

**AMENDED AND RESTATED
AGREEMENT FOR OPERATING AND MAINTAINING
AMBULANCE AND RESCUE SERVICE FOR OTSEGO COUNTY**

THIS AGREEMENT effective as of this 22 day of December, 2015, by and among the County of Otsego, Michigan (hereafter the "County" and the "Commissioners"), organized and existing under the constitution and laws of the State of Michigan, and Otsego County Ambulance Corps, Inc. /dba/ Otsego County Emergency Medical Services (hereafter OCEMS), a Michigan non-profit corporation.

In consideration of the mutual agreement contained herein, the parties agree as follows:

I. GENERAL AGREEMENT

Under the provisions of this Agreement, the County hereby contracts with the OCEMS to operate an ambulance service to provide advanced life support, ambulance and rescue service in and about Otsego County.

II. TERMS AND AMENDMENT

A. TERMS

This Agreement contains the entire understanding and Agreement of the parties regarding the subject matter contained herein.

B. DURATION

The terms of this Agreement shall be for five (5) years commencing with the date of execution.

C. EXTENSION

(i) Further, the terms of this Agreement shall be automatically extended, unless otherwise modified in accordance with the terms set forth herein, upon renewal of the OCEMS millage. This automatic extension shall be for the period of the millage renewal.

(ii) Further, this Agreement may be extended for such lengths or periods of time as the parties may mutually agree upon in writing.

D. AMENDMENT

Further, the terms and conditions of this Agreement, as provided herein, may be amended at any time during the above stated period with the express mutual written consent of the parties who are then bound by the terms hereof.

III. FINANCIAL GOVERNANCE

A. ANNUAL BUDGET

(i) OCEMS will present an annual budget to the Commissioners prior to October 1st of each year, unless additional time is given by the County, in the format required by the Finance Committee, along with any associated information requested, for the operations of OCEMS for the following year beginning January 1st.

(ii) Prior to December 31st of each year, the Commissioners shall consider for approval the final budget for the operation of the OCEMS.

(iii) **BUDGET AMENDMENTS:** Budget amendments must be approved by the OCEMS Board and then forwarded to the Otsego County Finance Department. OCEMS shall provide an updated copy of its annual budget to the Otsego County Finance Department each time

the OCEMS budget is amended, ensuring that the County has a current, updated budget at all times during the fiscal year.

B. FINANCIAL REPORTING

- (i) Beginning with the quarter ended **December 2015**, OCEMS shall provide the following quarterly accounting reports to the Otsego County Finance Department:
 - (1) Balance Sheet – including all assets, liabilities, and fund equity
 - (2) Budget Report – including the amended budget and actual amounts for all revenues and expenditures.
 - (3) Quarterly reports must be submitted no later than the 15th day of the month following quarter-end.
- (ii) Beginning with the month ended **November 2015**, OCEMS shall provide the following monthly accounting reports to the Otsego County Treasurer:
 - (1) Report reconciling the general ledger balances in the receiving fund to the balances in the operating fund.
 - (2) Monthly reports must be submitted no later than the 15th day of the next month.
- (iii) OCEMS shall attest to the completeness and accuracy of all financial information. The County will rely on the reports to be complete and accurate upon submission.
- (iv) All corporate and financial records of OCEMS shall be available to the County or its auditors upon reasonable request.
- (v) AUDITS – OCEMS will be audited under the umbrella of the County, as a discretely presented component unit. The County may, at its discretion, engage the auditors to perform additional procedures. OCEMS and the County may find it desirable for OCEMS to be audited under separate cover (still included in the County’s audit report as a discretely presented component unit). In such an instance, the County will choose the auditing firm.

C. CUSTODY OF CASH AND INVESTMENTS

- (i) All OCEMS monies shall be deposited with a bank or trust company designated by the County and approved by OCEMS. The monies may be kept in one bank account, and shall be invested as practical by the Otsego County Treasurer as authorized by law.
- (ii) All deposits must be accompanied by supporting documentation, in the format required by the Otsego County Treasurer.
- (iii) All transfers out for OCEMS disbursements must also be accompanied by supporting documentation, in the format required by the Otsego County Treasurer.
- (iv) OCEMS shall attest to the completeness and accuracy of the supporting documentation submitted for all deposits and disbursement transfers. The County will rely on the documents to be complete and accurate upon submission. OCEMS further attests that the deposits and disbursement transfers have been subject to the appropriate level of review before submission.

D. FUNDS

- (i) Operating Fund
 - a. Any amount of operating funds, which are appropriated to OCEMS by the Commissioners from the OCEMS operating millage, shall be expended for daily operations or capital improvements.
 - b. Such expenditures shall only be completed if they are included in the budget or approved by a specific resolution of the Commissioners.
 - c. All revenues raised by rates and charges of OCEMS shall be used solely for the operation and maintenance of OCEMS.
 - d. The operating fund general ledger shall be maintained by OCEMS.

- (ii) Capital Outlay Fund
 - a. If there are sufficient funds, there may be set aside, in a capital outlay fund, such sums, as OCEMS may deem advisable. All monies in the capital outlay fund shall be used solely for equipment (heavy rescue, ambulances and appropriate medical equipment), and repairs, replacements or improvements.
 - b. Any and all equipment required, by law, will be purchased by OCEMS in the name of the County to insure proper licensing and insuring of such equipment.
- E. SURPLUS/DEFICIT
- (i) Surplus
 - a. Any surplus realized by OCEMS will be retained by OCEMS. During the budget process, OCEMS and the County will discuss potential uses of surplus monies (e.g. used for capital purchases, retained to enhance fund balance level, etc.).
 - (ii) Deficits
 - a. Should any year's operations result in a deficit (other than a planned reduction of fund balance that has been previously approved by the Commissioners), OCEMS agrees to:
 - i. Immediately meet with the Otsego County Budget and Finance Committee to develop a satisfactory deficit correction plan, which may include increased fees or reduced expenses.
 - ii. Should this action prove to be insufficient to correct the deficit operations, OCEMS agrees to revise the plan, and further increase fee revenue or cut expenditures to ensure that the deficit will be repaid in the next three quarters.
 - iii. Failure to operate without a deficit may result in termination of this Agreement by the County.
- F. ASSETS
- (i) All assets of OCEMS are the property of the County.
 - (ii) Accordingly, OCEMS shall follow the Otsego County Capital Asset Disposal Policy.
 - (iii) OCEMS will provide an updated list of all Capital Assets to the Otsego County Finance Department annually, each January for the preceding year.
 - (iv) OCEMS will provide an updated list of all Vehicles to the Otsego County Bus System each time a vehicle is either added to or removed from service.
 - (v) The County shall provide property insurance, addressed in the PROPERTY INSURANCE section of this Agreement.
- G. LONG-TERM DEBT
- (i) All long-term debt incurred by OCEMS must first be approved by the Commissioners, along with a financial plan to satisfy all debt requirements, submitted by OCEMS.
 - (ii) In the event of default of payments of long-term debt, refer to the EVENTS AND REMEDIES OF DEFAULT section of this Agreement.
- H. CAPITAL IMPROVEMENT PLAN
- (i) OCEMS shall submit annually, along with its proposed budget, by October 1st, a five-year plan containing a list of planned building, equipment, and vehicle purchases and major repairs and maintenance on such items.
 - (ii) The plan and all such capital expenditures shall be approved by the Commissioners by December 31st, as part of the budget approval process.
- I. OPERATING YEAR
- (i) It is the expectation of the County to continue levying the full OCEMS millage permitted by law.

- (ii) OCEMS shall have, as its operating year, one which shall coincide with the County's fiscal year which is the calendar year beginning in January. With the consent of the OCEMS, the County may levy less than the full millage.

IV. MAINTENANCE AND REPAIRS

A. REPAIRS - PREMISES

- (i) OCEMS shall, at its own expense, at all times during the term of this Agreement, keep the equipment and premises in good condition and repair, and shall make all necessary and desirable repairs, restorations and replacements, both structural and nonstructural, foreseen or unforeseen, and shall use all reasonable precautions to prevent waste, damage or injury.

B. REPAIRS - EXTERNAL

- (i) OCEMS shall, at its own expense, also maintain in good repair and free from dirt, snow, ice, rubbish and other obstructions or encumbrances, the sidewalks, parking areas, yards, plantings, gutters and curbs in front of and adjacent to the premises.

V. OPERATION AND MAINTENANCE

A. OPERATION AND MAINTENANCE

- OCEMS shall, at its own expense, at all times during the term of this Agreement, operate and maintain the equipment and the premises.

VI. ALTERATIONS

A. ALTERATIONS TO THE PREMISES

- OCEMS will make such alterations, changes, additions or improvements in or to the interior or exterior of the premises as it shall determine to be beneficial. OCEMS shall make any changes or alterations in, on or about the premises, which may be required by any applicable statute, charter, ordinance or governmental regulation or order.

B. COSTS AND EXPENSES OF ALTERATIONS

- All alterations and improvements shall be at OCEMS's sole expense.

C. OWNERSHIP OF IMPROVEMENTS

- All alterations and improvements shall be the property of the County.

VII. PROPERTY INSURANCE

A. COST OF INSURANCE

- The County shall provide property insurance, which shall cover all real and personal property on the premises on a 100% replacement cost basis, as well as vehicles, at the County's expense. Premiums for insurance required to be carried upon or with respect to the premises or the use thereof shall be deemed operation and maintenance expenses of the OCEMS.

Insurance shall include motor vehicle liability coverage.

B. POLICY TYPE

- Such policy shall be an all risks policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without limitation, flood, theft, vandalism, wind, lightning, act of war or terrorism, and malicious mischief. Coverage shall also include the cost of extra expense, for a period of 12 months, incurred by reason of the total or partial loss or damage to the premises caused by an insured peril.

VIII. LIABILITY

A. COST OF INSURANCE

OCEMS, at its expense, shall provide comprehensive/commercial general liability insurance protecting OCEMS, the County and the Commissioners of the County, the members of the Ambulance Board and their respective agents, officers and employees.

Insurance shall include coverage for Hired Car and Non-Owned Auto.

B. POLICY TYPE

- (i) Such insurance shall provide coverage for the defense of actions brought against OCEMS, its Board, Officers, and Employees for, including but not limited to, negligence, malfeasance, misfeasance, errors, omissions, neglect, damages, intentional acts, or other actions arising out of the operation, maintenance and activities of OCEMS.
- (ii) Further, OCEMS agrees to maintain coverage, for malpractice or medical negligence to cover OCEMS, its Board, Officers, and Employees.
- (iii) Such insurance shall be in limits of not less than \$1,000,000 per occurrence for injury or death to any one person, not less than \$3,000,000 per occurrence for injury or death to more than one person, and not less than \$500,000 per occurrence for property damage.

C. NAMED INSUREDS

- (i) OCEMS and the County shall all be named insureds on all insurance policies required hereunder and all insurance proceeds shall be payable to OCEMS and the County according to their respective interests.
- (ii) Upon request, OCEMS shall provide the County with certified copies of the insurance policies or other evidence indicating that the insurance is in effect.
- (iii) In addition, the County shall be notified in writing at least thirty (30) days prior to cancellation, non-renewal or any material reduction of the any coverage.
- (iv) All insurance maintained pursuant to this Agreement shall contain a clause or endorsement under which the insurer waives all rights of subrogation against any and all of the parties to this Agreement and their respective officers, commissioners, agents, and employees, with respect to losses payable under the policy.
- (v) The proceeds of any insurance shall be paid to the County, which shall deposit the funds in the capital improvement fund for the purpose of paying the cost of repair and restoration of the OCEMS premises and equipment.
- (vi) All policy forms, limits and deductibles shall be subject to approval by the County and OCEMS.

IX. OPERATIONAL INTEGRITY

A. OPERATIONS

The County covenants and agrees with OCEMS, subject to the performance by OCEMS of all of the terms, covenants, and conditions of this Agreement to permit OCEMS to operate the service for the County. OCEMS may employ such persons in such capacities as it deems advisable and may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of OCEMS. Further, OCEMS, with the approval of the Ambulance Board, shall have the authority, power, and ability to obtain, lease, purchase, acquire or transfer, sell, or dispose of such equipment as is necessary to carry out its obligations to the citizens of Otsego County.

B. BOARD MEMBERSHIP

Recommendations for OCEMSS Board Membership shall be forwarded to the County Board for approval.

C. MUTUAL AID AGREEMENTS

The OCEMS and the Ambulance Board may enter into such mutual aid Agreements with townships or other political entities as it deems appropriate for the protection of health, safety, and welfare of the citizens of Otsego County.

C. CHARGES FOR SERVICES

The establishment of all charges for advanced life support, ambulance or rescue services shall be under the complete and exclusive control of OCEMS and the Ambulance Board. All bill processing for these services shall be the sole responsibility of OCEMS.

D. PERSONNEL

(i) All personnel staffing OCEMS equipment and premises, other than township personnel staffing rescue vehicles, first responders or personnel staffing fire equipment, shall be deemed to be employees of OCEMS.

(ii) The County Administrator (or designee(s) of the County Administrator) shall be on the hiring committee for the OCEMS Director position in the event of a vacancy. The Commissioners shall have the final approval on selecting the new Director.

(iii) If applicable, the County Administrator (or designee(s) of the County Administrator) shall take part in the union negotiation process. The Commissioners shall have final approval of all union contracts.

E. CONTRACTING

OCEMS, with the approval of the Ambulance Board, shall have the exclusive authority to enter into such transport, standby and special event contracts or other agreements or contracts for services as deemed necessary to carry out its obligations to the citizens of Otsego County.

X. INSPECTION

Without notice and at reasonable times of the day, the County, through its officers, employees or agents, may enter upon the premises at any time during the term of this Agreement for the purpose of inspecting the premises and determining whether OCEMS is complying with the covenants, Agreements, terms, and conditions of this Agreement.

XI. EVENTS AND REMEDIES OF DEFAULT

A. EACH OF THE FOLLOWING SHALL CONSTITUTE AN EVENT OF DEFAULT:

(i) OCEMS fails to submit and operate within the budget required by Section III.

(ii) Any representation or warranty made by OCEMS in this Agreement, or which is contained in any certificate or other document delivered at any time pursuant to this Agreement proves to have been false, incorrect or incomplete in any material respect when made or deemed to be made.

(iii) OCEMS fails to observe or perform any covenant or Agreement contained in this Agreement or in any certificate or other document delivered pursuant to this Agreement (other than those covered by clause (i) above) for thirty (30) days after written notice, as set forth herein, thereof shall have been given to OCEMS by the County.

(iv) OCEMS files a petition in bankruptcy, insolvency, dissolution or for reorganization or arrangement under the laws of the United States or of any state, or voluntarily takes advantage of any such law, or act, or is dissolved, (voluntarily or involuntarily) or makes an assignment for the benefit of creditors.

If to the County: County of Otsego
225 West Main Street
Gaylord, MI 49735
Attn: Otsego County Administrator

XV. SEVERABILITY

If any one or more of the provisions contained in this Agreement or any document, instrument or Agreement required pursuant to this Agreement should be declared invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired. The document shall be read as if the provision or provisions are null, void, non-existent, and severed from the this Agreement.

XVI. GOVERNING LAW

This Agreement, and the rights and obligations of the parties under this Agreement, shall be governed by, construed, and interpreted in accordance with the laws of the State of Michigan.

XVII. CAPTIONS

The captions contained in this Agreement are for convenience, for reference only and shall not limit or define the provisions of this Agreement, or affect the interpretation or construction thereof.

XVIII. OTHER AGREEMENTS

This Agreement, once properly executed, supersedes, replaces and abrogates all prior agreements between the parties regarding this same subject matter.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

OTSEGO COUNTY EMS

By: Mary M Sanders
MARY M. SANDERS
Its: Chairman

COUNTY OF OTSEGO

By: Kenneth Borton
KENNETH BORTON
Chairman, Otsego County Board of Commissioners