

LEGISLATIVE #

120022

**AGREEMENT BETWEEN
THE CITY OF GAINESVILLE
AND
THE UNIVERSITY OF FLORIDA BOARD OF TRUSTEES
FOR
EMS MEDICAL DIRECTOR SERVICES
(Fire Rescue)**

THIS AGREEMENT, effective as of the first (1st) day of September, 2011, by and between the **CITY OF GAINESVILLE** ("CITY"), and **THE UNIVERSITY OF FLORIDA BOARD OF TRUSTEES** ("UNIVERSITY"), **FOR THE BENEFIT OF THE DEPARTMENT OF EMERGENCY MEDICINE** ("Department"), **COLLEGE OF MEDICINE, UNIVERSITY OF FLORIDA.**

WITNESSETH:

WHEREAS, CITY has been granted a Certificate of Public Convenience and Necessity by Alachua County ("County") to provide advanced life support services within the corporate limits of the City of Gainesville, Florida, and to coordinate the advanced life support services that CITY provides with County's ongoing provision of emergency medical services ("EMS"), CITY contracts for medical direction of CITY EMS services ("Fire Rescue Medical Director"); and

WHEREAS, UNIVERSITY, existing pursuant to Section 7, Article IX of the Constitution of the State of Florida, is charged with a tripartite mission of service, education and research; and in support of its educational programs and its service mission, UNIVERSITY enters into agreements pursuant to which it provides administrative and clinical health care services, through its UNIVERSITY-employed health care professionals; and

WHEREAS, the parties have a long-standing relationship having contracted previously for these services; however, UNIVERSITY's situation has changed such that the UNIVERSITY College of Medicine Department of Emergency Medicine now handles these services¹, another faculty physician has been assigned to provide these services², UNIVERSITY desires for the payment quarters to correspond with UNIVERSITY's fiscal year, and UNIVERSITY's payment collection information need to be changed to reflect payment to College of Medicine's fiscal agent; thus the parties desire to memorialize these changes with a new contract between the parties; and

WHEREAS, UNIVERSITY has among its UNIVERSITY-employed faculty in the Department of Emergency Medicine those physicians who are licensed and qualified by having substantial expertise and experience in the field of emergency medicine ("Faculty Physician(s)"); thus, in furtherance of UNIVERSITY's mission, UNIVERSITY is willing and able to provide Fire Rescue Medical Director services, through its hereunder assigned Faculty Physician, to CITY; and

WHEREAS, UNIVERSITY, in its educational programs for the development of medical professionals, has responsibility for the training of students and resident physicians ("resident physician"

¹ College of Medicine's Department of Anesthesiology provided these services through August 31, 2011

² under the prior UF/City agreement Dr. Layon's assignment terminated June 30, 2011 and University assigned Dr. Meurer to provide these services as "acting Medical Director", then as of September 1, 2011, under this Agreement, the Department of Emergency Medicine assigned Dr. Meurer, and City confirmed Dr. Meurer, to be the City's Fire Rescue Medical Director.

being inclusive of fellows), who are agents or employees of the State of Florida, and who require clinical education in various medical disciplines to complete their professional development; and

WHEREAS, the educational programs of UNIVERSITY will be enhanced because of opportunities for students, resident physicians and faculty to participate in health care responsibilities through the cooperative efforts of CITY and UNIVERSITY;

WHEREAS, UNIVERSITY, pursuant to Section 6C-9.017, Florida Administrative Code, and in furtherance of its education, training, and service responsibilities, authorizes its professional faculty and staff, as an integral part of their academic activities and their employment as faculty and staff, to provide health, medical, and dental care and treatment to patients, including patients at independent hospitals, other institutions, and various other clinical sites; the College of Medicine is authorized, pursuant to said Section 6C-9.017, to develop and maintain a faculty practice plan for the orderly collection and distribution of fees and income generated from such faculty practice activities; the College of Medicine has established and maintains such a faculty practice plan, known as the "College of Medicine Faculty Practice Plan"; and

NOW, THEREFORE, in consideration of the terms and covenants hereinafter set forth, and the mutual benefits each unto the other flowing, the parties heretofore named hereby agree as follows:

Section 1. UNIVERSITY's Mission and Purpose of Agreement. Under Article IX, § 7 (a) of the Florida Constitution, UNIVERSITY's purpose or "mission" is to achieve excellence through: 1) teaching students, 2) advancing research, and 3) providing public service for the benefit of the state's citizens. UNIVERSITY's provision of administrative medical director services within the scope of this contractual arrangement operates to further these UNIVERSITY's mission of education, research and public service by providing UNIVERSITY a unique educational setting in this specific medical area, support of the Department's current EMS educational opportunities (e.g. EMS residency elective) and the development of a future EMS fellowship, as well as potential research, all of which further. Furthermore, enhanced opportunities are likely to develop from this Agreement for the educational, research and services programs of the UNIVERSITY.

Section 2. Termination of Prior Agreement. The parties entered into an agreement between the CITY OF GAINESVILLE and the UNIVERSITY OF FLORIDA, FOR AND ON BEHALF OF THE FLORIDA BOARD OF EDUCATION, FOR THE BENEFIT OF THE DEPARTMENT OF ANESTHESIOLOGY, COLLEGE OF MEDICINE, UNIVERSITY OF FLORIDA, effective as of September 1, 2010, for Assistant Medical Director Services. Inasmuch as there have been changes within the UNIVERSITY as to the administration of this Agreement, the parties agree to terminate the aforementioned agreement, effective September 1, 2011 and replace said agreement with this Agreement. **The parties shall facilitate any payment proration or fiscal adjustments necessary between the prior agreement and this Agreement.**³

Section 3. Assignment of Faculty Physician as Medical Director. UNIVERSITY shall make available to CITY the services of a UNIVERSITY Faculty Physician who is licensed and experienced in emergency medicine to act as CITY's Fire Rescue Medical Director, as required by Chapter 401, Florida Statutes, and Chapter 64J-1, Florida Administrative Code. Subject to approval by CITY, UNIVERSITY shall assign a qualified faculty physician to serve as Medical Director. The parties agree that as of September 1, 2011, David A. Meurer, M.D. has been the faculty physician assigned by UNIVERSITY to

³ As of the execution date of this Agreement, CITY has paid for services under this Agreement through November 30, 2011 (quarter of 9/1/11 through 11/30/11 invoiced on 12/7/11, paid on 12/19/11).

render services, on behalf of UNIVERSITY, as CITY's Fire Rescue Medical Director (hereinafter "Medical Director") pursuant to this Agreement.

As mutually agreed upon by the parties, UNIVERSITY may assign additional physician(s) to assist the Medical Director in the provision of services specified herein. Furthermore, in the event the Medical Director becomes unavailable, UNIVERSITY and CITY agree to confer for the purpose of attempting to identify alternate qualified UNIVERSITY personnel to be assigned by UNIVERSITY to provide the Medical Director services, as set forth herein. If UNIVERSITY assigns such additional and/or alternate personnel to CITY, UNIVERSITY and CITY agree that the terms of this Agreement shall remain in full force and effect, shall continue to govern the relationship between the parties, and written notice to CITY of such assignments shall constitute an amendment to this Agreement.

The parties agree that the Medical Director, and any other assigned University physician, as employees/agents of UNIVERSITY, shall provide all services required pursuant to the terms of this Agreement under UNIVERSITY's exclusive supervision and control.

Section 4. UNIVERSITY Services. The parties agree that UNIVERSITY shall direct the faculty physician assigned by UNIVERSITY pursuant to this Agreement to provide twelve (12) hours per month of the Medical Director services set forth below:

- a. Serve as CITY's liaison to the Alachua County Medical Society ("Society") for the purpose of advising and keeping the Society informed as to current standing medical orders and patient transport protocols of CITY.
- b. Medical supervision of CITY's paramedics and emergency medicine technicians to ensure paramedics and emergency medicine technicians become familiar with and maintain compliance with applicable statutes, rules, standing operating procedures, standing medical orders, and the application of emergency medical procedures.
- c. Provide direct medical orders via telephone or radio communications to paramedics and emergency medicine technicians involved with pre-hospital patient care.
- d. Permit or prohibit paramedics and emergency medicine technicians from performing basic and/or advanced life support techniques and make recommendations regarding the competency of all paramedics and emergency medicine technicians that perform under the Medical Director's license.
- e. Respond to medically related injuries arising from on-the-job activities of paramedics and emergency medicine technicians.
- f. Assist with development and ongoing review of a patient quality assurance program. CITY shall be responsible for providing the Medical Director with a monthly quality assurance report.
- g. Supervise or assist paramedics and emergency medicine technicians by responding to emergency medical calls, subject to the availability of the Medical Director's time.
- h. Attend the State of Florida EMS Medical Directors quarterly meetings and attend the Florida Fire Chief's Firefighter Health and Safety Conference. CITY shall provide to UNIVERSITY, at no cost to UNIVERSITY, all membership fees and travel expenses related to the foregoing associations and meetings, which shall be reimbursed in accordance with the CITY's travel policy, being attached to and incorporated in this Agreement as **Exhibit A**.

- i. Assist with and/or provide quarterly training sessions with qualified instructors of paramedics and emergency medicine technicians.
- j. Meet regularly with the Fire Chief, Special Operations Chief (EMS Program Manager), and EMS Training Captain.
- k. Identify specific medical skills and knowledge, which paramedics must possess to achieve the desired level and standard of care and identify the training and experience necessary for paramedics to acquire such skills and knowledge.
- l. Make provisions for paramedics and emergency medicine technicians to receive appropriate training and experience via approved educational program.
- m. Participate in the supervision of medical education and training for paramedics involved in special programs including: Tactical Medical Support, Technical Rescue, and the Hazardous Materials Response Teams.
- n. Assist CITY with advice as to questions arising from Occupational Health Issues; however, the Medical Director does not replace the current Occupational Health services provided to CITY.
- o. On an as-needed basis, and upon request by County, serve as the Assistant System Medical Director of the Alachua County Fire Rescue Services, and if the Alachua County System Medical Director is unavailable, to assume the role of Acting System Medical Director of the Alachua County Fire Rescue Services, with the duties and responsibilities of that role⁴.
- p. On an as-needed basis, request that County's System Medical Director serve as CITY's Assistant Fire Rescue Medical Director, and if CITY's Fire Rescue Medical Director is unavailable, to assume the role of Acting Fire Rescue Medical Director. In the event of such requests, the duties and responsibilities set forth herein shall apply.
- q. The responsibilities set forth in subsections 'o' and 'p' are opportunities for CITY and County Medical Directors to work together on an as-needed basis to support the provision of EMS to the Gainesville/Alachua County area. These responsibilities do not connote any reporting or hierarchical relationship between CITY and COUNTY or between their Medical Directors.

All services to be provided by UNIVERSITY, through its assigned Faculty Physician, shall be rendered at times mutually agreed to by UNIVERSITY, through the Department, and CITY, dependent upon the needs of the parties and the availability of the Faculty Physician.

Section 5. Compensation for Services. For UNIVERSITY fiscal reasons, the annual period from July 1 of any calendar year through June 30 of the next consecutive calendar year shall be referred to hereinafter as an "Agreement Year". Each of the quarterly periods from July through September, October through December, January through March and April through June of each Agreement Year shall be referred to hereinafter as an "Agreement Quarter". For each Agreement Year, CITY shall pay to UNIVERSITY an annual amount of **Nineteen Thousand Five Hundred Dollars (\$19,500.00)** for the Medical Director services rendered pursuant to this Agreement.

⁴ University has contracted separately with Alachua County for System Medical Director Services, providing for medical direction of Alachua County Department of Fire Rescue Services' (f/k/a Department of Public Safety) pre-hospital emergency medical services.

In order to facilitate payment proration and fiscal adjustments necessary between the prior agreement and this Agreement, UNIVERSITY will bill CITY for any periods from September 1, 2011-June 30, 2012 that were not already paid to UNIVERSITY prior to the execution of this Agreement, and going forward starting July 1, 2012 UNIVERSITY, through the Department of Emergency Medicine, will bill CITY quarterly in September, December, March and June. Thereafter, UNIVERSITY shall invoice CITY in the amount of Four Thousand Eight Hundred Seventy Five Dollars (\$4,875.00) per Agreement Quarter, on or about the last working day of each quarterly period for services provided during the just-concluded quarter, and payments shall be made by CITY within thirty (30) calendar days of the date of the invoice submitted to CITY by UNIVERSITY. UNIVERSITY shall forward invoices to City of Gainesville, Gainesville Fire Rescue, Mail Station #34, P. O. Box 490, Gainesville, Florida 32602.

Payment to UNIVERSITY for the membership fees and travel expenses related to **Section 4 h** hereinabove shall be reimbursed in accordance with **Exhibit A**, the CITY's travel policy.

CITY's payments to UNIVERSITY hereunder shall be made payable to UNIVERSITY's billing entity, Florida Clinical Practice Association, Inc., Remittances by CITY to UNIVERSITY shall be made by Electronic Funds Transfers (EFT) to the UNIVERSITY's billing entity, Florida Clinical Practice Association, Inc. ("FCPA"). UNIVERSITY shall provide CITY with the information necessary for EFT payment processing. UNIVERSITY shall assure that funds received pursuant to this Agreement will be deposited in such a way as to reimburse the sources which made the original expenditures for the provision of services. In the event there is a disruption in the EFT payment processing, the FCPA payment may be forwarded to Department of Emergency Medicine, PO Box 100186, Gainesville, Florida 32610-0186.

The parties acknowledge and agree that the compensation set forth herein represents the fair market value of the Medical Director services provided by UNIVERSITY to CITY, which have been negotiated in an arms-length transaction and has not been determined in a manner which takes into account the volume or value of any referrals or business that otherwise may be generated between CITY and UNIVERSITY. The parties further agree that this Agreement does not involve the counseling or promotion of a business arrangement that violates state or federal law. Nothing contained in this Agreement shall be construed in any manner as an obligation or inducement for either party to refer patients, if any, to the other party, or any organizations affiliated with that party.

Section 6. Term of Agreement, Renewal, and Amendment. This Agreement shall commence on September 1, 2011 and remain in effect through June 30, 2014. This Agreement shall automatically renew for one (1) additional three (3) year period ("Renewal Term") unless either party notifies the other party at least thirty (30) days prior to the expiration of the initial three (3) year period ("Initial Term") of its desire that the renewal option not take effect. Further, excepting the notice of assignment referenced in Section 2 of this Agreement, CITY and UNIVERSITY agree that the terms of this Agreement may be revised at any time only by formal written amendment to this Agreement executed by both parties hereto.

Section 7. Termination. This Agreement may be terminated as follows:

- a. Inasmuch as UNIVERSITY's performance and obligation under this Agreement are contingent upon an annual appropriation by the Florida Legislature, notice of lack of funding for the provision of these services shall serve as an immediate termination of this Agreement.
- b. In the event CITY is no longer licensed by the State of Florida as a provider of advanced life support services, this Agreement shall terminate immediately.

- c. With or without cause by either party upon thirty (30) calendar days prior written notice to the other party.
- d. Either party shall have the right to immediately terminate this Agreement for failure of the other party to comply with the public records law of the State of Florida as set forth in Chapter 119, Florida Statutes.
- e. The failure of any party to comply with any provision of this Agreement shall place that party in default. Prior to terminating this Agreement for default, a non-defaulting party shall notify the defaulting party in writing. This notification shall make specific reference to the provision which gave rise to the default and shall provide the defaulting party with a reasonable period of time in which to cure the default. In the event said default is not cured within the reasonable time period provided, this Agreement may be terminated. The failure of any party to exercise this right shall not be considered a waiver of such right in the event of any further default or noncompliance.
- f. At any time during the Initial Term or any Renewal Term of this Agreement any party may notify the other party to this Agreement that such party is of the view that the then current legal environment affecting the Medical Director services provided to CITY has changed, such that the continued operations under the Agreement are no longer in the best interest of the parties. Thereafter, the parties shall promptly terminate the Agreement.

Section 8. Effect of Termination.

- a. In the event of termination of this Agreement, CITY will compensate UNIVERSITY for all services satisfactorily rendered prior to the termination date.
- b. The parties acknowledge and agree that if this Agreement is terminated prior to its yearly renewal date, another Agreement may not be executed between the parties within the succeeding year for the same Medical Director's services specified herein, except for the sole purpose of adopting modifications as required by law or recommended by counsel to further legal compliance.
- c. Upon termination of this Agreement, as herein provided, neither party shall have any further obligation hereunder except for (i) obligations accruing prior to the date of termination, and (ii) obligations, promises, or covenants contained herein which are expressly made to extend beyond the term of this Agreement.

Section 9. Independent Contractor Status. All parties expressly intend that with regard to the provisions of this Agreement said parties are independent contractors and no party hereto shall receive any other benefits besides those expressly provided for herein. Further, it is the express intent of the parties hereto that no agent, servant, contractor, or employee of one party be deemed an agent, servant, contractor, or employee of the other party. All personnel of UNIVERSITY rendering services pursuant to this Agreement shall be employees/agents of the University of Florida. Regardless of anything else contained in or implied from this Agreement any employee of UNIVERSITY who may be performing the services herein described shall remain an employee of UNIVERSITY subject at all times to UNIVERSITY's policies and procedures, and in no way shall such employee be deemed an employee of CITY. All UNIVERSITY employees shall wear pictured nametags identifying their status with the University of Florida while performing services pursuant to this Agreement.

Section 10. UNIVERSITY Liability Protection. To the extent that the State of Florida, on behalf of the Board of Governors and UNIVERSITY, has partially waived its immunity to tort claims and is vicariously responsible for the negligent acts and omissions of its employees and agents as prescribed by

Section 768.28, Florida Statutes, UNIVERSITY is protected for a claim or judgment by any one person in a sum not exceeding Two Hundred Thousand Dollars (\$200,000.00) and for total claims or judgments arising out of the same incident or occurrence in a total amount not exceeding Three Hundred Thousand Dollars (\$300,000.00), such protection being provided by the University of Florida J. Hillis Miller Health Center Self-Insurance Program, a self-insurance program created pursuant to the authority of Section 1004.24, Florida Statutes. The sole remedy available to a claimant to collect damages allocated to University is as prescribed by Section 768.28, Florida Statutes. All liability protection described in this Section is on an "occurrence" basis. The University of Florida J. Hillis Miller Health Center Self-Insurance Program provides ongoing protection with no expiration.

Section 11. Notices. All notices by either party required or permitted by this Agreement shall be in writing and delivered by registered or certified mail with the United States Postal Service, postage prepaid, return receipt requested, by overnight delivery (for which evidence of delivery is obtained by the sender), or by hand delivery, to the representatives specified herein.

If to UNIVERSITY: Dean, College of Medicine
 c/o W. Wayne Tharp, Sr. Associate Dean
 of Financial Services
 P.O. Box 103450
 Gainesville, Florida 32610-3450

With copy to: Chair, Department of Emergency Medicine
 P.O. Box 100186
 Gainesville, Florida 32610-0186
 Attn: Kenneth Marx, Department Administrator

and

Director, Office of Contracts
 and Related Services
University of Florida
P.O. Box 112737
Gainesville, FL 32611-2737

If to CITY: Russ Blackburn, City Manager
 Mail Station 6
 P.O. Box 490
 Gainesville, Florida 32602.

In the event that representatives change due to a change in personnel after execution of this Agreement, notice of the name and address of the new representative shall be furnished in writing to the other party and a copy of said notification on attached to the originals of this Agreement.

Section 12. Confidentiality and Safekeeping of Health Information. The parties shall instruct their employees to hold as confidential any patient information acquired as a result of this Agreement. Before any release or disclosure of medical records occurs, consent and authorization to release shall be obtained from the legal representative of the patient, in accordance with applicable state and federal laws pertaining to the confidentiality of medical records. Any and all use or disclosure of patient information must be made in accordance with Sections 817.5681, 394.4615, 395.3025 and 456.057, Florida Statutes, as applicable, and in accordance with any other applicable state and federal law, including the Health Insurance and Portability and Accountability Act of 1996 ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act ("HITECH") and any and all implementing regulations. During the term of this Agreement, except as otherwise required by state and/or federal law,

each party agrees (1) to maintain all protected health information (PHI) and Personally Identifiable Information (PII) in a secure and confidential fashion, (2) to ensure that its directors, officers, employees and agents will maintain all PHI/PII in a secure and confidential fashion, and (3) not to disclose such information to any third party, except as set forth herein.

Section 13. Proprietary Use. CITY shall not use the name, logo, or likeness of UNIVERSITY, or any of UNIVERSITY's staff, in any signage, advertising, or promotional material ("Proprietary Use"), without the prior written consent of UNIVERSITY. All requests for Proprietary Use must be presented to the Chief Communications Officer, UF&Shands, the University of Florida Academic Health Center, P. O. Box 100253, University of Florida, Gainesville, FL 32610-0253, telephone (352) 273-5810, fax (352) 392-9220. Each request for Proprietary Use may be granted or withheld in the sole discretion of University of Florida. In the event consent has not been granted within 30 days of the request's receipt, the request is considered to be denied.

Section 14. Assignment. This Agreement is personal to each of the parties, and neither party may assign or delegate any rights or obligations under this Agreement to another entity, without first obtaining the written consent of the non-assigning party. Any purported assignment or delegation shall be a default and shall be void.

Section 15. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant or condition hereof; as third party beneficiaries or otherwise, and all of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the parties hereto and their permitted successors and assigns.

Section 16. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the validity and enforceability of any other provision of this Agreement shall not be affected.

Section 17. Governing Law. This Agreement shall be governed by, enforced, and interpreted in accordance with the laws of the State of Florida.

Section 18. Authorized Signature Required. This Agreement is not binding until it has been executed by the duly authorized representatives of UNIVERSITY and CITY.

Section 19. Entirety of Agreement. This Agreement, inclusive of the attached **Exhibit A**, constitutes all of the terms and conditions to which the parties have agreed, with respect to the subject matter hereof, and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter. No other terms or conditions in the future shall be valid or binding on either party unless reduced to writing, executed by both parties, and attached to this Agreement as an amendment. All continuing covenants, duties, and obligations herein shall survive the expiration or earlier termination of this Agreement.

Section 20. Counterparts. This Agreement may be executed in several counterparts, each of which will constitute an original and all of which will be one and the same document. The Agreement shall be fully executed when each party whose signature is required has signed at least one (1) counterpart even though no one (1) counterpart contains the signatures of all of the parties to this Agreement. Signed counterparts may be exchanged by facsimile or by electronic delivery.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Medical Director Services to be executed for the uses and purposes herein expressed, the day and year first written above.

CITY OF GAINESVILLE, FLORIDA

THE UNIVERSITY OF FLORIDA BOARD OF TRUSTEES, FOR THE BENEFIT OF THE DEPARTMENT OF EMERGENCY MEDICINE, COLLEGE OF MEDICINE, UNIVERSITY OF FLORIDA

By: _____
Date
Russ Blackburn
City Manager
City of Gainesville, Florida

By: _____
Date
Michael L. Good, M.D.
Dean, College of Medicine
University of Florida

Witness

APPROVED AS TO FORM AND LEGALITY

City Attorney