

Project title: Professional services agreement between the City of Everett and Systems Design West

Council Bill # *interoffice use*

Agenda dates requested:

June 15, 2022

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

Yes No

Budget amendment:

Yes No

PowerPoint presentation:

Yes No

Attachments:

Department(s) involved:

Fire, Legal

Contact person:

Rich Llewellyn

Phone number:

425-257-8115

Email:

RLlewellyn@everettwa.gov

Initialed by:

Department head

Administration

Council President

Project: Emergency medical transport billing services

Partner/Supplier : Systems Design West, LLC

Location: N/A

Preceding action: N/A

Fund: 153 Emergency medical services

Fiscal summary statement:

The city will pay the vendor \$22.00, plus any associated mailing costs, for each medical transport they provide billing and payment services. Revenue generated through this billing agreement will cover the cost of this billing service and help defray the costs to the city for providing emergency medical transports.

Project summary statement:

System's Design West has been providing EMS Transport billing services to the city under a previous agreement established in 2005 that expired December 31, 2021. This agreement allows them to continue working on the city's behalf to secure payment for emergency medical transports provided by the city.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the Professional Services Agreement between the City of Everett and Systems Design West.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is by and between the City of Everett (the "Provider") having its location at 2801 Oakes Ave Everett, WA 98201 and Systems Design West, LLC a Delaware limited liability company having their principal place of business located at 19265 Powder Hill Place NE Poulsbo, Washington 98370 (the "Consultant"). Collectively the Provider and the Consultant shall be known as the "Parties" and each a "Party." This Agreement is dated for reference purposes January 1, 2022.

RECITALS

WHEREAS, the Provider and the Consultant desire to enter into this Agreement for the purposes of the Consultant providing billing and payment processing of EMS patient transport services; and

WHEREAS, the Consultant represented, and by entering into this Agreement now represents, that it is fully qualified to perform the work to be performed hereunder in a competent and professional manner.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual obligations contained herein the Provider and the Consultant, each intending to be legally bound by this Agreement, hereby mutually covenant and agree as follows:

1. SCOPE OF SERVICES. The Consultant shall provide to the Provider specific services related to the billing and payment processing of EMS patient transport services that are provided to the general public by the Provider. These specific services are described in the Scope of Services, which is set forth in this section 1. Without a written directive of an authorized representative of the Provider, the Consultant shall not perform any services that are in addition to or beyond the Scope of Services.

1.1 The Provider, with assistance from Consultant, shall apply for Provider Status or updated Status with Medicare, Medicaid, and all public and private insurances which will be billed as a part of this Scope of Services. The Provider is responsible for informing the Consultant of any subsequent changes that necessitate updates (e.g., changing an Authorized Official) so that Consultant may complete its duties under this Agreement. The Provider shall assist the Consultant to obtain the necessary certifications, numbers and documentation needed for Consultant to provide the services identified in sections 1.2 and 1.3 below, obtain and maintain credentials for payer websites that require vendor access to be given only through a Provider representative, and facilitate access for the Consultant's representatives. The Provider agrees to furnish and assist the Consultant with the following:

(a) The Provider agrees to provide Consultant the patient's "EHR" (Electronic Health Record), including patient name, address and pertinent billing and insurance information from the field, including a copy of the patient signature for authorization of benefits and responsibility for payment, authorizing billing of Medicare, Medicaid and any insurance the patient is a subscriber to. The Consultant will take reasonable steps to obtain such signatures if the Provider was unable to obtain them due to the circumstances in the field. The original patient signature must be maintained by the Provider and made available to the Consultant and/or insurance payers upon request. The amounts to be billed will be determined by the Provider and provided to the Consultant in writing. The Provider may increase such amounts from time to time by written notice to Consultant prior to the submission of affected EHR. "Automatic" annual increases should be communicated in writing as dollar amounts for confirmation each year. EHRs must be sent using a NEMESIS compliant XML format, or an additional fee may be charged.

(b) The Provider agrees to furnish the Consultant the medical record number (MRN) and the patient's date of birth, correct name and other necessary demographic information, including any insurance information obtained. Copies of any payments made directly to the Provider will be forwarded to the Consultant for accounting purposes in a timely manner. The Provider agrees to generate any refund checks due to overpayments identified by the Consultant directly to the payer to which the refund is due, based on detailed information provided by the Consultant. The Provider shall provide additional information as may be required by insurance companies or other agencies in order to facilitate the Consultant's obligations to the Provider.

(c) The Provider will furnish the following documents to the Consultant, as applicable: resolutions pertaining to this Scope of Services; specific write off policies; collections procedures; and rates and fees to be charged by the Provider and administered by Consultant as part of the Scope of Services performed under this Agreement. The Consultant will comply with these documents as they pertain to the Scope of Services. The Provider may change these documents from time to time by written notice to Consultant in advance of when the new policies, procedures and/or rates in the documents take effect.

(d) The Provider agrees to complete registration with Consultant's vendors as applicable for Consultant to be able to fulfill its obligations to Provider. Such vendors may include e-payment and merchant services portal, remote deposit capture services, and clearinghouse registration.

1.2 Upon receipt of the EHR from the Provider, the Consultant shall: set up a patient account in Consultant's proprietary software application and create a patient record; perform all billing operations including follow up statements and any necessary rebilling of EMS patient transport services provided by the Provider to the subscriber's medical insurances, Medicare, Medicaid and any and all known secondary insurance providers; produce and forward CMS 1500 forms and/or electronic medical claims per payer's rules and regulations within the legal boundaries of all federal and state laws; produce and mail an initial invoice and subsequent

statements to all private patient accounts on behalf of the Provider; file any applicable appeals to insurance payers and/or Medicare and Medicaid on behalf of the patient if necessary to pursue the claim. Provider shall maintain a system to reconcile the number of EHRs sent to Consultant monthly.

1.3 The Consultant shall: receive at its facilities all payments (except those directly deposited into the Provider's account by insurances and Medicare/Medicaid via EFT), Explanations of Benefits, and Electronic Remittance Advices; account for all payments; deposit all funds directly into the Provider's "deposit only" account; forward deposit information to the Provider within 24 hours of such deposit; initiate and forward refund information and adjustments made on behalf of the patient's account to the Provider. The Consultant shall provide to the Provider a minimum of four (4) standard reports each month including: (a) Aged Accounts Receivable, (b) Month End Summary, (c) Annual Collection Statistics, and (d) Transaction Journal. These reports will include information related to amounts billed, amounts collected and uncollected, insurance and Medicare/Medicaid allowable and disallowable. For payments and remittances that are wholly electronic portal-based, Provider shall grant access to Consultant's representatives as needed for various payer portals.

1.4 The Consultant shall provide live customer service to Provider's patients via toll free phone numbers to answer patient billing questions Monday through Friday from 8:00am through 6:00 pm, Pacific Time (except Federal holidays).

1.5 The Consultant shall provide all labor, materials and equipment necessary to perform the work specified in the above Scope of Services. The Consultant is responsible for ensuring any subcontractor or vendor agencies are fully licensed and qualified to perform such work. For subcontracted payment processing and merchant services, Consultant is responsible for ensuring subcontractor or vendor maintains PCI compliance, and that the vendor or Consultant must be able to provide a PCI compliance certificate to Provider annually, at most.

1.6 Additional services: Additional services not specified in this Scope of Services (e.g. transferred accounts, non-routine auditing, targeted trainings, paper PCRs) may be added for an additional fee agreed upon in writing.

2. FEES, EXPENSES, & PAYMENT. Providers will receive a monthly invoice. For and in consideration of all services provided by the Consultant identified above, the Provider shall pay to the Consultant \$22.00 per transport.

In addition, the Provider will pay actual postage at current USPS postage rates for patient invoices, statements, and Certified Mail PCS requests that are needed to be mailed in order for the Consultant to perform the Scope of Services.

Provider shall remit payment for services rendered under this Agreement to the Consultant within 30 days from receipt of Consultant's monthly invoice to the Provider. Progress invoices

may be sent if there are significant delays in EHR receipt from the Provider. A \$50.00 minimum applies to all invoices.

Adjustment of the \$22.00 per transport fee may occur from time to time, no more than annually, and with written notification from Consultant at least 90 days in advance.

3. PAYMENT OF TAXES. The Consultant shall be liable for any and all federal, state, and local sales, excise taxes and assessments as a result of the payment for services rendered under this Agreement.

4. TERM OF AGREEMENT. The Consultant shall commence the work under this Agreement on January 1, 2022 and perform such work uninterrupted. (Through administrative oversight, this Agreement was not actually signed until later in 2022, even though the parties have been performing in accordance with this Agreement since January 1, 2022. The parties agree that, regardless of dates of signatures on this Agreement, this Agreement is deemed to have been in full force and effect for all purposes since January 1, 2022.) This Agreement will automatically renew upon each January 1st unless the Agreement is terminated by either Party (see Section 7).

5. EQUAL EMPLOYMENT OPPORTUNITY. Consultant shall not discriminate against any employee, applicant for employment, or other person on the basis of race, color, religion, sex, age, disability, marital state, or national origin or other circumstance prohibited by applicable federal, state, or local law or ordinance. Consultant shall comply with and shall not violate any applicable provisions of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, and all applicable federal, state, or local law or ordinance regarding non-discrimination.

6. INDEPENDENT CONTRACTOR STATUS. The Consultant performs this Agreement as an independent contractor, not as an employee of Provider. Nothing herein contained shall be deemed or construed by the Parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the Parties hereto, it being understood and agreed that neither method of computation of payment nor any other provision contained herein nor any acts of the Parties hereto, shall be deemed to create any relationship between the Parties hereto other than the relationship of Provider and an independent contractor. Consultant must comply with all obligations of federal and state laws and regulations applicable to independent contractors. Consultant agrees to indemnify and defend the Provider from and against any claims, valid or otherwise, made against the Provider because of these obligations.

7. TERMINATION. Either Party may terminate this Agreement with a minimum of 60 days' advance written notice to the other Party. The Consultant shall upon termination by either Party provide 60 days of follow up service to the outstanding patient accounts, including posting payments, making deposits, and two (2) months of follow up reports to the Provider. Consultant shall deliver and document the return of all documentation in Consultant's possession as applicable.

8. INSURANCE.

8.1. Consultant shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Consultant's own cost and expense, the following policies of insurance with companies authorized to do business in the State of Washington, which are rated at least "A" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the Provider.

1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the Provider authorizes sublet work, the Consultant shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Consultant covers such employees.

2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.

8.2. The above liability policies shall be primary as to the Provider and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the Provider. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Consultant to furnish the required insurance during the term of this Agreement.

8.3. Upon written request by the Provider, the insurer or his/her agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.

8.4. Prior to the Consultant performing any work under this Agreement, Consultant shall provide the Provider with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Consultant shall provide the Provider with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees and agents as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the Provider of any certificate showing less coverage than required is not a waiver of the Consultant's obligations to fulfill the requirements.

8.5. Consultant certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Consultant shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Consultant shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

8.6. In case of the breach of any provision of this Section, the Provider may, at its option and with no obligation to do so, provide and maintain at the expense of Consultant, such types of insurance in the name of the Consultant, and with such insurers, as the Provider may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Consultant under this Agreement or may demand Consultant to promptly reimburse the Provider for such cost.

9. PATIENT INFORMATION.

9.1 CONFIDENTIALITY AND DISCLOSURE OF PATIENT INFORMATION. USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION. Subject to the attached Business Associate Agreement, the Parties hereto agree that, in order for the Consultant to perform its duties as expected by the Provider, it will be necessary for the Consultant to use and disclose Protected Health Information ("PHI"), as such term is defined at 45 CFR §164.501. The Parties of this Agreement further acknowledge and make part of this Agreement the attached Business Associate Agreement.

9.2 PERMITTED AND REQUIRED USES AND DISCLOSURE OF PHI. Subject to the attached Business Associate Agreement, the Parties hereto agree that the Consultant may use and disclose PHI in order to carry out any Payment function covered under the definition of "Payment" contained in 45 CFR §164.501. Subject to the attached Business Associate Agreement, the Parties hereto further agree that the Consultant may use or disclose PHI for any use or disclosure that is required by law.

10. INDEMNITY. Each Party ("Indemnifying Party") shall indemnify and hold the other Party harmless against any third party claim, including costs and reasonable attorney's fees, arising from or relating to breaches of this Agreement by the Indemnifying Party or negligent or intentional acts or failures to act by the Indemnifying Party while performing its obligations hereunder.

11. SURVIVABILITY. The terms of Section 9 and 10 shall survive termination of this Agreement. The attached Business Associate Agreement has terms incorporated to establish the continuance of covenants for the Parties to disclose PHI for the continued operations of "Payment".

12. WARRANTIES AND REPRESENTATIONS. Each Party warrants that it has the right and power to enter into this Agreement and an authorized representative has executed this Agreement.

Consultant warrants that the Services will be performed in a professional and workmanlike manner in accordance with recognized industry standards, applicable law, and this Agreement. To the extent Services provided by Consultant are advisory, no specific result is assured or guaranteed. Consultant EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESSED OR IMPLIED.

13. NOTICE. Any notice, demand, request, consent, approval, or other communication that either Party desires or is required to give to the other Party related to any of the content of this agreement shall be presented in writing and served personally or sent by prepaid, first class mail to the addresses set forth below. Either Party may change its address by notifying the other Party of its change of address in writing.

Provider: City of Everett
2801 Oakes Ave
Everett, WA 98201

Consultant: Systems Design West, LLC
19265 Powder Hill PI NE
Poulsbo, WA 98370

14. NONWAIVER. No delay or omission of the right to exercise any power by either Party shall impair any such right or power, or be construed as a waiver of any default or as acquiescence therein. One or more waivers of any covenant, term or condition of this Agreement by either Party shall not be construed by the other Party as a waiver of a subsequent breach of the same covenant, term or condition.

15. MODIFICATION OF AGREEMENT. This Agreement may only be amended by the Parties with a written amendment signed by both Parties, with the Mayor signing the amendment on behalf of the City.

16. APPLICABLE LAW. The laws of the State of Washington shall govern the construction, validity, performance and enforcement of this Agreement. Venue as to any action, claim, or proceeding arising out of, or based upon this Agreement, including, but not limited to, any action for declaratory or injunctive relief, shall only be Snohomish County Superior Court.

17. CONFLICT OF INTEREST. The Consultant covenants, warrants and represents that the Consultant or any employees of Consultant has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner with the subject matter or the performance of this Agreement. The Consultant further covenants, warrants and represents that in the performance of this Agreement, no person having any such interest shall be employed by the Consultant in the future.

18. ASSIGNMENT. This Agreement may not be assigned by Consultant without the prior written consent of the Provider, which may be withheld in the Provider's sole discretion. Provider may

assign this Agreement directly or by operation of law with the prior written consent of Consultant, which shall not be unreasonably withheld.

19. ENTIRE AGREEMENT. This Agreement and any schedules, appendices, attachments and exhibits attached hereto sets forth all of the covenants, promises, agreements, conditions and understandings between the Parties hereto, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise expressly provided, no contemporaneous or subsequent agreement, understanding, alteration, amendment, change or addition to this Agreement, or any schedule, appendix, exhibit or attachment thereto shall be binding upon the Parties of this Agreement hereto unless reduced to writing and signed by both Parties as set forth in this Agreement. This Agreement constitutes a final, complete and exclusive statement of the agreement between the Parties and supersedes any prior agreements as of the Effective Date.

20. AUDITS AND INSPECTIONS. At any time during normal business hours and as often as the Provider may deem necessary, the Consultant shall make available to the Provider for the Provider's examination all of the Consultant's records and documents with respect to all matters covered by this Agreement and, furthermore, the Consultant will permit the Provider to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

21. CITY OF EVERETT BUSINESS LICENSE. Consultant agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.

22. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS. Consultant shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.

23. COMPLIANCE WITH THE WASHINGTON STATE PUBLIC RECORDS ACT. Consultant acknowledges that the Provider is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). Consultant will reasonably cooperate with the Provider so that the Provider can comply with its obligations under the Act.

24. SIGNATURE/COUNTERPARTS. This Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. Signatures on this Agreement or amendment thereof may be by email, fax, photocopy, pdf or other electronic means, in which case such signatures will be deemed an original signature for all purposes.

{Remainder of page blank; signatures on following pages}

IN WITNESS WHEREOF, the Consultant and Provider have executed this Professional Services Agreement as of the date first above written

PROVIDER:

CITY OF EVERETT,
a Washington municipal corporation

By: _____

Name: Cassie Franklin

Title: Mayor

Approved as to form:

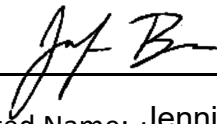
Attest:

City Attorney

City Clerk

CONSULTANT:

Systems Design West, LLC,
a Delaware limited liability company

By:  _____

Printed Name: Jennifer Braus

Title: CEO

**Business Associate Agreement
Between City of Everett and Systems Design West, LLC**

This Business Associate Agreement (“Agreement”) between City of Everett, as to its Fire Department (“Covered Entity”) and Systems Design West, LLC (“Business Associate”) is dated as of January 1, 2022, and is executed to ensure that Systems Design West, LLC will appropriately safeguard protected health information (“PHI”) and personally identifiable information (“PII”) that is created, received, maintained, or transmitted on behalf of the City of Everett in compliance with applicable federal, state, and local statutes, regulations, rules and policies—including but not limited to, the provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with the Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

A. General Provisions

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

B. Catch-all Definition

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

(a) **Business Associate.** “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Systems Design West, LLC.

(b) **Covered Entity.** “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the City of Everett, as to its Fire Department.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

(d) Professional Services Agreement. "PSA" will mean that certain Professional Services Agreement executed by the Parties as of the date hereof, for the purposes of the Business Associate providing billing and payment processing of EMS patient transport services

C. Obligations of Systems Design West, LLC

Systems Design West, LLC agrees to:

1. Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information ("e-PHI") and electronic personally identifiable information ("e-PII") as well as implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI and PII other than as provided for by this Agreement;
3. Report to the Covered Entity any use or disclosure of PHI and PII not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI and PII as required by 45 CFR §164.410. Breaches of unsecured PHI and PII shall be reported to the Covered Entity and affected parties without unreasonable delay but in no case later than 30 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI and PII on behalf of Systems Design West, LLC agree to the same restrictions, conditions, and requirements that apply to Systems Design West, LLC with respect to such information;
5. Make PHI and PII in a designated record set available to the Covered Entity and to an individual who has a right of access in a manner that satisfies the Covered Entity's obligations to provide access to PHI and PII in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI and PII in a designated record set as directed by the Covered Entity, or take other measures necessary to satisfy the Covered Entity's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to the Covered Entity or an individual who has a right to an accounting within 60 days and as necessary to satisfy the Covered Entity's obligations under 45 CFR §164.528.

8. To the extent that Systems Design West, LLC is to carry out any of the Covered Entity's obligations under the HIPAA Privacy Rule, Systems Design West, LLC shall comply with the requirements of the Privacy Rule that apply to the Covered Entity when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI and PII received from, or created or received by Systems Design West, LLC on behalf of the Covered Entity, available to the Secretary of the Department of Health and Human Services for purposes of determining Systems Design West, LLC and the Covered Entity's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI and PII if the Covered Entity notifies Systems Design West, LLC of any restriction on the use or disclosure of PHI and PII that the Covered Entity has agreed to or is required to abide by under 45 CFR §164.522; and
11. If the Covered Entity is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Systems Design West, LLC agrees to assist the Covered Entity in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 CFR §681.2); (b) taking all steps necessary to comply with the policies and procedures of the Covered Entity's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of the Covered Entity agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting the Covered Entity of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to the Covered Entity of any threat of identity theft as a result of the incident.
12. Comply with all current rules and regulations pertaining to the OIG Compliance Program for ambulance suppliers and special bulletin regarding LEIE recommended screening of employees and any subcontractors.

D. Permitted Uses and Disclosures by Systems Design West, LLC

To the extent necessary to perform the services required under the PSA, Systems Design West, LLC may use or disclose PHI and PII as required by law and consistent with the Minimum Necessary standard—specifically, the use and disclosure of PHI and PII will be limited to the minimum necessary for accomplishing the intended purpose of the use and disclosure. The specific uses and disclosures of PHI and PII that may be made by Systems Design West, LLC on behalf of the Covered Entity include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by the Covered Entity to its patients;

2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by the Covered Entity to its patients or to appeal denials of payment for the same; and
4. Other uses or disclosures of PHI and PII as permitted by HIPAA necessary to perform the services that Systems Design West, LLC has been engaged to perform on behalf of the Covered Entity.

Systems Design West, LLC may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

E. Term and Termination

1. The Term of this Agreement shall be effective as of the date set forth above, and shall terminate on date that the PSA terminates or on the date covered entity terminates for cause as authorized in paragraph E.2 of this Section, whichever is sooner.
2. The Covered Entity may terminate this Agreement if the Covered Entity determines that Systems Design West, LLC has violated a material term of this Agreement.
3. Systems Design West, LLC authorizes termination of this Agreement by Covered Entity, if covered entity determines Systems Design West, LLC has violated a material term of the Agreement and Systems Design West, LLC has not cured the breach or ended the violation within the time specified by Systems Design West, LLC.
4. Upon termination of this Agreement for any reason, Systems Design West, LLC shall return to the Covered Entity all PHI and PII received from the Covered Entity, or created, maintained, or received by Systems Design West, LLC on behalf of the Covered Entity that Systems Design West, LLC still maintains in any form. Systems Design West, LLC shall retain no copies of the PHI and PII. If return is infeasible, the protections of this Agreement will extend to such PHI.
5. The obligations of Systems Design West, LLC under this Section E shall survive the termination of this Agreement.

{Remainder of page blank; signatures on following pages}

IN WITNESS WHEREOF, the Business Associate and Covered Entity have executed this Business Associate Agreement as of the date first above written

COVERED ENTITY:

CITY OF EVERETT,
a Washington municipal corporation

By: _____

Name: Cassie Franklin

Title: Mayor

Approved as to form:

Attest:

City Attorney

City Clerk

BUSINESS ASSOCIATE:

Systems Design West, LLC,
a Delaware limited liability company

By:  _____

Printed Name: Jennifer Braus

Title: CEO