

**RESTATED AND AMENDED
JOINT POWERS AGREEMENT FOR THE COORDINATED
AND COOPERATIVE PROVISION OF
EMERGENCY MEDICAL SERVICES IN ADA COUNTY**

Establishing the Ada County-City EMS System (“ACCESS”)

This Restated and Amended Joint Powers Agreement for the Coordinated and Cooperative Provision of Emergency Medical Services in Ada County (the “Agreement”) is entered into by and between Ada County, the Ada County Emergency Medical Services District, the City of Boise, the City of Meridian, Kuna Rural Fire District, Eagle Fire District, and Star Joint Fire Protection District, and is effective as of the last date of execution of this Agreement.

RECITALS; PURPOSES; AUTHORITY

Purpose. The Purpose of this Agreement is to establish the Ada County-City EMS System (the “System”) and Joint Powers Board appointed by the respective Parties authorized to operate and manage the joint, coordinated, and unified provision and maintenance of pre-hospital, emergency and non-emergency medical services, including medical transport, rescue, and extrication services, within all county, city, emergency medical services district, and fire district jurisdictions within the System Area in order to provide certainty, consistency and economy in the management and delivery of EMS services.

1. Sections 67-2326 through 67-2333, Idaho Code, provide that public agencies may enter into agreements with one another for joint or cooperative action which includes, but is not limited to, joint use, ownership, and/or operation agreements and interagency contracts for service, activity or undertakings. This Agreement is, and shall be construed as, a joint powers agreement enacted pursuant to Sections 67-2326 through 67-2333, Idaho Code.

2. Fire Districts have authority under Sections 31-1430 and 31-1417, Idaho Code, to enter into intra-agency and mutual aid agreements.

3. The Ada County Board of Commissioners, in its capacity as the governing board of the Ada County Emergency Medical Services District (“ACEMS District”) pursuant to Chapter 39, Title 31, Idaho Code, provides emergency medical services in Ada County. All Parties to this Agreement, with the exception of Kuna Rural Fire District (hereinafter “Kuna”), are licensed as a single EMS entity with various levels of EMS licenses issued by the state of Idaho, known as “Ada County-City EMS System” (“ACCESS”).

4. All Parties to this Agreement, with the exception of Kuna shall be responsible for maintaining the ACCESS license, to the extent it remains in the Parties’ best interest to do so.

5. The governing boards of the Parties have determined that it is in the best interests of each Party and their taxpayers and for the persons residing and found within their respective boundaries, to create the System. Now, for and in consideration of the mutual covenants and promises herein set forth, and for other good and valuable consideration hereby acknowledged by the Parties to this Agreement as having been received, the Parties hereby mutually promise,

covenant and agree as follows:

AGREEMENT

ARTICLE I DEFINITIONS

When used herein, the following words shall have the attendant meaning:

- 1.1** “ACEMS District” means the Ada County Emergency Medical Services District, a Party to this Agreement.
- 1.2** “Ada County-City EMS System” means the Ada County-City EMS System as herein created and may sometimes be referred to as the “System” or “ACCESS.”
- 1.3** “Ambulance” means any privately or publicly owned motor vehicle or nautical vessel, authorized to provide service in the System, used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles.
- 1.4** “Ambulance Service” means an agency, licensed to operate within the System, with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.
- 1.5** “Default” means any violation, failure to perform, or breach of any covenant, agreement, term or condition of this Agreement.
- 1.6** “Emergency Medical Services” or “EMS” means the system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.
- 1.7** “Joint Powers Board” means the System Joint Powers Board, (“Board”), formed pursuant to this Agreement, which is authorized to administer this Agreement on behalf of the Parties.
- 1.8** “Parties” means Ada County, the cities and districts that have executed this Agreement.
- 1.9.1** “Inclusive Area Party Agencies” means Public Agencies that are Parties to this Agreement whose boundaries include area only within Ada County, state of Idaho.
- 1.9.2** “Non-Inclusive Area Party Agencies” means Public Agencies that are Parties to this Agreement whose boundaries include area within Ada County and within Canyon County, or any other neighboring county to Ada County, state of Idaho.
- 1.10** “Non-transport Service” means an agency with associated apparatus and personnel

licensed to operate within the System, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

- 1.11** “Public Agency” means any city or political subdivision of this state, including, but not limited to emergency medical service districts; fire districts; cities; and any other government subdivision of the state of Idaho, including any agency of the state of Idaho holding a current EMS license and providing EMS within or contiguous to the boundaries of Ada County.
- 1.12** “System Area” means all the geographic area within the boundaries of the “Inclusive Area Party Agencies” and those designated areas for inclusion within the System which are also within the boundaries of the “Non-Inclusive Area Party Agencies.”
 - 1.13.1** The “System Area” may be modified, upon consent of all Parties, to include area within an adjoining county;
 - 1.13.2** The “System Area” may be modified, upon consent of all Parties, to exclude area within Ada County upon the condition the area excluded will then be subject to a like “System” in an adjoining County.
- 1.14** “Fiscal Year” means the period of time commencing October 1 and ending on September 30 of the following year.

**ARTICLE II
THE ADA COUNTY-CITY EMS SYSTEM (SYSTEM)**

- 2.1** **Establishment of the System.** There is hereby established the ACCESS System. The System shall be created for the express purpose of providing for joint management, provision, operation, and maintenance of pre-hospital emergency and non-emergency medical services, including medical transport, rescue, and extrication services, within the System Area. The System shall exist as a joint exercise of the authority to provide EMS services by all the Parties to this Agreement, and shall be administered by a Joint Powers Board as provided in Article IV of this Agreement. The System, through the Joint Powers Board, Administrative Committee, and the Medical Directorate, shall establish standards and provide for the coordinated management, provision and maintenance of pre-hospital, emergency, and non-emergency medical services, including medical transport, rescue, and extrication services, within the System Area.

- 2.2 Scope of Services and Operation.** The System shall coordinate the management, provision, operation and maintenance of pre-hospital, emergency, and non-emergency medical services, including medical transport, rescue, and extrication services within the System Area. The Parties shall respond to 9-1-1 and other calls necessitating the services of the System within the System Area. By this Agreement, the Parties agree to cooperatively exercise their respective powers within the System Area in a manner consistent with this Agreement.

ARTICLE III

PARTIES, DURATION, AMENDMENT, WITHDRAWAL AND TERMINATION

- 3.1 Parties to this Agreement.** The Parties to this Agreement are Ada County, the Ada County Emergency Medical Services District, the City of Boise, the City of Meridian, Kuna Rural Fire District, Eagle Fire District, and Star Joint Fire Protection District. The City of Boise represents the interests of North Ada County Fire and Rescue, which withdrew as a Party, effective March 5, 2018, pursuant to Article 3.4.1. For all purposes under this Agreement, the City of Boise and North Ada County Fire and Rescue constitute one (1) Party. Each Party intends to and does by this Agreement contract with each other Party and any other Agencies as may later be added. Additional Parties may be added by resolution of the Board and amendment of this Agreement. Each Party agrees that the removal of any Party from this Agreement does not affect this Agreement with respect to each remaining Party.
- 3.2 Duration/Annual Renewal.** This Agreement shall continue in force and effect from its Execution Date through September 30, 2013. Thereafter this Agreement may be renewed for successive one (1) year terms. Renewal terms shall be effective from October 1 through September 30 of each successive calendar year. A Party may renew this Agreement by providing written notice to all other Parties.
- 3.3 Amendment.** This Agreement may be amended only in accordance with the provisions of Article XI.
- 3.4 Withdrawal.**
- 3.4.1** No Party shall withdraw from this Agreement unless it demonstrates one or more of the following circumstances:
- 3.4.1.1** The withdrawing Party is insolvent or otherwise financially unable to carry out its obligations under this Agreement;
 - 3.4.1.2** A court has determined that it is unlawful for the Party to continue to perform under or be Party to this Agreement;
 - 3.4.1.3** A material breach of any term of this Agreement has occurred; or

3.4.1.4 Two or more Parties, after signing, consolidate services and wish to combine their representation under this Agreement as part of said consolidation.

3.4.2 Notice of withdrawal must be provided to the Parties no less than sixty (60) days before the effective date of withdrawal. However, a withdrawal shall not be effective if the condition or conditions giving rise to the withdrawal are cured to the reasonable satisfaction of the withdrawing Party within sixty (60) days after the date of notice of withdrawal is provided.

3.4.3 Withdrawing Party to Cease EMS Services In Service Area. Each Party agrees, as a special consideration to each other Party, that in the event they withdraw from this Agreement, either by voluntarily withdrawing or for cause by default, that they will cease to provide EMS services in the System Area for the remainder of the Agreement term and shall either forfeit or modify their EMS license to the Department of Health and Welfare Bureau of EMS as that license authorizes EMS services in the System Area by that Party. In the event a withdrawing Party fails to cease to provide EMS services in the System Area, the remaining Parties may seek specific performance of this provision of the Agreement and may also seek temporary and permanent injunctive relief in an action for specific performance filed in a court of competent jurisdiction.

3.5 Complaints. The authority to investigate a complaint against a Party may be conducted by the Administrative Committee or by the Board, when involving cause for termination. Member/s of the Party or Parties who are the subject of the complaint cannot vote on motions to proceed with the investigation or matters related to the conduct or financing of the investigation. Each Party shall cooperate with any investigation of complaints regarding performance of services governed under this Agreement.

3.5.1 Complaints involving personnel of a Party are to be treated as described in Section 8.5.3 of this Agreement.

3.6 Party Termination.

3.6.1 For Cause. A Party may be terminated from this Agreement by action of the Board for cause in the event they are in default of this Agreement. Prior to termination of a Party the Board shall conduct a hearing to determine if there is a default of this Agreement that has not been cured by the defaulting Party. The following procedures shall be met:

3.6.1.1 The Board shall provide to the defaulting Party fourteen (14) days written notice of a hearing to show cause.

3.6.1.2 The notice shall specify the reasons for the default and the intention to terminate the Party as a Party to this Agreement.

3.6.1.3 In the event the default is cured within the fourteen (14) days and before the commencement of the scheduled hearing before the Board, the Board shall so note on the record of the proceedings and the hearing shall then be concluded.

3.6.1.4 In the event the default is not cured, the Board shall, upon conclusion of their deliberation, issue findings of fact and conclusions of law and order of decision within thirty (30) days of the date of the hearing.

3.6.1.5 A Board member representing a Party that the Board is considering terminating shall recuse himself/herself from voting on the termination and all proceedings involved in the matter of termination.

3.6.2 Effect of Termination. The termination or withdrawal of any Party pursuant to this subsection shall not constitute a termination of the entire Agreement, and the remaining Parties shall continue to perform under this Agreement for the remainder of the contract term.

3.6.3 Terminated Party to Cease EMS Services In Service Area. Each Party agrees, as a special consideration to each other Party, that in the event they are terminated from this Agreement, either by voluntarily withdrawing or for cause by default, that they will cease to provide EMS services in the System Area for the remainder of the Agreement term and shall either forfeit or modify their EMS license to the Idaho Department of Health and Welfare EMS Bureau as that license authorizes the provision of EMS services in the System Area by that Party. In the event a terminated Party fails to cease to provide EMS services in the System Area, the remaining Parties may seek specific performance of this provision of the Agreement and may also seek temporary and permanent injunctive relief in an action for specific performance filed in a court of competent jurisdiction.

ARTICLE IV

ADMINISTRATION OF THE ADA COUNTY-CITY EMS SYSTEM JOINT POWERS BOARD

4.1 Establishment of the Joint Powers Board; Membership; Officers.

4.1.1 Establishment of the Board. There is hereby established the Joint Powers Board of the System. The Joint Powers Board shall serve as the governing board of the System and operate the System on behalf of the Parties.

4.1.2 Joint Powers Board Membership. The System shall be governed by the Board whose membership shall consist of one (1) elected official representing each Party, and a total of two (2) elected officials of the ACEMS District/Ada County Board of Commissioners.

4.1.2.1 Each Party shall also designate an alternate elected official to serve in the absence of their designated Board member.

4.1.2.2 Each Party's appointee shall be given the authority to vote on all matters before the Board with the exception of financial decisions requiring the appropriation and/or expenditure of funds by the Party.

4.1.3 Officers. Annually, during first meeting held in new Fiscal Year, the Joint Powers Board shall elect a chairman and a vice chairman whose primary responsibilities are as follows:

4.1.3.1 The Chairman shall be a member of the Board and shall conduct all meetings of the Board and execute all contracts and resolutions on behalf of and as authorized by the Board and any other duties assigned by the Board; and

4.1.3.2 The Vice Chairman shall be a member of the Board and shall carry out the functions of the Chairman in the absence of the Chairman and, through his/her delegate, as needed, be responsible for posting agenda notices and preparation of minutes of the Board and for maintaining the records of the Board and any other duties assigned by the Board; and

4.1.3.3 These officers shall have no powers or duties except as provided in this Agreement.

4.2 Powers, Duties and Operations of the Joint Powers Board.

4.2.1 Powers. Pursuant to Section 67-2328, Idaho Code, the Board is responsible to operate and manage the System. In order to accomplish the Purpose of this Agreement, the Joint Powers Board shall have, in addition to other powers provided herein, the authority to adopt procedures for its operation as well as to adopt standards for the coordinated management, provision, operation and maintenance of pre-hospital, emergency, and non-emergency medical services, including medical transport, rescue, and extrication services, within the System Area.

The Board shall have discretionary powers to manage and conduct the business and affairs of the System. However, the governing board of a Party shall approve any action that will financially obligate that Party. The discretionary powers shall include, but not be limited to, the following:

4.2.1.1 Receive recommendations from the Administrative Committee and the Medical Directorate;

4.2.1.2 Approve procedures for the operation, meeting, and other administrative matters of the Board and the System;

4.2.1.3 Approve the Standard Operating Procedures for the System. However, any standards approved regarding qualifications for holding a position

shall provide an exemption for any personnel of any Party who at the effective date of this Agreement holds such a position unless contrary to law;

- 4.2.1.4** Adopt medical protocols and other matters related to the Medical Directorate;
 - 4.2.1.5** Approve response standards, including policies regarding dispatch responses;
 - 4.2.1.6** Recommend for approval, as set forth in section 4.4 of this Agreement, a budget and financial plan as well as subsequent funding, including joint purchasing of property;
 - 4.2.1.7** Approve the allocation of resources, including stationing of personnel and vehicles;
 - 4.2.1.8** Adopt a training and education plan for licensed personnel;
 - 4.2.1.9** Approve the deployment plan of EMS equipment;
 - 4.2.1.10** Recommend that the Board acquire, hold, and dispose of real and personal property jointly owned by and used in the System;
 - 4.2.1.11** Deal with other matters necessary and convenient in furtherance of the Purpose of this Agreement;
 - 4.2.1.12** Identify matters that require approval of the Parties' governing boards;
 - 4.2.1.13** Comply with the Idaho Open Meetings laws;
 - 4.2.1.14** Operate on a fiscal year from October 1 through September 30; and
 - 4.2.1.15** Adopt, administer and implement EMS standards, protocols and procedures. If EMS standards, protocols and procedures adopted by the Board impose higher standards than are required by any state statute or rule the standards and procedures adopted by the Board shall apply to the Parties to the extent allowed by law in the System Area.
- 4.2.2** As required by law, the Board shall report to the Idaho Department of Health and Welfare EMS Bureau any findings of Agency violation of state EMS laws or rules which occurred within the System Area.
- 4.2.3** Resolutions and Board procedures shall be compiled and organized according to subject and maintained by the Joint Powers Board, which shall provide each Party with a copy of all resolutions and procedures.

4.2.4 The approval of the governing board of each Party is required for any matter approved by the Joint Powers Board that includes financial contribution by a Party, including the purchase of real property and personal property.

4.3 Meetings, decisions, and communication. The Board shall adopt rules of procedure for the conduct of their meetings that are consistent with the provisions of this Agreement.

4.3.1 The Board shall meet regularly to confer and carry out the business of the Board and the System in the following manner:

4.3.1.1 For all meetings of the Board fifty percent (50%) of the members of the full Board shall constitute a quorum for the purposes of conducting business.

4.3.1.2 All motions, resolutions, and actions of approval on any matter by the Board require a unanimous vote of the Board members present.

4.3.1.1.1 In regard to matters before the Board that only involve a combined licensure as provided in Article V of this Agreement, only the Board members of Parties that have combined their licenses may vote.

4.3.1.3 The Board must provide at least fourteen (14) days advance written notice to all Parties when considering all matters requiring a vote of the Board members.

4.3.1.4 Only Board members, or their alternates, shall have voting privileges.

4.3.1.5 In the event a Party's Board member or designated alternate fails to attend three (3) consecutive meetings or fails to attend more than one-half of the meetings of the Board within a Fiscal Year, notice of absence shall be sent to the offending Party which notice shall be withdrawn if the offending Party's Board member appears at the next regularly scheduled meeting and shows good cause for the absences and presents a commitment to regular attendance in the future. In the event the offending Party does not appear and show good cause then the same shall constitute a material breach of the terms of this Agreement and the offending Party will be subject to termination provisions of Section 3.6 of this Agreement and the notice of absence shall stand as a notice of default.

4.3.2 The Board shall create a written annual report concerning the status of the System, at a date set in the procedures of the Board, but in no event not less than once per year. This report shall include all matters the Joint Powers Board determines to be relevant to the operation of the System, including the Budget (as described in 4.4),

and any matter that may be required by the State EMS Bureau or by state or federal law.

4.4 Finances. On or before March 1 of each year, the Board shall propose an ACCESS Budget (the “Budget”) for approval by the ACEMS District Board.

4.4.1 The Budget shall include all vehicle license registration fees designated for and remitted to the ACEMS District for that fiscal year. The Parties are committed to a joint responsibility for the Budget, recognizing that property tax funds contributed for that fiscal year by the ACEMS District Board, pursuant to Chapter 39, Title 31, Idaho Code, comprise a significant portion of the Budget. However, the Budget shall include contribution payments to the System by all Parties to this Agreement, with a goal of shared resources and efficiencies.

4.4.2 The Budget shall identify anticipated expenditures for the System up to the amount included in the Budget in Section 4.4.1. Budget expenditures shall be developed in accordance with the statutory purposes for the vehicle license registration fees, designated for the provision of EMS services within the ACEMS District, and the property tax funds contributed for that fiscal year by the ACEMS District Board, pursuant to Chapter 39, Title 31, Idaho Code, as well as direction from the Board.

4.4.3 A division for the System shall be established within the ACEMS District Budget, which shall include income line items and expenditure line items as allocated by the ACEMS District Board. The income line items shall include, if applicable: (1) vehicle license registration fees as described in Section 4.4.1 above; (2) contribution payments from the Parties; and (3) tax funds being contributed by the ACEMS District for System expenditures as described in Section 4.4.1 above. The expenditure line items shall include, if applicable: (1) personnel expenses; (2) capital expenses; and (3) operating expenses.

4.4.4 If the Budget includes contribution payments by Parties other than the ACEMS District, then on or before March 1, the Board shall submit the Budget to each Party’s governing board for consideration of an appropriation of any contribution payment by that Party.

4.4.5 The Parties shall set their own budgets in a timely manner with consideration to the Budget as proposed by the Board.

4.4.6 If the Board fails to submit a Budget to the ACEMS District Board for approval, then the Parties shall set their own budgets.

4.4.7 Capital investments requiring additional expenditures will be funded through extra appropriations as proposed by the Board, subject to approval by each Party’s governing board.

4.5 Joint Purchasing. Pursuant to Section 67-2807, Idaho Code, the Board, subject to approval

of the Parties' governing boards as required by other provisions of this Agreement, may authorize joint purchasing of any real or personal property consistent with the laws of the state of Idaho. Prior to the Board approving any joint purchase, the Board shall identify by resolution the plan for distribution and/or ownership of property jointly owned by the Parties upon the withdrawal or termination of a Party.

- 4.6 Agreements with other Medical Service Providers.** The Board may enter into agreements with medical service providers other than those that are Parties to this Agreement in order to provide for EMS services and/or to provide mutual aid to the System or any medical service provider. Such agreements may be with public or private agencies and may incorporate any of the terms and conditions contained herein and any other terms and conditions the Parties may deem appropriate. Such agreements shall not authorize a medical service provider to directly compete with any Party to this Agreement for the provision of EMS services, nor shall such agreement extend any voting rights to any Party to this Agreement for the provision of EMS service, nor shall such agreement extend any voting rights to the Party with whom the agreement is made.

ARTICLE V LICENSURE

- 5.1 Licensure.** The Parties, except Kuna, hereby agree to maintain a single combined state-issued EMS license, in accordance with 5.3 and 5.4 herein. Kuna agrees to maintain its state-issued license and operate in accordance with the laws of the state of Idaho and associated regulations of the Idaho Department of Health and Welfare.
- 5.2 Establishment of the Ada County-City EMS System.** The Board shall, together with the Parties' governing boards, comply with Idaho Code §§ 53-501—510, "The Assumed Business Names Act of 1997" to conduct the business of the System under the name and style of Ada County-City EMS System.
- 5.3 Combined Licensure.** Any of the Parties to this Agreement may agree to combine their state-issued EMS licenses and to operate under one EMS license as provided by the laws of the state of Idaho and regulations of and as authorized by the state of Idaho Department of Health and Welfare Bureau of EMS.
- 5.4 Transition Process.** Those Parties agreeing to combine their state-issued EMS licenses will do all things necessary to accomplish the transition of combining their EMS licenses and to begin and continue operating lawfully under the ACCESS license.

ARTICLE VI ADMINISTRATIVE COMMITTEE

- 6.1 Establishment of the System Administrative Committee.** There is hereby established an ACCESS Administrative Committee. The Administrative Committee shall serve to make recommendations to the Board.

6.1.1 Administrative Committee Membership. Voting members of the Administrative

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Committee shall consist of a chief administrative official from each Party. In addition, non-voting members may be invited to participate including, but not limited to: a representative from the Ada County Emergency Communications Center, representatives from hospitals located within the System, representatives from the Medical Directorate, and other EMS or health care agencies with a shared

interest in emergency medical services. The attendance of three (3) voting Administrative Committee members shall constitute a quorum for conducting the business of the Administrative Committee. All actions regarding a recommendation to the Board shall require a two-thirds (2/3) majority vote of all voting Administrative Committee members present. Each Party shall designate an alternate member who, in the absence of their Administrative Committee member, shall have the right to a proxy vote on all matters presented for a vote.

6.1.2 Administrative Committee Ex-officio Membership. Any legal entity or person who is providing EMS Services in the System Area under a current license issued by the EMS Bureau, either as air medical services, ambulance services, and/or non-transport services, may apply for membership on the Administrative Committee as an Ex-officio member with rights to participate in the meetings subject to the rule of the chairman, without the right to vote and without a right to participate in or attend any executive session matter or on any agenda item involving personnel or a claim of default of a Party.

6.1.3 Officers. Annually, during first meeting held in new Fiscal Year, the Administrative Committee shall appoint a chairman and a vice chairman whose primary responsibilities are as follows:

6.1.3.1 The Chairman shall be a member of the Administrative Committee and shall conduct all meetings of the Administrative Committee, and shall act as the spokesperson for the Administrative Committee when presenting to the Board.

6.1.3.2 The Vice Chairman shall be a member of the Administrative Committee and shall carry out the functions of the Chairman in the absence of the Chairman and, through his/her delegate, as needed, be responsible for posting agenda notices and preparation of minutes of the Administrative Committee. The agenda for each meeting shall be sent to the members fourteen (14) days before the meeting date. The Vice Chairman shall also perform any other duties assigned by the Administrative Committee.

6.1.3.3 These officers shall have no powers or duties except as provided in this Agreement or conferred by the Board.

6.2. Purpose. The purpose of the Administrative Committee is to provide operational expertise

as outlined in the Administrative Committee procedures and to make recommendations to the Board. The Administrative Committee will meet at least bi-monthly, but may meet more often depending on need.

6.3. Responsibility. The Administrative Committee responsibilities shall include, but are not limited to, the following:

6.3.1 Development, maintenance, and annual review of the ACCESS Operation and Finance Plan to include, but not limited to: System deployment plan, System staffing levels and licensure levels, current and future funding needs, capital improvement plan, determination of System performance levels, assuring a quality management program, development of a System training and education plan, and other functions not specifically identified but intended to meet the requirements for the safe and efficient operation of the EMS System.

6.3.1.1 Review and update annually any change in System configuration.

6.3.1.2 Prepare, in accordance with the provisions of this subsection, any reports, Standard Operating Procedures, Quality Improvement Plan, Quality Assurance Plan or budget recommendation to submit to the Board for approval prior to publication and implementation.

6.3.1.3 Provide for the coordination, planning, and provision of transport and non-transport EMS services between the Parties, which may include air medical service within the System Area. Ensure that EMS services are rendered in a timely and cost effective manner, at an optimal level of care. The Administrative Committee shall consider the current EMS standards, existing EMS service capabilities, trends, desired goals, and future EMS service capabilities for each planning component with due consideration of the limited funds available to provide such services.

6.3.1.4 The Administrative Committee shall consider, along with its accompanying maps, charts and reports, the following components and criteria:

6.3.1.4.1 The current emergency medical services system structure and performance;

6.3.1.4.2 Emergency medical services resources and capability throughout the System, to include licensees, employees, contractors, volunteers, and any demonstrated need for change;

6.3.1.4.3 Population and other pertinent demographics within the EMS System, including analyses of hospital services and past, present, and future trends in population and characteristics such as age, mortality, insurance and revenue to support EMS within the System Area;

- 6.3.1.4.4 Other EMS factors, including but not limited to response time standards, medical standards of care, required staffing, EMS equipment and facilities standards within the System Area, EMS System deployment plans, mutual aid agreements, competency management strategy, compensation/reimbursement plan, and data collection plan;
 - 6.3.1.4.5 Recommended performance standards that are currently recognized under national, state and local standards and guidelines; and
 - 6.3.1.4.6 Private EMS provider's services and capabilities within the Service Area.
- 6.3.2 Develop, maintain and monitor EMS performance criteria by the Parties and any Medical Service Providers under contract pursuant to Section 4.6 of this Agreement.
- 6.3.3 Receive communications, review and make recommendations to the Board regarding any ongoing operational and/or planning and/or funding issues in order to coordinate EMS service and resources, transport and non-transport and air medical service, within the System Area.
- 6.3.4 Conduct EMS services informational meetings and consult with public officials and agencies, the medical community, the public, and civic, educational, professional, or other organizations.
- 6.3.5 Other duties as may be assigned by the Board.

ARTICLE VII SYSTEM MEDICAL DIRECTORATE

- 7.1 **Establishment of the System Medical Directorate; Standards and Procedures.** There is hereby established a System Medical Directorate. The Medical Directorate composition shall be two (2) qualified physicians as recommended by the Administrative Committee and appointed by the Board. The Medical Directorate members shall appoint a chairman, who shall set the agenda and preside over the meetings, serve as the spokesman for the System Medical Directorate, and serve as an ex-officio member of the Administrative Committee. The Board shall adopt administrative guidelines and procedures concerning the conduct and the responsibilities of the System Medical Directorate.
- 7.2 **Purpose of the System Medical Directorate.** The System Medical Directorate executes the duties and functions in accordance with the laws of the state of Idaho, the Rules and Regulations of the Idaho EMS Physicians' Commission, the state of Idaho EMS Bureau, and any other rules or regulations concerning emergency medical services.

- 7.3 Authority.** Decisions pertaining to medical oversight rendered by the System Medical Directorate shall be binding upon the Parties, unless otherwise specifically noted within this Agreement.
- 7.4 Responsibility.** The System Medical Directorate shall have and exercise the following duties:
- 7.4.1** Be responsible for the clinical management and medical oversight of the Parties' EMS services within the System Area and for compliance with the rules and regulations of the Idaho EMS Physicians' Commission, rules and regulations of the State of Idaho EMS Bureau and any associated rules and regulations concerning emergency medical services;
 - 7.4.2** Determine the content of the System's Medical Supervision Plan;
 - 7.4.3** Assess clinical ramifications of field operating procedures;
 - 7.4.4** Evaluate the prospective clinical effects of administrative and operating proposals;
 - 7.4.5** Establish the scope of practice of EMS personnel functioning within the System as required by the rules of the EMS Physician Commission and/or performance requirements as set forth by the System; and
 - 7.4.6** Identify opportunities for improving the quality of medical care delivered to patients in the out of hospital setting within the System Area.
- 7.5 Meetings.** The System Medical Directorate shall meet at least bi-monthly and at the call of the chairman. All meetings shall be conducted and noticed in accordance with the Idaho Open Meeting Laws, Sections 67-2342 through 67-2345, Idaho Code and any meeting rules adopted by the Board. A majority of the System Medical Directorate shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power. Each member of the System Medical Directorate may cast one vote during decision-making.

ARTICLE VIII OTHER OBLIGATIONS OF THE PARTIES

- 8.1 Compliance with EMS Standards.** Each Party shall at all times comply with standards established by the laws of the state of Idaho and associated regulations, as well as any other applicable federal law and/or regulation.
- 8.2 Agreement, Standards, Resolutions and Procedures Binding.** The Board has the authority to cooperatively exercise the powers of each Party in furtherance of the purposes of this Agreement and the operations of the System to the extent conferred by this Agreement, and to the extent allowed by governing law.

- 8.2.1** Each Party agrees to be bound by this Agreement, its amendments, and by the resolutions and procedures adopted by the Board within the powers granted to it by this Agreement.
- 8.2.2** Each Party further agrees to do all things necessary and lawful to accomplish the purpose of this Agreement, including adoption of any ordinance or resolution necessary to authorize the Party to perform under this Agreement.
- 8.3 Insurance.** Each Party shall maintain a plan of insurance or self-insurance for comprehensive liability in compliance with the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code.
- 8.4 Billing and Collection.** Each Party is responsible for arranging the billing and collection of fees charged for the services it provides.
- 8.5 Individual Operation of the Parties; Allocation of Resources According to Standards Adopted by Board; Furnishing of Equipment.** The Board will establish procedures and standards as well as specific direction for allocation of resources and personnel within the System as well as other subjects as provided herein. Except as provided by the System by action of the Board, each Party will provide its own equipment and supplies on its vehicles, for its personnel, payroll, and its stations. All Parties will retain control over those matters not related to the System or this Agreement, which may include, but is not limited to: budgeting, personnel decisions, equipment, offices, payroll, day-to-day operations and other related matters not impairing the operation of the System or functioning of the Board.
- 8.5.1 Personnel.** This Agreement does not create a separate legal entity and therefore the Board shall have no authority to employ personnel directly. Personnel additions and reductions are matters entirely under the authority of the Party employing the personnel. The Board shall not take any action which is intended to terminate the employment of any employee, who is employed by a Party on the effective date of this Agreement.
- 8.5.2 Party Compliance with laws governing Personnel.** Each Party is responsible for their compliance, in the performance of any services under this Agreement, with Idaho Code Section 67-5901 *et seq.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, *et seq.*, as amended by the Civil Rights Act of 1991, the American with Disabilities Act of 1990, 42 U.S.C. Section 12101, *et seq.* as amended by the American with Disabilities Act Amendments of 2008, the Rehabilitation Act of 1973, 29 U.S.C. Section 701, *et seq.* the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, *et seq.*
- 8.5.3 Party to Investigate Complaints.** Each Party is responsible to investigate complaints referred from the Board, the Administrative Committee, or the Medical Directorate made by or against the Party's employees concerning matters related to their performance of services governed under this Agreement. This does not

require a Party to report the results of any investigation. Each Party retains control of its personal property, personnel records, reports, and other documents for purposes of resolution or remediation of complaints.

8.6 Medical Supplies. ACEMS District shall purchase all necessary disposable medical supplies for agencies operating under the ACCESS license. Upon direction from the Board, the Parties shall endeavor to engage in joint purchasing of medical supplies in order to realize cost savings.

8.7 Indemnification. Each Party covenants and agrees with the other Parties to indemnify, defend, and hold harmless each other Party, their officers, agents, and employees, from and against all claims, losses, actions, or judgments for damages or injury to persons or property arising from or connected to the acts and/or activities of it and/or its agents, employees, or representatives pursuant to and under the terms of this Agreement to the extent allowed by law.

8.8 Shared Use of ESO Reporting Software. The Parties, with the exception of Kuna, hereby adopt Appendix A to this Agreement, for the purpose of establishing terms and conditions of the shared use of ESO Reporting Software for report writing and records storage and management.

ARTICLE IX ADMINISTRATIVE SERVICES PROVIDED BY ADA COUNTY

9.1 Management of Funds and Administrative Support. The ACEMS District shall provide for the day-to-day management of the System funds as proposed by the Board through the policies and procedures established by the ACEMS District. The ACEMS District shall also provide administrative support for the Board.

9.2 Financial Advice. Ada County may make available a financial manager to the System from time to time in order to monitor the System's financial situation and to consult with the Board concerning the same. The Board may seek their own financial manager as needed.

9.3 Legal Counsel. The Parties agree to make their respective legal counsel available for use by the Board, subject to a mutual agreement between the Party and the Board regarding the legal services to be provided and payment for those services.

9.4 Ambulance Service. The ACEMS District shall continue to provide ambulance service through its ambulance taxing district within the boundaries of the District.

9.5 Medical Supervision. The System Medical Directorate shall consist of a minimum of two Medical Directors, and shall be provided through Party contributions made part of the ACCESS Budget process, as provided in section 4.4 herein.

ARTICLE X

NOTICE

- 10.1** All notices provided for in this Agreement are to be sent to the Vice Chairman, who shall provide said notice to each Party.
- 10.2** Each Party shall designate in writing to the Vice Chairman their address for the receipt of official notices.
- 10.3** The effective date of notice given pursuant to this Agreement shall be three (3) days after the date of posting with the U.S. Postal Service of notice sent to the Vice Chairman or upon the day of notice sent by facsimile or e-mail to the Vice Chairman.
- 10.4 Vice Chairman Notice Duties.** The Vice Chairman, or his/her delegate, shall:
 - 10.4.1** Receive from the Party(s) and distribute to all Parties the following:
 - 10.4.1.2** Notices provided for in this Agreement; and
 - 10.4.1.3** The minutes and all official actions of the Joint Powers Board.
 - 10.4.2** Keep a current registry of the correct legal name and address of all Parties to this Agreement, each Board member, and each alternate.
 - 10.4.3** Process notices of withdrawal and termination as provided in Article III, Sections 3.4 and 3.6 herein and proposals for amendment of this Agreement as provided in Article III, Section 3.3 and Article XI herein.

ARTICLE XI AMENDMENT PROVISIONS

This Agreement may only be amended in accordance with the following process:

- 11.1** An amendment may be proposed by a Party and/or by the Board.
- 11.2** The Vice Chairman, or his/her delegate, is authorized to take all actions required under this Article XI.
- 11.3** A proposed amendment must be in writing and must include strikethrough of any language to be deleted and underline of any new language of the proposed amendment. Any proposed amendment will be considered an amendment to the entire Agreement and must be submitted in that fashion.
- 11.4** A proposed amendment shall contain a Statement of Purpose, which shall include a statement of how the Parties will be affected by the amendment; the Party to contact for information; and the amended Agreement text.

- 11.5** The proposing Party shall also prepare and submit to the Vice Chairman a Restated and Amended Agreement form for service by the Vice Chairman in the event the proposed amendment is approved.
- 11.6** The proposed amendment text, Statement of Purpose and a Restated and Amended Agreement form shall be served upon the Vice Chairman by the proponent Party or Board, as the case may be.
- 11.7** The Vice Chairman shall determine if the Proposed Amendment is in compliance with this Article and shall advise the proponent Party in the event it is not.
- 11.8** If the amendment proposal is in compliance with this Article, the proposed amendment shall be served and submitted to the Parties to this Agreement by the Vice Chairman.
- 11.9** All Parties' approval is required for the approval of an amendment to this Agreement.
- 11.10** Parties must submit their approval, or their disapproval with reasoning, in accordance with service of notice as provided in this Agreement and within sixty (60) days of the date of the cover notice from the Vice Chairman.
- 11.11** The Vice Chairman shall tally the approvals and or disapprovals within a reasonable time, or in the case of no response, then soon after the sixty (60) day period for response. The amended Agreement shall be effective after all Parties have duly signed.
- 11.12** The Vice Chairman shall then give notice to the Parties of the results, and in the event the amendment passes, the Vice Chairman shall also include with notice to the Parties the Restated and Amended Agreement.

ARTICLE XII MISCELLANEOUS PROVISIONS

- 12.1** This Agreement shall not relieve any Party of any obligation or responsibility imposed upon it by law.
- 12.2** **Severability in Case of Partial Invalidity.** If any portion of this Agreement is determined to be invalid or unenforceable as a matter of law, such invalidity or lack of enforcement shall be limited to such portion, and shall not affect any other portions or provisions, which shall be given the fullest effect permitted by law. In the event that it should ever be determined by a tribunal having appropriate jurisdiction that this Agreement is illegal or unenforceable as a matter of law, this Agreement shall be deemed to be null and void, from its inception, and the Parties hereto shall be relieved of any further performance under the terms of this Agreement.
- 12.3** **Governing Law.** This Agreement shall be governed by the laws of the State of Idaho.
- 12.4** **No Third Party Beneficiaries.** Each Party to this Agreement intends that this Agreement

shall not benefit or create any right or cause of action in or on behalf of any person or legal entity other than the Parties hereto.

12.5 Counterparts and Process to Become a Party. This Agreement will be executed and delivered in counterparts, one for each Party, and at such time as the governing board of an agency intent upon joining adopts the necessary resolution authorizing the execution of the counterpart and a written notice thereof, including a copy of the resolution or other authorizing act of its governing board is provided to the Secretary, this Agreement shall then be in full force and effect to such Parties and shall have the force and effect of an original, and copies of the signature pages of all counterparts shall be provided to all Parties to this Agreement by the Secretary.

12.6 Captions. The subject headings of the paragraphs and subparagraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

12.7 Attorney Fees. If in the event judicial action of any kind is necessary to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing Party its reasonable attorney fees and costs as provided by Idaho law and the Idaho Rules of Civil Procedure.

12.8 Entire Agreement. This is the entire agreement between the Parties and may be modified only as provided herein.

**BOARD OF ADA COUNTY COMMISSIONERS and
BOARD OF ADA COUNTY EMERGENCY MEDICAL SERVICES DISTRICT:**

By: _____
Rod Beck, Commissioner

By: _____
Ryan Davidson, Commissioner

By: _____
Kendra Kenyon, Commissioner

Attest: _____
Phil McGrane, Ada County Clerk

CITY OF BOISE:

Lauren McLean, Mayor

Attest: _____
Lynda Lowry, City Clerk

CITY OF MERIDIAN:

Robert E. Simison, Mayor

Attest: _____
Chris Johnson, City Clerk

STAR FIRE PROTECTION DISTRICT:

Attest: _____

Jared Moyle, Board Chairman

EAGLE FIRE PROTECTION DISTRICT:

Attest: _____

Josh Tanner, Board Chairman

KUNA RURAL FIRE PROTECTION DISTRICT

Attest: _____

M.G. Bud Beatty, Jr., Board Chairman

**APPENDIX A:
SHARED USE OF ESO REPORTING SOFTWARE**

This APPENDIX A: SHARED USE OF ESO REPORTING SOFTWARE (“Appendix A”), is made pursuant to Article VIII, § 8.8 of the Agreement, by and between the parties to the Agreement, with the exception of Kuna Rural Fire District. The parties to this Appendix A may each be referenced separately in this Appendix as “Party” or collectively as “Parties.”

WHEREAS, the Kuna Rural Fire District shall remain a party to the Agreement as if it had not been amended by the addition of this Appendix A; the Kuna Rural Fire District is not, however, a party to this Appendix A, and it is the intention and agreement of each Party hereto that the Kuna Rural Fire District shall be exempt from all provisions of this Appendix A;

WHEREAS, the Parties have determined that it is in the best interest of their respective jurisdictions to use ESO Reporting Software (“ESO”) for report writing and records storage and management;

WHEREAS, it is the Parties’ desire to provide to each other mutual access to ESO’s functions and information stored therein in order to achieve economy of public resources, better coordinate public safety and emergency responses, undertake local and regional analyses and planning efforts, and work cooperatively to fulfill public service and governmental functions;

WHEREAS, the records created and stored in ESO are public records, as that term is defined in Idaho Code section 74-101(13), and are therefore subject to the Idaho Public Records Act, including the requirements of and exemptions from disclosure enumerated therein;

WHEREAS, to the extent that the information contained in ESO is Protected Health Information (“PHI”) as that term is defined in the Health Insurance Portability and Accountability Act (“HIPAA”), 42 U.S.C. §§ 201 *et seq.*, such information is exempt from public disclosure under the HIPAA Privacy Rule promulgated by the U.S. Department of Health and Human Services, 45 C.F.R. §§ 164.508(a)(1) and (c), and Idaho Code § 74-104(1); and

WHEREAS, under *Idaho Conservation League, Inc. v. Idaho State Department of Agriculture*, 143 Idaho 366 (2006) and Idaho Code section 74-102(13), a record prepared, owned, used or retained by a governmental entity remains the record of that entity, notwithstanding delegation of that agency’s custodial duties as to such record, nor the location or format in which the record is stored;

WHEREAS, where two or more Parties respond to an incident, each responding fire department or district may prepare an Electronic Health Report (“EHR”) specific to each patient, Ada County Paramedics may prepare an EHR specific to each patient, and ESO will merge both EHRs into one consolidated EHR; further, each responding fire department or district may prepare a National Fire Incident Report System Report (“NFIRS Report”) specific to that incident, and ESO will merge both NFIRS into one record;

NOW, THEREFORE, subject to the limitations of the Agreement and this Appendix A and in order to meet the objectives described above, the Parties hereby agree as follows:

I. **STATEMENT OF PURPOSE (AGREEMENT, ARTICLE XI).** This Appendix A is proposed by the Board as an addendum to the Agreement. The purpose of this Appendix A is to establish the terms and conditions of the Parties' use of ESO for creating and storing records of individual and joint responses to medical and fire emergencies; to coordinate a uniform approach and response to requests for records stored in ESO; to delegate to Ada County Paramedics ("ACP") custodial responsibility for EHRs stored in ESO, which responsibility shall include, without limitation, responding to requests for such records in accordance with the Idaho Public Records Act, and records retention and destruction in accordance with the Parties' respective retention schedules.

II. PUBLIC RECORDS REQUESTS

A. **Requests for EHRs.** The following provisions shall apply to requests and/or subpoenas *duces tecum* for EHRs stored in ESO.

1. **Delegation of Custodial Duties.** As to EHRs stored in ESO, the Parties hereby delegate to ACP their respective custodial duties, including, without limitation, the duty to timely respond to a request for such records pursuant to subpoena or Idaho Code section 74-102; to manage such records; and to protect PHI from improper disclosure pursuant to HIPAA.

2. **Designation of Records Custodians.** Each Party shall designate a Records Custodian, and shall notify the Vice Chairman of same. The Vice Chairman shall keep a current registry of the Parties' respective Records Custodians, to include their names, addresses, e-mail addresses, and phone numbers.

3. **Process.** Whenever any Party receives a request for an EHR, the Party receiving such request shall, by 5:00 p.m. of the first business day on which the request is received, forward such request to ACP Records Custodian, and shall notify the requestor that the second Party is the custodian of the record requested, and that the request has been referred to the second Party for response. ACP shall process and respond to all requests for EHRs on behalf of the agency forwarding such request. In so doing, ACP shall observe all requirements of the Idaho Public Records Act, HIPAA, and ACP's Records Release Policy, Designated Records Set Policy, and HIPAA Policy, copies of which are attached to this Appendix A as *Exhibit A*.

4. **Fees.** Pursuant to Idaho Code section 74-102(10), the Board of Ada County Commissioners may adopt, and ACP may assess, fees for labor, materials, and legal review related to the preparation of responses to requests for EHR. Each Party to this Appendix A shall adopt by reference the most current fee schedule established by the Board of Ada County Commissioners as it relates to EHRs stored in ESO. ACP shall notify the parties of any and all proposed and final changes to such fees.

5. Petition. In the event that a requestor files a petition pursuant to Idaho Code section 74-115 contesting ACP's decision to release or deny a record stored in ESO pursuant to the delegation of authority to ACP provided herein, the following provisions shall apply.

a. Record of incident that included ACP. Where the responsive records at issue are related to an incident to which ACP responded, in whole or in part, Ada County shall defend such decision in district court and in any and all subsequent appeals. Ada County shall be responsible for all expenses related to such petition or any ruling or order related thereto, including attorney fees, costs, penalties, or sanctions. Where a petitioner joins a party other than ACP, the joined party shall be responsible for its own appearance and all expenses related thereto.

b. Record of incident that did not include ACP. Where the responsive records at issue are related to an incident to which ACP did not respond at all, ACP shall, by 5:00 p.m. of the first business day on which the petition is served, forward such petition to the agency or agencies that did respond to the incident. The agencies that did respond to the incident shall move to join the petition and shall stipulate to dismissal of the petition as to ACP.

B. Requests for NFIRS Reports. The following provisions shall apply to public records requests and/or subpoenas *duces tecum* for NFIRS reports stored in ESO.

1. Custodial duties; delegation to co-responders. Pursuant to Idaho Code sections 74-101(3) and (13), each Party is the sole custodian of all NFIRS Reports that it prepares and/or stores in ESO. Where two or more parties respond to one incident and the NFIRS Reports they separately prepare and/or store in ESO are merged into one record, both parties are co-custodians of the merged record. To the extent that such merged records contain information prepared by multiple Parties, as to such merged records, the Parties hereby delegate to each other their respective custodial duties.

2. Response to request for agency's own NFIRS Report. Where a Party receives a request for a NFIRS report prepared by that Party, and that Party is the only Party that prepared the requested NFIRS Report, that Party shall be solely responsible for responding to the request and for any and all related risks, duties, and litigation related to the request and/or response.

3. Response to request for another agency's NFIRS Report. When a Party receives a request for a NFIRS Report prepared by a second Party, and the second Party is the only Party that prepared the requested NFIRS Report, the Party receiving such request shall, by 5:00 p.m. of the first business day on which the request is received, forward the request to the second Party's Records Custodian. The Party that originally received such request shall notify the requestor that the second Party is the custodian of the record requested, and that the request has been referred to the second Party for response. The second Party shall be solely responsible for responding to the request and for any and all related risks, duties, and litigation related to the request and/or response.

4. Response to request for merged NFIRS Report. When a Party receives a request for a NFIRS Report that contains information prepared both by that Party and by a second or additional Party or Parties, and such information is merged into one record by ESO, the Party receiving such request shall be solely responsible for responding to the request and for any and all related risks, duties, and litigation. The Party receiving such request need not notify the additional Party or Parties that such request was received, except that the Party receiving the request for such NFIRS Report shall, by 5:00 p.m. of the first business day on which the request is received, notify the Records Custodian of all Parties whose information is contained in the NFIRS Report where such NFIRS Report refers to or contains information related to the following circumstances:

- a. One or more casualties;
- b. A fire investigation;
- c. An intentional fire;
- d. Hazardous materials;
- e. Property loss or costs estimated at \$10,000 or more; and/or

f. Other circumstances under which, in the discretion of the Party receiving the request, consultation between the Parties would promote the safety, welfare, or best interest of either Party, citizens involved in the incident described in the NFIRS report, or the public.

(“Extraordinary Circumstances.”) In the event that a requested NFIRS Report describes Extraordinary Circumstances, the Parties shall work together to prepare a response that is acceptable to both Parties. In the event that the Parties cannot come to consensus prior to the deadline for release of a NFIRS Report describing Extraordinary Circumstances, the Party that originally received the request shall consider the input of all other Parties, and shall provide a response to the requestor that accommodates such input as the Party that originally received the request deems practicable. In any event, as to NFIRS Reports that do and do not pertain to Extraordinary Circumstances, the Party that originally received the request shall be solely responsible for responding to the request and for any and all related risks, duties, and litigation related to the request and/or response.

5. Principles of response. In order to provide uniform responses to public records requests, the Parties to this First Addendum hereby agree that:

- a. Absent statutory exemption, NFIRS Reports stored in ESO shall be presumed to be subject to disclosure upon request, including, without limitation: incident reports; investigative reports and photographs; addresses and phone numbers, including location and involved persons; and responding crew member names and positions.
- b. Prior to disclosing a record which contains both PHI and information subject to

disclosure, the responding agency shall redact all PHI pursuant to Idaho Code section 74-104(1), which provides that PHI is exempt from disclosure pursuant to 45 C.F.R. §§ 164.502(a) and 164.512(a)(1), promulgated by the United States Department of Health and Human Services, pursuant to 42 U.S.C. § 264(b), unless disclosure is appropriate pursuant to ACP’s HIPAA Policy, a copy of which is attached hereto as *Exhibit A*.

c. It is acknowledged and agreed that information related to “Extraordinary Circumstances,” as enumerated above, may be subject to particular statutory standards of review and/or redaction.

d. The exemption for law enforcement records set forth in Idaho Code section 74-124(1) shall not be presumed to apply to NFIRS Reports, unless the report pertains to a suspected commission of a fire-related crime (arson, false alarm, fireworks, explosives, malicious injury to property, concealment, etc.) in which case the responding Party may be acting as a law enforcement officer for purposes of this exemption.

e. Pursuant to Idaho Code section 74-103(4), any denial of a request for NFIRS Report information requires consultation with legal counsel of the Party responding to the request.

f. Requested records may contain information that is both exempt and nonexempt from disclosure. Pursuant to Idaho Code section 74-112, such information must be separated and disclosed accordingly.

III. RETENTION OF RECORDS IN ESO.

A. Retention of Records. A record stored in ESO shall be retained not less than nineteen (19) years from the date of its creation. Pursuant to Idaho Code §§ 31-871(1)(b) and (2)(d) and 50-907(2)(e), such records shall be classified as “semipermanent” records and destroyed pursuant to resolution by the Ada County Board of Commissioners, and the corresponding city council(s) or fire district board of commissioners.

C. Records retention schedule. Each Party shall incorporate into its records retention schedule a listing of records stored in ESO, with the following classifications and retention periods:

<u>Record</u>	<u>Classification</u>	<u>Retention period</u>
<u>Records containing PHI</u>	<u>Semipermanent</u>	<u>Nineteen (19) years</u>
<u>NFIRS incident and casualty reports</u>	<u>Semipermanent</u>	<u>Nineteen (19) years</u>
<u>Investigative reports</u>	<u>Semipermanent</u>	<u>Nineteen (19) years</u>
<u>Photographs</u>	<u>Semipermanent</u>	<u>Nineteen (19)</u>
<u>Public records requests</u>	<u>Semipermanent</u>	<u>Six (6) years</u>

EXHIBIT A

Ada County Paramedics' Records Release Policy, Designated Records Set Policy, and HIPAA Policy

Ada County Paramedics Policy on Patient Requests for Access to PHI

Approved by Darby Weston (Director)
Approval Date: 1/24/2017 Version: 1

Purpose

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) grants individuals the right to access their protected health information (“PHI”) contained in a designated records set (“DRS”). Ada County Paramedics must afford individuals this right of access in accordance with federal and state law. To ensure that Ada County Paramedics complies with its obligations, this policy outlines our procedures for handling requests for patient access and establishes the procedures by which patients or authorized representatives may request access to PHI.

Departments Affected

103.01.01 Policies & Procedures, Administration, Billing, Compliance

Policy

All access requests will be directed to the HIPAA Compliance Officer, or their designee, and it shall be the responsibility of the HIPAA Compliance Officer to handle all access requests.

Procedures

1. Requests for Access from the Patient or the Patient’s Personal Representative
 - 1.1. Patients and their authorized representatives shall be granted a right of access to obtain a copy of their PHI contained in a DRS maintained by Ada County Paramedics.
 - 1.2. If a patient or their authorized representative requests a copy of a patient’s PHI, the requestor shall be referred to the HIPAA Compliance Officer or their designee. The HIPAA Compliance Officer, or designee, shall request that the patient or authorized representative complete Ada County Paramedics’ “Request for Access to Protected Health Information” Form.
 - 1.3. The HIPAA Compliance Office, or designee, must verify the patient’s identity, or, if the requestor is not the patient, the name and identity of the representative and whether the representative has the authority to act on the patient’s behalf. The use of a driver’s license, social security card, or other form of government-issued identification is acceptable for this purpose. If it is impossible for the requestor to physically come in to make the request and verify this information, the HIPAA Compliance Officer shall ask the requestor to verify the patient’s name, date of birth,

SSN, address, and telephone number over the phone and ask the requestor to submit the “Request for Access to Protected Health Information Form” via email, mail or fax.

1.4. Upon receipt of the completed “Request for Access to Protected Health Information Form” and verification of the requestor’s identity, the HIPAA Compliance Officer will act upon the request within 30 days, preferably sooner. Generally, Ada County Paramedics must respond to requests for access to PHI within 30 days of receipt of the access request.

1.5. If Ada County Paramedics is unable to respond to the request within these time frames, the requestor must be given a written notice no later than the initial due date for a response, explaining why Ada County Paramedics could not respond within the time frame, and in that case Ada County Paramedics may extend the response time by an additional 30 days.

2. Requests for Access from the Patient’s Attorney

2.1. If Ada County Paramedics receives a request for a patient’s PHI from the patient’s attorney, the HIPAA Compliance Officer, or their designee, shall verify that the patient has authorized the release of PHI. Generally, the request should be accompanied by a form or letter, signed by the patient, stating that the patient authorizes the release of the requested PHI to the attorney. If there is a signed form or letter from the patient authorizing the release of the PHI requested (or some other valid authorization from the patient), then the HIPAA Compliance Officer may release the PHI to the attorney in accordance with what the authorization states.

2.2. If the request from the patient’s attorney is not accompanied by a signed request form or letter from the patient (or some other valid patient authorization), the HIPAA Compliance Officer shall contact the attorney and inform the attorney that Ada County Paramedics will not release the information without valid authorization from the patient. Ada County Paramedics shall not release any PHI to the attorney until the patient authorizes the release.

3. Approval of a Request for Access

3.1. Upon approval of access, the patient or authorized representative should generally be provided a copy of the record in the manner requested on the Form. Ada County Paramedics will either provide a copy of the PHI to the requestor in the format requested or arrange for a convenient time for the patient to come into Ada County Paramedics to receive a copy their PHI. Ada County Paramedics will also transmit a copy of the PHI directly to an entity or person designated by the patient or authorized representative, provided that the written direction is signed and clearly identifies the designated party.

3.2. The requestor will not be given access to the actual systems that contain the DRS. Rather, copies of the records shall be provided for the patient or requestor.

3.3. Whenever a patient or requestor accesses a DRS, a note will be entered into patient’s account in the Sweet billing software, in the HIPAA-AAR tab. This note indicates the date of the request, the date access was provided, what specific records were provided.

4. Denial of a Request for Access

4.1. If the request for access is denied, the HIPAA Compliance Officer shall send the requestor a “Denial of Request for Access to Protected Health Information Form,” outlining the reason for the denial and explaining the individual’s rights regarding the denial. Patient access may be denied for the reasons listed below:

4.1.1. If the information the patient requested was compiled in reasonable anticipation of, or use in, a civil, criminal or administrative action or proceeding;

4.1.2. If the information the patient requested was obtained from someone other than a healthcare provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information;

4.1.3. If a licensed healthcare professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;

4.1.4. If the PHI makes reference to another person (other than a healthcare provider) and a licensed health professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to that person; or

4.1.5. If the request for access is made by a requestor as a personal representative of the individual and a licensed health professional has determined, in the exercise of professional judgment, that access is reasonably likely to cause harm to the individual or another person.

4.2. If the denial of the request for access to PHI is for reasons 4.1.3., 4.1.4., or 4.1.5. above, then the patient may request a review of the denial of access by sending a written request to the HIPAA Compliance Officer.

4.2.1. Ada County Paramedics will designate a licensed health professional, who was not directly involved in the denial, to review the decision to deny the patient access. Ada County Paramedics will promptly refer the request to this designated review official. The review official will determine within a reasonable period of time whether the denial is appropriate. Ada County Paramedics will provide the patient with written notice of the determination of the designated reviewing official.

4.2.2. The patient may also file a complaint in accordance with Ada County Paramedics’ “Procedure for Filing Complaints About Privacy Practices” if the patient is not satisfied with Ada County Paramedics’ determination.

Ada County Paramedics Policy on Designated Record Sets

Purpose

To ensure that Ada County Paramedics patients and their authorized representatives are granted rights regarding Protected Health Information (“PHI”) in accordance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), this policy establishes what PHI at Ada County Paramedics should be accessible to patients as a part of a Designated Record Set (“DRS”). Under HIPAA, a DRS includes medical records that are created or used by Ada County Paramedics to make decisions about the patient.

Departments Affected

201.03.01 Patient Care Records, Administration, Billing

Policy

The HIPAA Compliance Officer, or their designee, will be responsible for fulfilling patient requests related to PHI and for ensuring that the correct information is made part of the Designated Record Set.

Procedures

1. The DRS should only include PHI as defined under HIPAA, and should be comprised of individually identifiable healthcare and billing information created, received, maintained, or transmitted by or on behalf of ACP that is used, in whole or in part, by ACP to make decisions about individuals.
2. The HIPAA Compliance Officer shall be the party in charge of designating what information is part of a DRS at ACP and for ensuring that appropriate information is being maintained by ACP in its designated record sets.
3. The Designated Record Set at Ada County Paramedics for any requests regarding PHI includes the following records (claim and insurance information is included only if specifically requested):
 - 3.1. Electronic health reports (“EHR”) created or received by Ada County Paramedics and ACCESS agencies and supplementary information regarding the patient’s condition. This includes any photos, videos, monitor strips, Refusal of care forms, or information from other sources used by ACP or ACCESS agencies to treat patients.
 - 3.2. The electronic claims records or other paper records of submission of actual claims to Medicare or other insurance companies.
 - 3.3. Any patient-specific claim and billing information, including responses from insurance payers, such as remittance advice statements, Explanation of Medicare Benefits, charge screens, patient account statements, and signature authorization and agreement to pay documents.
 - 3.4. Notices from insurance companies indicating coverage determinations, documentation submitted by the patient, and copies of the patient’s insurance card or policy coverage summary, that relate directly to the care of the patient or payment for that care.
 - 3.5. Amendments to PHI, or statements of disagreement by the patient requesting the amendment when PHI is not amended upon request, or an accurate summary of the statement of disagreement.
 - 3.6. Any treatment related records created by other parties such as first responder units, assisting ambulance or fire services, air medical services, nursing homes, hospitals, doctor’s

offices, police departments, coroner's offices, etc., that are used by Ada County Paramedics or ACCESS agencies for treatment and payment related purposes.

4. A designated record set should not include:
 - 4.1. Quality assurance data collected and maintained for peer review purposes
 - 4.2. Accident Reports
 - 4.3. Incident Reports
 - 4.4. Data collected and maintained for research
 - 4.5. Information compiled in reasonable anticipation of litigation or administrative action

Ada County Paramedics Policy on HIPAA

Purpose

The following Policy has been developed by Ada County/City Emergency Medical Services System (ACCESS) to comply with requirements imposed by Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Idaho Code.

Departments Affected

201.03.02 Distributing Medical Records, Administration, Billing, Compliance, Field Operations, Logistics, Training

Policy

All employees of the ACCESS System participating agencies shall comply with the privacy practices of the System as set forth in the procedures below.

Procedures

1. BACKGROUND

1.1. In 1996, Congress passed HIPAA to address multiple health care issues including administrative simplification. The administrative simplification provisions of HIPAA mandate compliance in three key areas: (1) privacy; (2) security; and (3) electronic transactions. Compliance with the Privacy Rule has been mandatory for all health care providers since April 14, 2003. The law severely restricts the disclosure of patient health information (PHI) and establishes civil and criminal penalties for violation. The goal of the HIPAA privacy rule is to protect patient's right to confidentiality in matters involving their healthcare.

1.2. PHI refers to individually identifiable health information, as defined by HIPAA, that is created or received by EMS and relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the payment for the provision of health care to an individual at any time; and that identifies the individual or for which there is a reasonable basis to believe the information can be used to identify the individual. An "individual" includes all persons, whether living or deceased.

2. CUSTODIAN OF RECORD

2.1. Pursuant to HIPAA, a Custodian of Records shall be appointed. John Blake, Deputy Director of Ada County Paramedics, is the designated Custodian of Records for HIPAA coordination, recordation, and compliance purposes. In John Blake's absence, the Custodian of Records will be his named designee.

2.2. Deputy Director John Blake has been appointed the HIPAA Compliance Officer and is the primary contact for all HIPAA compliance issues and concerns.

3. ENFORCEMENT

3.1. Effective February 17, 2010, the Department of Health and Human Services (HHS) will be

required to conduct periodic audits to ensure that covered entities and their business associate are complying with their obligations under HIPAA.

4. PENALTIES FOR NON-COMPLIANCE

4.1. Federal Code specifies that violations of the Privacy Rule can result in both civil monetary penalties and criminal sanctions. This may include criminal sanctions against any person who obtains or discloses individually identifiable health information which that person obtained or disclosed without authorization from the covered entity.

5. PROCEDURE FOR NOTIFICATION:

5.1. All patients shall be provided a copy of the “Notice of Privacy Practices” document. This notice tells patients about their rights under HIPAA and contains information about ACCESS’s privacy policies and procedures. This is also provided on ACP’s website (www.adacountyparamedics.org) and can be obtained at the front counter of the ACP Business Office.

5.2. EMS field staff is required to obtain a fully completed and signed “Assignment of Benefits & Privacy Acknowledgment Form” from the patient for each call. This form serves as acknowledgment that the patient has received the Notice of Privacy information. If a personal representative signs this document, the representative’s relationship to the patient must be checked.

5.3. This form must be kept digitally with the electronic medical record, and any hard-copy originals returned to the ACP Administrative Office per record keeping requirements.

6. HIPAA TRAINING

6.1. All new hires, including temporary help, will receive HIPAA training and complete a short test within a reasonable time period. Members of the workforce will read, agree, and sign the HIPAA Security and Confidentiality Agreement concerning information learned during the course of employment along with the Documentation of Employee Training (see HIPAA Security and Confidentiality Agreement and Employee HIPAA Training). Annually thereafter, each employee will review HIPAA training as necessary and appropriate for the staff to conduct their job.

7. PROTECTED HEALTH INFORMATION (PHI)

7.1. HIPAA defines PHI broadly as any health information, including patient demographics, that is created or received by a provider and:

7.1.1. Relates to the past, present or future physical or mental health condition of a patient.

7.1.2. That identifies or can be reasonably used to identify a patient.

7.2. PHI can be in any format including oral, written or electronic. The following are some examples of PHI:

7.2.1. Patient Care Reports

7.2.2. Medical necessity forms

7.2.3. Patient bills

7.2.4. Claim forms

7.2.5. Records from other facilities

7.2.6. Photos & Video

7.3. You cannot use or disclose PHI for any purpose unless permitted under HIPAA. This applies to patients that are alive and deceased. PHI is completely confidential and is the property of the organization.

8. REQUIRED DISCLOSURES

8.1. Patient's Rights of Access and Accounting: You must disclose PHI to a patient or their authorized representative upon their request for access to their PHI. You must also render an accounting of all disclosures of a patient's PHI upon request.

8.2. Disclosures to HHS: You must disclose PHI to HHS in connection with its investigation of complaints, its performance of compliance reviews, or other enforcement activities.

9. PERMITTED USES OR DISCLOSURES

9.1. Treatment: PHI may be used to provide, coordinate, or manage a patient's health care and any related services. This includes the coordination or management of health care with a third party for treatment purposes.

9.2. Payment: Includes activities related to your efforts to obtain payment or to be reimbursed for services provided, and includes insurance eligibility determinations, the filing and pursuing of insurance claims, your collection activities, etc.

9.3. Operations: Includes quality assessment and improvement activities, licensing and other credentialing activities, conducting internal medical reviews, business planning and development, and other similar activities.

9.4. Most uses or disclosures of PHI by ACCESS will be for treatment, payment, or health care operations purposes, and would not require the patient's authorization or consent.

10. Uses or Disclosures in the Public Interest

10.1. The Privacy Rule permits you to use or disclose a patient's PHI in certain situations where

the public interest is being served. These permitted uses and disclosures are set out in the regulations at 45 C.F.R. 164.512. You may use or disclose a patient's PHI where required by law, however, you must be careful to limit the disclosure of PHI to the minimum amount needed to comply with the law. Some examples of these situations are:

10.1.1. Patient consent—45 Code of Federal Regulations (CFR)

164.508 permits use or disclosure of PHI with a signed patient authorization

10.1.2. Public health activities—PHI may be released to “proper authorities” as required by reporting laws relating to a communicable disease, injury, birth, & death, and for public health investigations pursuant to applicable state and/or federal law.

10.1.3. Coroner—EMS may disclose personal health information to the County Coroner as required by law.

10.1.4. Military—EMS may disclose a patient's PHI if he or she is a member of the military as required by armed forces services.

10.1.5. Averting a serious threat to health or safety—PHI may be disclosed or used if necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

10.1.6. Victim abuse, neglect, or domestic violence—EMS may disclose PHI to the proper authorities, including government authorities, if it suspects child abuse or neglect.

10.1.7. Reporting crime in emergencies—When EMS is providing emergency health care it may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

10.1.7.1. Commission and nature of a crime.

10.1.7.2. Location of a crime or of the victims of such a crime.

10.1.7.3. Identity, description, and location of the perpetrator of such crime.

10.1.8. EMS may release PHI required by court order or court ordered warrant or a subpoena or summons issued by a judicial officer.

10.1.9. Requests for records from attorneys generally must receive a written authorization from the patient to release the medical records. All requests for release of records will be processed through Ada County Paramedics.

10.1.10. ACCESS may release personal health information to a family member, other relative, or close personal friend or other individual involved in the patient's care if ACCESS personnel obtain the patient's verbal agreement to do so (if by telephone - verify birth date, Social Security Number, address, & Phone number), or if EMS gives the patient an opportunity to object to such a disclosure and the patient does not raise an objection; and in certain other circumstances

where ACCESS is unable to obtain the patient's agreement and believes the disclosure is in the patient's best interest.

10.1.11. It is OK to share information with patients when they request it, but verify (birth date, Social Security Number, address, & Phone number) their identity. If the request is in person, ask for ID, have them complete a record request form, and notate in account.

11. Minimum Necessary Rule

11.1. In all instances, only the information that is necessary and appropriate may be released. Do not disclose PHI via blog, web site, discussion group, social network, or other public place even when you believe the information is "de-identified" unless the information is reviewed and approved by the Compliance Officer or designee. Posts on social media sites can give enough info for friends and family to recognize patient. Names do not have to be included to be a violation.

11.2. If there is a question as to the appropriate release of information, the employee should contact an Ada County Paramedics Battalion Chief for clarification. If an employee believes that they may have inadvertently released PHI in error, they must notify their supervisor in writing of that disclosure. The Compliance Officer is the custodian of patient records and must authorize release of all PHI generated within this System. All records within the System that contain PHI are to be kept secure at all times and locked up when not being used for legitimate purposes.

11.3. Non-compliance with this policy may follow the disciplinary process.

12. Incidental Uses and Disclosures

12.1. The Privacy Rule does not expect our system to guarantee the privacy of a patient's PHI against all potential risks. So long as you have implemented reasonable safeguards to minimize the risk of accidental use or disclosure and you comply with the minimum necessary standard, the Privacy Rule will permit incidental uses and disclosures.

12.1.1. The HHS Office of Civil Rights has defined an incidental use or disclosure as "a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Rule."

12.2. For example, where multiple patients are taken in an ambulance, it is possible that one patient could overhear you discussing the condition of the second patient. There will be times this disclosure is unavoidable and it would be permitted so long as it was related to patient treatment.

12.3. ACCESS crews should take every opportunity to minimize these disclosures, but where it is unavoidable, focus first on patient care and treatments.

13. **PATIENT RIGHTS:**

13.1. The Privacy Rule granted patients important new rights with respect to their PHI information. These rights include:

13.1.1. Access to their own PHI.

13.1.2. Ask for amendments if they believe their PHI to be inaccurate.

13.1.2.1. Must grant or deny a requested amendment within 60 days of receipt of patient's request.

13.1.2.2. If granted, we must revise the affected records and notify other persons or entities that might possess the same PHI.

13.1.2.3. A denial of the patient's request for access must be in writing, and must give the patient the grounds upon which the request is being denied.

13.1.2.4. Denial must also advise patient of their right to submit a written statement disagreeing with our denial, and advise patient of their right to file a complaint with the HHS.

13.1.2.5. If another covered entity notifies us that it has amended records related to a patient's PHI, we are required to amend any affected records in our possession.

13.1.3. Make complaints regarding organization's use or misuse of their PHI. See "Complaint Handling and Resolution Policy".

13.1.4. Access PHI in electronic format if PHI is in electronic format.

13.1.5. Request to not use PHI to submit claim to insurer for payment if they pay the entire billing in full

13.1.6. Receive 'accounting' of all non TPO disclosures.

14. **HIPAA BREACH NOTIFICATION:**

14.1. Section 13402 of the American Reinvestment and Recovery Act of 2009 added the requirement that covered entities notify the affected individual upon the unauthorized use or disclosure of PHI in their possession.

14.2. A breach is treated as "discovered" on the first day we learn of the breach or could have learned of the breach had we exercised reasonable diligence.

14.3. When required to notify an affected individual, it must be by first class mail to the individual's last known address. We can give notification via email if individual has previously agreed to receive such notifications by email. Where an individual is deceased, notification should

be made to the next of kin or the individual's personal representative.

14.4. If the contact information is out-of-date for fewer than 10 individuals, substitute notice can be made by telephone or other means. If it is out- of-date for 10 or more individuals, substitute notice can be given in the form of:

14.4.1. A conspicuous posting for at least 90 days on home page of website.

14.4.2. A conspicuous notice in a major newspaper or on a broadcast network

14.4.3. For breaches involving the unsecured PHI of 500 or more individuals – please contact your Compliance Officer as there are specific requirements to follow-up.

15. **ELECTRONIC PHI**

15.1. Every user should have unique ID and password, and take security precautions, especially when electronic devices are left unattended. **DO NOT SHARE PASSWORDS** or download copies of patient data onto thumb drive or other portable device unless authorized to do so. Do not give lock combinations to an unauthorized person.

16. **SUMMARY**

16.1. PHI may be used for treatment or patient care, payment, and healthcare operations (TPO).

16.2. The HIPAA Compliance Officer, Steve Boyenger, ACP, oversees policies and procedures and should be first point of contact.

16.3. PHI may be disclosed to law enforcement in limited, specific situations.

16.4. Take extra attention when:

16.4.1. Communicating with media

16.4.2. Using social networking sites

16.4.3. Texting, posting, or blogging about any patient information

16.4.4. Releasing, verifying, or confirming patient information

16.5. Get written authorization from patient or personal representative when fulfilling requests for PHI from attorneys. All requests for PHI will be handled by the Ada County Paramedics administration office.