

ORDINANCE NO. BL2021-595

An ordinance approving an agreement between the Metropolitan Government of Nashville-Davidson County, Tennessee, by and through the Metropolitan Nashville Police Department ("MNPD"), and Vanderbilt University Medical Center ("VUMC") to provide medical support and work cooperatively with other on-scene first responders to assist in any situations encountered by MNPD that require medical support.

WHEREAS, the agreement between the Metropolitan Government of Nashville-Davidson County, Tennessee ("Metro"), for MNPD, and VUMC, a Tennessee non-profit corporation, specifies the parties' benefits and obligations regarding medical support; and,

WHEREAS, approval of the agreement will benefit the citizens of the Metropolitan Government of Nashville and Davidson County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:



Section 1. That the agreement between the Metropolitan Government of Nashville-Davidson County, Tennessee ("Metro"), for MNPD, and VUMC, a Tennessee non-profit corporation, specifies the parties' benefits and obligations regarding medical support, attached hereto and incorporated herein, is hereby approved.

Section 2. That this Ordinance shall take effect from and after its final passage, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

APPROVED AS TO AVAILABILITY OF FUNDS:


Kevin Crumbo, Director
Department of Finance

INTRODUCED BY:

APPROVED AS TO FORM AND LEGALITY:


Assistant Metropolitan Attorney

Member(s) of Council

TACTICAL MEDICINE SERVICES AGREEMENT

THIS TACTICAL MEDICINE SERVICES AGREEMENT (the "Agreement"), is by and between the Metropolitan Government of Nashville-Davidson County, Tennessee ("Metro Government"), for its Metropolitan Nashville Police Department ("MNPd") and Vanderbilt University Medical Center, a Tennessee non-profit corporation ("VUMC"). Each of MNPd and VUMC shall sometimes be referred to herein as a "Party" and collectively as the "Parties."

RECITALS:

WHEREAS, MNPd's Special Weapons and Tactics Team ("SWAT") are trained to intervene in dangerous situations which may involve physical threats to law enforcement, citizens and others;

WHEREAS, the MNPd may require trained medical personnel to be able to assist and provide medical treatment on the scene and during transportation to local medical facilities when indicated;

WHEREAS, VUMC, through its Emergency Medicine Department (the "Department") physicians and non-physicians trained in emergency medical support, can provide medical support and work cooperatively with other on-scene first responders to assist in any situations encountered by MNPd that require medical support;

WHEREAS, VUMC desires to assist MNPd and the community by providing, when available, trained personnel to assist with emergency medical services to MNPd, and to provide medical direction and clinical training to MNPd, each in accordance with the terms and conditions set forth in this Agreement (the "Services"), and MNPd is willing to allow and to accept such Services.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

SECTION 1. TACTICAL MEDICINE SERVICES

1.1 Medical Director. VUMC will provide a designated physician-employee from the Department (the "Medical Director"), to perform and oversee the duties set forth on Exhibit A, attached hereto and incorporated herein by this reference. In performing Services under this Agreement, the Medical Director will use his/her reasonable efforts and professional skills and judgment to perform the Services described herein in a prompt and responsible manner, consistent with appropriate standards of the medical profession and patient care.

1.2 Qualifications. VUMC represents that Medical Director is qualified to perform the Services in compliance with federal and state law requirements and community standards and has an unrestricted license to practice medicine in the State of Tennessee. Any physician providing Services under this Agreement shall likewise be qualified to perform the Services in compliance with federal and state law requirements and possess an unrestricted license to practice medicine in the State of Tennessee.

1.3 Compliance with Laws and Standards. The Medical Director will at all times materially comply with all applicable laws, rules, and regulations of any and all governmental authorities applicable to the Services.

1.4 Administrative Relationship. The Medical Director will coordinate with the designated representatives of MNPd with regard to the Services and collaborate with such representatives

as to the type of Services to be provided, the policies applicable to the execution of such Services, and other matters concerning how the Services can assist the operations of MNPd. The Medical Director will meet with the designated representatives of MNPd to discuss the Services not less than quarterly, or as reasonably requested.

SECTION 2. MNPd DUTIES

2.1 Compliance. MNPd shall at all times comply with all laws, codes, ordinances, rules, regulations and requirements of all federal, state and local authorities now in force or which may hereafter be in force, as applicable to this Agreement.

2.2 Law Enforcement. Notwithstanding anything herein to the contrary, MNPd shall at all times exercise ultimate authority and control over, and shall at all times maintain responsibility for, its policies, equipment and personnel, and shall retain ultimate authority and responsibility regarding performance of the powers, duties, and responsibilities vested in it by applicable law and regulations.

SECTION 3. OPERATIONAL MATTERS

MNPd and VUMC acknowledge and agree to the following with respect to this Agreement and the Services to be provided hereunder:

3.1 No Contractual Obligation to Provide Services. Participation by VUMC physicians and staff in the Services provided by VUMC hereunder is completely voluntary for such individuals, is limited solely to physicians in the VUMC Department of Emergency Medicine, and will be subject to the availability and individual willingness of such staff to respond to a request for Services at any given incident. Therefore, this Agreement does not represent a contractual obligation by VUMC to respond to any particular incident, regardless of the circumstances, and neither VUMC nor any VUMC employee shall have any liability to MNPd or any of its employees, agents or the public for failure to respond to any or all requests by MNPd for Services hereunder.

3.2 Exclusivity. Due to the risk of confusion and conflict resulting from multiple on-scene providers, MNPd will not contract with or arrange for services similar to the Services to be provided by any other healthcare providers not employed by Metro Government for so long as this Agreement is in effect.

3.3 Training and Education. As an education and training tool, VUMC may allow certain of its residents and fellows training in emergency medicine to participate in training exercises in which VUMC physicians participate with MNPd, but in no event will resident or fellow program physicians be allowed to provide Services in a real life scenario. During education and training exercises, VUMC physicians may be in close proximity to a qualified training facility, but will not be allowed to enter such facility during activities involving the use of live ammunition.

3.4 Safe Zone. Acknowledging that in any situation ammunition, shrapnel, or other projectiles may travel for an extended range, MNPd will establish a "safe zone" perimeter around the active scene for medical and other first responders that is outside the reasonably anticipated line of gunfire or other similar threat (but which may be in closer proximity to the scene than zones established for the press or the public) ("Safe Zone"). MNPd will be responsible for moving any injured person requiring VUMC assistance to the Safe Zone for treatment before VUMC Services can be rendered to the individual. VUMC physicians will not be requested or expected to provide Services outside of a Safe Zone, though in select situations VUMC physicians may, at the discretion of its physicians, enter cleared zones of an active scene to provide care to injured SWAT officers.

3.5 No Third Party Beneficiary; Treatment Discretion. There are no third party beneficiaries of VUMC's Services under this Agreement. VUMC may provide Services under this Agreement to MNPB officers and in support of MNPB operations as set forth herein. VUMC may, but is not required, however, to provide "Good Samaritan" clinical assistance to third parties (including, without limitation, criminal perpetrators, suspects, crime victims or public bystanders). To the extent VUMC physicians elect to provide clinical assistance to such third parties, VUMC may do so, and may elect to treat patients in an order based on the VUMC physician's discretion. VUMC shall have no liability to MNPB or any of its officers or employees if a VUMC clinical provider elects to treat a third party (or no party) under this Agreement in advance of treating any injured MNPB employee, regardless of the impact to the health of the MNPB employee.

SECTION 4. TERM AND TERMINATION

4.1 Term and Renewal. This Agreement will be effective upon approval of the parties and the Metropolitan Council ("Effective Date"). The term of this Agreement shall commence as of the Effective Date and last for one year, unless sooner terminated as provided herein. Upon written agreement by the Parties, this Agreement may be renewed for additional one-year periods for up to 5 years (60 months) total. This Agreement may not be renewed except by written agreement signed by both Parties, and each Party may elect to renew, not renew, or propose changes to the Agreement terms, in their respective sole and absolute discretion. No later than ninety (90) days prior to the end of the Term, representatives of the Parties will meet to discuss the Services, the structure of the Agreement, any proposed changes, and whether to continue the program under this Agreement.

4.2 Termination.

4.2.1 MNPB may terminate this Agreement upon written notice to VUMC if VUMC breaches any term or provision of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice specifying the subject breach.

4.2.2 VUMC may terminate this Agreement upon written notice to MNPB if MNPB breaches any term or provision of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice specifying the subject breach.

4.2.3 Either Party may terminate this Agreement without cause upon written notice to the other Party on at least sixty (60) days' prior written notice.

SECTION 5. INSURANCE

5.1 MNPB Liability Insurance. MNPB shall maintain in full force and effect during the Term of this Agreement, insurance covering claims for the acts or omissions of MNPB personnel as prescribed by the Tennessee Government Tort Liability Act (see T.C.A. § 29-20-101). MNPB may provide such coverage through a program of actuarially sound self-insurance.

5.2 Professional Liability Insurance of VUMC. VUMC shall procure and maintain in full force and effect during the Term of this Agreement professional liability insurance covering VUMC and the Medical Director providing Services hereunder in a minimum amount of \$1,000,000 per incident and \$3,000,000 annual aggregate. Such coverage shall act as primary insurance for such claims asserted

against VUMC and no coverage of the other Party shall be called upon to contribute to a loss. VUMC may provide such coverage through a program of actuarially sound self-insurance.

5.3 Worker's Compensation. Each Party shall procure and maintain during the term of this Agreement, workers' compensation and employer liability insurance or a self-insurance program covering all of its employees.

5.4 Proof of Insurance. The Parties shall each furnish to each other copies of or certificates of insurance on all policies required under this Section 5 (or evidence of self-insurance) as evidence of the insurance coverage to be procured pursuant to this Agreement. At such times as either Party may reasonably request, the requested Party shall provide the requesting Party with certificates of insurance or such other proof of insurance reasonably satisfactory to establish that the insurance required pursuant to this Agreement continues to be maintained in effect. It is agreed that VUMC and MNPD may provide the insurance coverages above through a program of self-insurance. The insurance coverage required under this Agreement shall not be canceled, modified, reduced or otherwise materially changed, except upon thirty (30) days prior written notice to the other Party.

5.5 Indemnification. VUMC shall indemnify and hold harmless the Metropolitan Government, its officers, agents, and employees, from any claims, damages, costs, and attorney's fees for injuries and damages arising, in part or in whole, from the grossly negligent or intentional acts or omissions of VUMC, its officers, employees, and/or agents, including its sub or independent contractors (other than Metro), in connection with the performance of this Agreement.

SECTION 6. RECORDS AND CONFIDENTIALITY

6.1 General. The Parties shall comply with all applicable laws, regulations and ethical principles concerning confidentiality of all individually identifiable personal health information ("PHI"), including, but not limited to, medical records. The Parties shall hold all individually identifiable health information in the strictest confidence in accordance with applicable law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, and enforcement of the Health Information Technology for Economic and Clinical Health ("HITECH"). In connection with any services under this Agreement involving access to PHI by VUMC, the parties agree that VUMC is acting as a Covered Entity as defined by HIPAA.

6.2 Records. The Parties shall maintain appropriate, accurate and complete medical records and business records related to the provision of Services hereunder and to file them in a manner consistent with policies and legal requirements. All medical records of treatment provided by VUMC personnel shall be the property of VUMC. Information and records of treatment provided by VUMC personnel shall only be released, including to Metro Government and MNPD, in compliance with HIPAA, HITECH, other applicable laws, regulations and ethical principles, and applicable VUMC policies.

6.3 Public Disclosure. Except as may be required by law, ordinance or regulation, neither Party to this Agreement will make any public announcement of the fact that this Agreement is under negotiation, has been signed, or that VUMC is providing the Services contemplated hereby, without the prior written consent of the other Party, which consent may be granted or withheld in the sole and absolute discretion of such other Party.

SECTION 7. GENERAL PROVISIONS

7.1 Entire Agreement; Amendment. This Agreement, together with any attachments or exhibits, constitutes the entire agreement between the Parties pertaining to the subject matter contained

herein and merges and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties that relate to the subject matter of this Agreement. No supplement, amendment or modification of this Agreement shall be binding unless executed in writing by the Parties, unless otherwise provided herein.

7.2 No Waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

7.3 Subject Headings; Construction. The subject headings of the Sections of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of the provisions of this Agreement. This Agreement has been prepared on the basis of mutual understanding of the Parties and shall not be construed against either Party by reason of such Party's being the drafter hereof.

7.4 Binding Agreement; Assignment. This Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns. Neither Party may assign this Agreement or any rights hereunder, or delegate any of its duties to be performed hereunder without the prior written consent of the other Party.

7.5 Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures to this Agreement may be exchanged via facsimile or other electronic means and shall be binding on the parties equally with an original "wet" signature.

7.6 Severability. If any provision of this Agreement is rendered invalid or unenforceable by the enactment of any applicable statute or ordinance or by any regulation duly promulgated or is made or declared unenforceable by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

7.7 Notices. All notices, requests, demands or other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the Party to whom notice is to be given, or on the third day after mailing if mailed to the Party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

To MNPD:	Metro Nashville Police Department 600 Murfreesboro Pike Nashville, TN 37210 Attn: Mike Hagar
To VUMC:	EMS Centers of Excellence 2146 Belcourt Avenue, Suite 132 Nashville, TN 37212 Attn: Jared McKinney, M.D.
With copies to:	Vanderbilt University Medical Center Office of Legal Affairs 2525 West End Avenue, Suite 700 Nashville, Tennessee 37203

Either Party may change its address indicated above by giving the other Party written notice of the new address in the manner set forth above.

7.8 Governing Law. This Agreement shall be governed in all respects by, and be construed in accordance with, the laws of the State of Tennessee without regarding of conflicts of law provisions. Each Party hereby consents to the jurisdiction of all state and federal courts sitting in Davidson County, Tennessee, agrees that venue for any such action shall lie exclusively in such courts, and agrees that such courts shall be the exclusive forum for any legal actions brought in connections with this Agreement or the relationships among the Parties hereto.

7.9 Media. Except as may be required by law, ordinance or regulation, each Party agrees that it will not use the other's name in any advertising, promotional material, press release, publication, public announcement, or through other public media, written or oral, without prior written consent of the other Party.

7.10 Notification of Claims. Each Party agrees to notify the other Party as soon as possible in writing of any incident, occurrence, or claim arising out of or in connection with this Agreement that could result in a liability or claim of liability to the other Party. Further, the notified Party shall have the right to investigate said incident or occurrences and the notifying Party will cooperate fully in this investigation.

7.11 Discrimination. In compliance with federal law, including the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967 and the Americans with Disabilities Act of 1990, each Party hereto will not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability, or military service in its administration of its policies, employment, programs or activities.

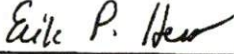
7.12 Independent Contractor. Each Party shall be considered to be an independent Party and shall not be construed to be an agent or representative of the other Party, and therefore, has no liability for the acts or omissions of the other Party. In addition, neither Party, nor any of its employees, agents, or subcontractors, shall be deemed to be employees or agents of the other Party. Therefore, neither Party nor any of its employees, agents, or subcontractors, shall be entitled to compensation, workers' compensation, or employee benefits of the other Party by virtue of this Agreement. Furthermore, neither Party shall be deemed an agent nor employee of the other and neither shall have actual, apparent, or implied authority to bind the other to any obligation whatsoever.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement to be effective as of the Effective Date.

Vanderbilt University Medical Center

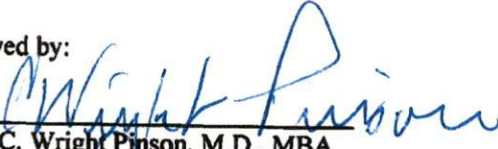
Recommended by:



Name: Erik P. Hess, M.D.,

Title: Chair, VUMC Department of Emergency Medicine

Approved by:

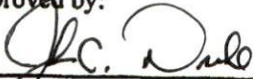


Name: C. Wright Pinson, M.D., MBA

Title: Deputy Chief Executive Officer

Metropolitan Government of Nashville and Davidson County

Approved by:

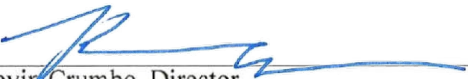


Name: Chief John Drake

Title: Chief of Police, ~~Interim~~

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
SIGNATURE PAGE

APPROVED AS TO AVAILABILITY OF FUNDS:



Kevin Crumbo, Director
Department of Finance

Date

APPROVED AS TO INSURANCE
REQUIREMENTS:

Balogun Cobb

Director of Insurance
Metropolitan Government

12/8/2020

Date

APPROVED AS TO FORM AND LEGALITY:

Phylinda Ramsey

Assistant Metropolitan Attorney

12/8/2020

Date

FILED IN THE OFFICE OF THE
METROPOLITAN CLERK:

Metropolitan Clerk

Date

EXHIBIT A

SERVICES

VUMC may provide the following Services:

1. **Training:** Provide training to VUMC and MNPB personnel involved in responding to a tactical police deployment;
2. **Planning:** Prepare medical tactical pre-plan to aid in mission planning wherever requested or deemed necessary by the threat condition or circumstances presented;
3. **Medical Care:** Oversee medical assistance to law enforcement personnel and civilians, both remotely and on-site as circumstances warrant and when a VUMC physician is available and willing to provide such oversight. The VUMC physician shall be available to provide on-scene medical care. Persons requiring transport to medical facility will be transported to the medical facility of the person's choosing or to the appropriate facility available to treat the person's medical condition. In providing medical services, VUMC physicians will exercise independent medical judgment in determining the medical care that is appropriate for the circumstances presented, including the triage of injured persons.

MNPB and VUMC shall jointly develop written protocols as necessary for appropriate medical treatment, situation response and oversight and any other areas identified by the Parties.

VUMC80242 E-APPROVALS PAGE

Read and Acknowledged by:

Clisby Hall - Final Draft Approval -- Approved - 2020-09-24 08:27 AM

Doug Mefford - Final Draft Approval -- Approved - 2020-09-23 08:14 AM

This page created on: 2020-09-28 01:37 PM by: Turner Hutchison
