a dispute arises between two or more Parties that they are unable to resolve, the Parties agree to engage in good faith mediation. The Parties

engaged in the dispute shall jointly select a mediator and shall participate in at least eight (8) hours of mediation. In the event that they are unable to jointly select a mediator, any party to the dispute can apply to the Grays Harbor Superior Court for the appointment of a mediator. If mediation does not resolve the dispute, the parties to the dispute shall submit the dispute to binding arbitration.

20.1. **Binding Arbitration.** The parties shall select an independent and unbiased arbitrator who is not affiliated directly or indirectly with either party within ten (10) days after any party demands arbitration. If the parties fail to select, or cannot agree upon, an arbitrator within this time, then either party may apply to the Superior Court of Grays Harbor County pursuant to RCW 7.04 et seq. for an order appointing an arbitrator. Such application may be made at any time after the ten (10) day period has expired. Upon application to the court for an arbitrator, the Court shall select an arbitrator, who shall render his/her decision no later than sixty (60) days after his/her appointment. If the arbitrator requests a hearing prior to rendering his/her decision, such hearing shall be held in Grays Harbor County, Washington within thirty (30) days of the arbitrator's appointment. The arbitrator's decision shall be binding on both parties. Each party shall bear its own expenses associated with the arbitration but shall share equally the costs of the arbitrator. This paragraph shall be referred to herein as the "Binding Arbitration Clause."

20.2. **Interpretation.** The foregoing Binding Arbitration Clause, RCW Chapter 7.04, and Rules 5.2 through 5.4 of the Mandatory Arbitration Rules for Superior Court ("MAR") shall govern the arbitration. In the event of any inconsistencies between the Binding Arbitration Clause, RCW Chapter 7.04, and MAR 5.2 through 5.4, the terms of the Binding Arbitration Clause shall take precedence over RCW Chapter 7.04 and MAR 5.2 through 5.4; and RCW Chapter 7.04 shall take precedence over MAR 5.2 through 5.4.

20.3 **Fees and Costs.** The prevailing party, as determined by the arbitrator, shall be entitled to an award of its reasonable attorneys' fees and costs, including expert witness fees. Each party to the dispute shall split equally the costs of the arbitrator.

21. **Severability.** In the event any section or part of this Agreement is held by a court of competent jurisdiction to be invalid, such action shall not affect the validity of any other part of this Agreement.

22. **Notices.** All notices, demands, requests, consents and approvals that may or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally; sent by facsimile; sent by a nationally recognized overnight delivery service; or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to the party at its main office. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

23. **Governing Law.** This Agreement, and the rights of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington and the Parties agree that in any such action venue shall lie exclusively in Grays Harbor County, Washington.

24. **Amendments and Waivers.** This Agreement may be changed, modified, amended or waived only by written agreement executed by a majority plus one of all the Parties hereto. Waiver of breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

25. **Indemnification and Hold Harmless.**

25.1. SBAS shall protect, defend, indemnify and hold harmless, the City of Westport, Grays Harbor Fire Protection District No.3, Grays Harbor Fire Protection District No.11, Grays Harbor Fire Protection District No. 14 and Pacific County Fire Protection District No. 5, and each of the aforesaid agency's commissioners, officers, employees and agents, from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent or intentional acts or omissions of SBAS, its officers, employees and agents in performing this Agreement.

25.2. The City of Westport, Grays Harbor Fire Protection District No.3, Grays Harbor Fire Protection District No.11, Grays Harbor Fire Protection District No. 14 and Pacific County Fire Protection District No. 5 shall protect, defend, indemnify and hold harmless SBAS, its officers, employees and agents, from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent or intentional acts of each of the aforesaid agency and each of the aforesaid agency's officers, employees and agents in performing this Agreement.

25.3. This Agreement shall not be construed to benefit any third party or otherwise limit the application or protection of the "Public Duty Doctrine" to the SBAS or to the City of Westport, Grays Harbor Fire Protection District No.3, Grays Harbor Fire Protection District No.11, Grays Harbor Fire Protection District No. 14 and Pacific County Fire Protection District No. 5.

26. **Effective Date.** This Agreement shall go into effect on September 1, 2005.

26. **Term of Agreement.** The term of this Agreement shall commence upon the Effective Date and shall continue in force unless terminated according to the provisions of paragraph 17 herein.

28. **Entire Agreement.** This Agreement represents the entire agreement between the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement on the dates shown below.

GRAYS HARBOR COUNTY FIRE PROTECTION DISTRICT NO. 11

By *[Signature]*
Commissioner

8-7-05
Date

By *[Signature]*
Commissioner

8-7-05
Date

By *[Signature]*
Commissioner

8-7-05
Date

GRAYS HARBOR COUNTY FIRE PROTECTION DISTRICT NO.3

By *[Signature]*
Commissioner

8-16-05
Date

By *[Signature]*
Commissioner

8-16-05
Date

By *[Signature]*
Commissioner

8-16-05
Date

GRAYS HARBOR COUNTY FIRE PROTECTION DISTRICT NO. 14

By *[Signature]*
Commissioner

8-9-05
Date

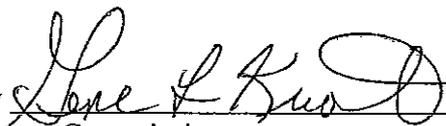
By *[Signature]*
Commissioner

08-09-05
Date

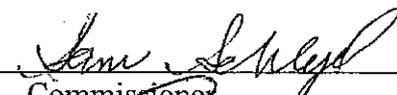
By *[Signature]*
Commissioner

8-09-05
Date

PACIFIC COUNTY FIRE PROTECTION DISTRICT NO.5

By 
Commissioner

8/9/05
Date

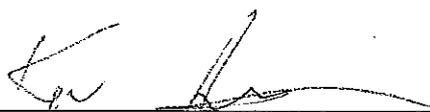
By 
Commissioner

8-14-05
Date

By 
Commissioner

8-9-05
Date

CITY OF WESTPORT

By 
Council Person

7-26-05
Date

By 
Council Person

7-26-05
Date

By 
Council Person

7/26/05
Date

By 
Council Person

7/26/05
Date

By 
Council Person

7-26-05
Date

By 
Mayor

7-26-2005
Date