

RESOLUTION NUMBER 7274

WHEREAS, the City of Beatrice, Nebraska ("City") and Cottonwood Hospice, LLC, a Nebraska limited liability company ("Cottonwood"), desire to enter into an agreement for the City to provide ambulance services to Cottonwood's hospice facility.

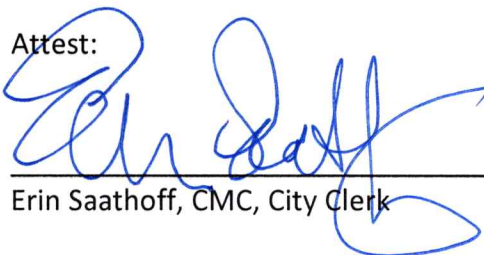
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:


SECTION 1. That the Mayor and City Clerk of the City of Beatrice, Nebraska are hereby authorized to execute the Ambulance Service Contract Agreement with Cottonwood Hospice, LLC to provide ambulance services to Cottonwood's hospice facility. A copy of said Agreement, marked as Exhibit "A", is attached hereto and incorporated herein by reference.

SECTION 2. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

RESOLUTION PASSED AND ADOPTED this 15th day of April, 2024.

Attest:



Erin Saathoff, CMC, City Clerk

Mike McLain, Acting Mayor

Exhibit "A"

Ambulance Service Contract Agreement

This Agreement is entered into this 15th day of April, 2024

by and between _____ City of Beatrice _____ referred
to in this Agreement as "Provider" and

Cottonwood Hospice, LLC _____, referred to in
this Agreement as "Hospice".

Definitions:

Attending Physician: A doctor of medicine or osteopathy who is identified by the individual, at the time of election to the Hospice benefit, as having the most significant role in determination and delivery of the individual's medical care.

Days: Calendar days.

Interdisciplinary Team/Interdisciplinary Group (IDT/IDG): A group of individuals composed at a minimum of a physician; a Registered Nurse; a social worker and a pastor or counselor who provide or supervise the care and services needed to meet the patient and family needs.

Medical Director: A doctor of medicine or osteopathy who is an employee, or is under contract with the Hospice, and assumes overall responsibility for the medical component of the Hospice patient care program.

Case Manager: A Registered Nurse designated by the Hospice to provide professional management and to coordinate the implementation of the Plan of Care for each patient.

Palliative care: Intervention services that focus primarily on the reduction or abatement of physical, psychosocial, and spiritual symptoms of a terminal illness, not curative measures; throughout the illness involves addressing the physical, intellectual, emotional, social, and spiritual needs of the patient and family, and facilitating patient autonomy, access to information, and choice.

Plan of Care: A written individualized Plan of Care and services necessary to meet the patient-specific needs. It includes all patient care physician orders, and planned interventions for problems identified during patient assessments, to ensure that care and services are appropriate to the severity level of each patient and family's needs.

Business Associate: Provider, to the extent it receives or has access to Protected Health Information.

HIPAA: Health Insurance Portability and Accountability Act

Protected Health Information (PHI): (45 CFR 164.501) Includes, but not limited to, individually identifiable health information such as patients' names, addresses, phone numbers, specific health diagnosis, or other such information used or created for care of the patients, the payment for services, or the Hospice's operations and is limited to the information created or received by Business Associate from or on behalf of Hospice.

WHEREAS, Hospice is a licensed and certified agency providing palliative services to terminally ill patients, who wishes to utilize the services of Provider; and

WHEREAS, frequently, Hospice patients need ambulance services to assist them with emergency and non-emergency transports during the end-of-life stages of a terminal illness and related conditions; and

WHEREAS Provider, operates a business that provides ambulance services; and

WHEREAS, the Provider is willing to make their services available to Hospice patients,

Now, therefore, in consideration of the Agreement set forth herein, the parties hereby agree to the following terms and conditions:

I. Responsibilities of Provider:

- A. Provide emergency and non-emergency transport, in accordance with the patient's Plan of Care and protocols as established, revised and coordinated by the Hospice Interdisciplinary Team/Group, and in compliance with applicable state and federal laws and regulations.
- B. Provider will conform to all applicable policies, including personnel qualifications, as appropriate.
- C. Provide services to the Hospice patients only with the express authorization of the Hospice, and according to the patient's Plan of Care. Provider will notify the Hospice immediately of any requests that are noncompliant with the Hospice orders or protocols.
- D. Schedule non-emergency transport in coordination with patient/family needs.
- E. Provide adequate, qualified personnel that provide safe, effective services under current guidelines and standards. Personnel providing transportation and care to patients will meet all state and federal regulations and requirements for licensing and/or certification, as well as all educational requirements to perform services offered. Provider is responsible for checking criminal background history on their employees/contract staff who have direct patient contact or access to patient records, and for checking the OIG Exclusion List on a monthly basis. Provider will maintain personnel files with copies of current licensure/certifications, registrations, education, experience as required by state regulations or hospice policy; and professional/personal references.
- F. Inform Hospice of all changes in patient condition requiring medical or other professional intervention during transport.
- G. Provide 24-hour availability of services for emergency transport.
- H. Remain responsible for providing, cleaning and properly maintaining ambulance and all equipment used for transportation and service delivered to patient.
- I. Maintain a record that includes all services provided, showing services are furnished in accordance with this agreement. A copy of this documentation will be provided for the hospice clinical record.
- J. Participate in the Hospice Quality Assessment Performance Improvement program to the extent that such program relates to the Provider services.
- K. Submit bills on a monthly basis for all services authorized by hospice for patients as agreed upon.

II. Responsibilities of Hospice:

- A. Assess patient/family and authorize admission to hospice program if appropriate, completing patient/family health assessment. IDT/IDG will complete Plan of Care for patient/family, listing services to be delivered, including possible needs for transfer.
- B. Approve patient for ambulance services. Patients are accepted for care only by the licensed Hospice. The Hospice will give Provider patient's name, location, phone number, and needs, as part of the Plan of Care developed by the Hospice IDT/IDG. The patient's medical record will be available for review as needed. Hospice will indicate if Hospice will be responsible for payment of transportation. If Hospice will not be the payor for ambulance

transportation, all third-party information will be provided to the Provider for billing purposes.

- C. Maintain professional management responsibility/coordination of Provider services and ensure services are furnished in a safe, timely, and effective manner, according to the Plan of Care.
- D. Coordinate and supervise services provided, by a designated Hospice RN Case Manager. Hospice Case Manager will collaborate with Provider to review any changes in patient's needs for Provider services.
- E. Provide palliative and end-of-life hospice care training to personnel who provide services under this agreement.
- F. Provide adequate, qualified personnel that provide safe, effective care under current clinical practice guidelines and professional practice standards, applicable to hospice care. Personnel providing care will meet all state and federal regulations and requirements for licensing and/or certification.
- G. Assure continuity of patient and family care by:
 - 1. Collaborating with Provider to make sure services meet patient's needs;
 - 2. Providing accurate, adequate information to Provider to assure patient's needs are met;
 - 3. Having a designated Hospice person with authority to assist Provider with any related questions;
 - 4. Monitoring services provided by Provider as part of the Hospice QAPI process;
 - 5. Maintaining communication with Provider staff and patient/family.
- H. Authorize payment as agreed upon by the Hospice.
- I. Evaluation of services will be monitored through outcomes of patient/family plans of care, and through satisfaction survey and evaluation data gathered in the Hospice QAPI program.
- J. Participate in the Provider's Quality Assessment/Performance Improvement program to the extent that such program relates to Hospice.

III. Licensure and Qualifications:

- A. Provider: Maintain a current license from the state and Medicare certification. Provider will notify hospice immediately concerning any proposed, threatened or actual revocation, termination of state license or Medicare certification.
- B. Hospice: Maintain a current state hospice license and Medicare certification from CMS and provide services in compliance with Medicare Conditions of Participation and state regulations. Hospice will notify the Provider immediately concerning any proposed, threatened or actual revocation or termination of state license or Medicare certification.

IV. Compensation:

- A. Schedule of Rates: Hospice will pay Provider according to billing schedule in Attachment A.
- B. Provider: Will provide a monthly invoice to the Hospice which details the services provided and HCPCS codes. Provider agrees to accept Medicare Allowable as payment in full, and will not bill the patient, insurance companies, family, or any other third party source for payment.
Hospice: Will provide payment to the Provider within 30 Days of receipt.

Last Reviewed: 020924

- C. Rates Subject to Change: Contract rates will be subject to change with 30 Days advance written notice.
- D. The parties understand and agree, pursuant to section 1861(w) of the Social Security Act, 42 C.F.R. §1861(w), that they waive and shall not seek payment for any of the health care services provided and billed pursuant to the terms and conditions of this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors.

V. Miscellaneous Terms and Conditions

- A. Term and Termination. This Agreement will be in effect for one year from the date set forth above and will be automatically renewed at the end of the first year and each subsequent year unless terminated as set forth herein.
 - 1. Either party may terminate this Agreement at any time, with or without cause, by providing at least 60 Days advance written notice of the termination date to the other party. Such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.
 - 2. If this Agreement is terminated during the term, with or without cause, the parties may not enter into a new Agreement during the first year of the original term of the Agreement.
- B. The parties entering into this Agreement agree that nothing contained in this Agreement will be construed to create a partnership, joint venture, Hospice, or employment relationship between the parties. Hospice acknowledges that Provider has no responsibility for any employees, workers, or agents of Hospice. Provider acknowledges that Hospice has no responsibility for any employees, workers, or agents of Provider.
- C. Arbitration. Any dispute relating to this Agreement will be settled by binding arbitration conducted in accordance with the Health Care Arbitration Rules of the NHLA Alternative Dispute Resolution Service (c/o National Health Lawyers Association, 1620 Eye Street, NW, Washington, DC 20006).

THE PARTIES UNDERSTAND AND ACKNOWLEDGE THAT, BY AGREEING TO BINDING ARBITRATION, THE PARTIES WAIVE THE RIGHT TO SUBMIT THE DISPUTE FOR DETERMINATION BY A COURT AND THEREBY ALSO WAIVE THE RIGHT TO A JURY TRIAL. THE PARTIES UNDERSTAND AND ACKNOWLEDGE THAT THE GROUNDS FOR APPEAL OF AN ARBITRATION AWARD ARE VERY LIMITED COMPARED TO A COURT JUDGMENT OR JURY VERDICT.

THE PARTIES FURTHER UNDERSTAND AND ACKNOWLEDGE THAT THEY HAVE BEEN ADVISED OF THEIR RIGHTS TO CONSULT WITH AN ATTORNEY REGARDING THIS ARBITRATION AGREEMENT PRIOR TO EXECUTING THIS ARBITRATION AGREEMENT, AND BY EACH PARTY'S SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES THAT IT HAS EITHER CONSULTED WITH AN ATTORNEY, OR HAS HAD THE OPPORTUNITY TO CONSULT WITH AN ATTORNEY WITH REGARD TO THIS ARBITRATION AGREEMENT BUT HAS ELECTED NOT TO DO SO.
- D. Assignment. No assignment of this Agreement or the rights and obligations hereunder will be valid without prior written consent from both parties.
- E. Entire Contract. This Agreement constitutes the entire contract between Hospice and Provider. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.
 - 1. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original.
 - 2. No amendments to this Agreement will be effective unless made in writing and signed by both parties.

3. This Agreement will be governed by and construed in accordance with the laws of the state in which the parent hospice office is located.
 4. If any provision of this Agreement is held by a court or other tribunal of competent jurisdiction, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and remain in effect.
- F. Compliance with Applicable Laws. Nothing in this Agreement is intended to conflict with federal, state, or local laws or regulations. Should such conflicts exist, the parties agree to follow applicable laws and regulations.
- G. Proprietary Information: All materials made available to Provider including but not limited to manuals, in-services, orientation, software, hard copies, and forms by Hospice are considered the property of Hospice. It is understood and agreed upon that these materials may not be presented or used independently by Provider. This will be enforced during the term of contract or after the expiration of this contract.
- H. Non-discrimination. Neither Provider nor Hospice will discriminate in provision of services with respect to age, race, color, religion, military status, gender preference, genetic information, sex, marital status, national origin, disability, or source of payment.
- I. Grievance Policy. Hospice/Provider will investigate all complaints regarding:
1. Provider services to patients,
 2. Hospice services to patients.

Hospice and Provider agree to cooperate to resolve any complaints regarding services to patients.

J. Confidentiality,

1. Provider and Hospice will maintain confidentiality of all patient records and disclose information and data in records only to persons or entities authorized by law or by written consent of patient or patient's representative.

K. HIPAA Compliance. Business Associate will comply with all aspects of HIPAA ("Health Insurance Portability and Accountability Act").

Business Associate expressly agrees to:

1. Not use or disclose PHI, as defined below, other than as permitted or required by this Agreement, or any other agreement by the parties (together the "underlying contracts") or as required by law [§ 164.504 (e)(2)(ii)(A)]. Business Associate may use and disclose Protected Health Information only if its use or disclosure is in compliance with each applicable requirement of section 164.504(e) of title 45 of the code of federal regulations;
2. Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement [§ 164.504(e)(2)(ii)(B)];
3. Report to Hospice any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware [§ 164.504(e)(2)(ii)(c)];
4. Ensure that any agents and subcontractors to whom it provides PHI received from, or created or received by Business Associate on behalf of Hospice agree to the same restrictions and conditions set forth in the business associate provisions of the HIPAA regulations that apply through this Agreement to Business Associate with respect to such information [§ 164.504(e)(2)(ii)(D)];

5. Within 20 Days of receiving a written request from Hospice, make available to the Hospice PHI necessary for Hospice to respond to individuals' requests for access to PHI about them in the event that the PHI in Business Associate's possession constitutes a Designated Record Set [§ 164.504(e)(2)(ii)(E)]. In the event any individual requests access to PHI directly from Business Associate, Business Associate shall within five business days forward such request to the Hospice. Any denials of access to the PHI requested shall be the responsibility of the Hospice;
6. Within 30 Days of receiving a written request from Hospice, make available to the Hospice PHI for amendment and incorporate any amendments to the PHI in accordance with 45 C.F.R. Part 164 Subpart E ("privacy rule") in the event that the PHI in Business Associate's possession constitutes a Designated Record Set [§ 164.504(e)(2)(ii)(F)];
7. Within 30 Days of receiving a written request from Hospice, make available to the Hospice the information required for the Hospice to provide an accounting of disclosures of PHI as required by the privacy rule [§ 164.504(e)(2)(ii)(G)]. Business Associate shall provide the Hospice with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) one of the following, as applicable: (a) a brief statement of the purpose of such disclosure which includes an explanation that reasonably informs the individual of the basis for such disclosure or in lieu of such statement, (b) a copy of a written request from the Secretary of Health and Human Services to investigate or determine compliance with HIPAA; or (c) a copy of the individual's request for an accounting. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within seven business days forward such request to the Hospice;
8. Make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the US Department of Health and Human Services ("Secretary of HHS") for purposes of determining Hospice's compliance with the Privacy Rule [§ 164.504(e)(2)(ii)(H)].
9. Upon the expiration or termination of an underlying contract, return to Hospice or destroy all PHI, including such information in possession of Business Associate's subcontractors, as a result of the underlying contract at issue and retain no copies, if it is feasible to do so. If return or destruction is infeasible, Business Associate agrees to extend all protections, limitations and restrictions contained in this Agreement to Business Associate's use and/or disclosure of any retained PHI, and to limit further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. This provision shall survive the termination or expiration of this Agreement and/or any underlying contract [§ 164.504(e)(2)(ii)(I)];
10. Use reasonable commercial efforts to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement;
11. Implement administrative safeguards, physical safeguards, and technical safeguards ("safeguards") that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI as required by 45 C.F.R. Part 164 Subpart C ("security rule") [§ 164.314(a)(2)(i)(A)];
12. Ensure that any agent and subcontractor to whom Business Associate provides ePHI agrees to implement reasonable and appropriate safeguards to protect ePHI [§ 164.314(a)(2)(i)(B)];
13. Report promptly to Hospice any successful security incident of which Business Associate becomes aware [§ 164.314(a)(2)(i)(C)]; provided, however, that with respect to attempted unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system affecting ePHI, such report to Hospice will be made available upon written request;
14. Make its policies, procedures and documentation required by the security rule relating to the safeguards available to the Secretary of HHS for purposes of determining Hospice's compliance with the security rule [68

Fed. Reg. 8334, 8359];

15. Effective January 1, 2010, if Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information (as defined in HITECH Sec. 4402(h)(1)), it shall, following the discovery of a breach of such information, notify the Hospice of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been accessed, acquired, or disclosed during such breach [HITECH Sec. 4402 (b)].

Notwithstanding anything to the contrary stated above, except as otherwise specified in this Agreement, Business Associate may make any and all uses and disclosures of PHI necessary to perform its obligations under this contract. Accordingly, Business Associate may:

16. Use the PHI in its possession for its proper management and administration and to carry out the responsibilities of Business Associate [§ 164.504(e)(4)(i)];
 17. Disclose the PHI in its possession to a third party for the purpose of Business Associate's proper management and administration or to carry out the responsibilities of Business Associate, provided that the disclosures are required by law or Business Associate obtains reasonable assurances from the third party regarding the confidential handling of such PHI as required under the privacy rule [§ 164.504 (e)(4)(ii)];
 18. Provide data aggregation services relating to the health care operations of the Hospice [§ 164.504(e)(2)(i)(B)]; and
 19. De-identify any and all PHI obtained by Business Associate under this Agreement, and use such de-identified data, all in accordance with the de-identification requirements of the privacy rule. [§ 164.502(d)(1)]
- L. If services provided under this agreement shall have an aggregate cost of \$10,000 or more over a 12 month period, the Provider shall, until the expiration of four years after furnishing of such services, make available upon written request of the Secretary of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, the subcontract and this agreement, the books, documents, and other records of Provider to the extent provided by 42 U.S.C.S §1395 x(v)(1)(I) and lawful regulations and that are necessary to verify the nature and extent of the costs of services provided.
- M. Insurance:
- Provider shall maintain general liability insurance and agrees to furnish Hospice with certified copies upon request.
- Hospice shall maintain general liability insurance and agrees to furnish Provider with certified copies upon request.
- N. Indemnification:
1. Hospice shall not be liable under any contracts or obligations of the Provider, except as otherwise provided in this agreement, or for any act or omission of the Provider or the Provider's officers, employees, or agents. Provider agrees to indemnify and hold harmless the Hospice from any and all losses, damages, costs and expenses (including reasonable attorney fees), that are caused by or arise out of omission, fault, negligence, or other misconduct by the Provider, its employees, independent contractors, or volunteers in connection with this agreement.
 2. Provider shall not be liable under any contracts or obligations of the Hospice, except as otherwise provided in this agreement, or for any act or omission of the Hospice or the Hospice officers, employees, or agents. Hospice agrees to indemnify and hold harmless the Provider from any and all losses, damages, costs and

expenses (including reasonable attorney fees), that are caused by or arise out of omission, fault, negligence, or other misconduct by the Hospice, its employees, independent contractors, or volunteers in connection with this agreement.

These indemnities shall be limited to the coverage provided by and the monetary limits of liability provided in the Hospice and Provider insurance policies.

In witness whereof, the undersigned have duly executed this agreement or have duly caused this agreement to be duly executed on their behalf, as of the day and year first set forth. This agreement shall commence on

April 15, 2024

Hospice: Cottonwood Hospice, LLC

By: Steve Pinsky

Title: CEO

Date: 4/15/2024

Provider: City of Beatrice

By: Mich M. Le

Title: Acting Mayor

Date: 4-15-24

Attachment A

Scheduled Rates

Medicare Allowable

x