

DRAFT AGREEMENT FOR SUPPORT OF ADULT FAMILY HOME SERVICES

This Agreement for Support of Adult Family Home Services is entered into this ____ day of _____, 2024 (“Effective Date”) by and between San Juan County Public Hospital District #2, dba Lopez Island Hospital District (“PHD”) and The Hamlet, a 501(c)(3) Nonprofit Corporation (“HAMLET”) which provides senior housing and adult family home services (“HAMLET HOUSE”) located in Lopez Village (individually a “Party” and collectively the “Parties”).

WHEREAS, PHD identified in its 2022 strategic plan a priority to reach out to traditionally underserved residents to improve their access to Lopez Island’s health care services, and a specific goal to mitigate language and financial barriers for Lopez Island’s Spanish-speaking families; and

WHEREAS, HAMLET has a mission to provide affordable adult family home services for Lopez Island residents and their loved ones in a diverse, safe and welcoming environment; and

WHEREAS, HAMLET HOUSE is the only entity on Lopez Island providing facility-based supportive care to seniors who require assistance with activities of daily living, so lack of access to such services means that Medicaid-supported patients must leave the island to receive this type of care;

WHEREAS, HAMLET HOUSE recently received licensure for eight rooms in their facility and can now accommodate room sharing if needed;

WHEREAS, HAMLET HOUSE has been unable in recent years to offer a Medicaid-supported bed in the Adult Family Home due to Medicaid reimbursement levels insufficient to cover the cost of services, and fundraising support for the HAMLET has been inadequate on an annual basis to address the deficits;

WHEREAS, PHD is authorized under Chapter 70.44 RCS to provide health care services for residents of the PHD and others, and to contract with other organizations for the provision of such services;

WHEREAS, to further the mutual goals of the parties, PHD desires for HAMLET HOUSE to be able to offer adult family home services to Lopez Island residents who qualify for Medicaid assistance;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which being hereby acknowledged, PHD and HAMLET hereby agree as follows:

1. Obligations of HAMLET.

- 1.1. Services provided: HAMLET shall operate HAMLET HOUSE in a manner that meets the definition as outlined in WA state RCW 70.128.010 and will continually maintain state licensure and code requirements as outlined in Chapter 388-76 WAC. Services shall be provided 24 hours per day, 7 days per week.

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- 1.2. Staffing and qualifications: HAMLET shall ensure that all staff meet the qualifications required for licensure and will maintain the level of staffing necessary to provide high quality services to all residents.
- 1.3. Offer of services for one or two Medicaid-supported residents: Upon signing of this agreement, HAMLET agrees to provide up to two beds for the benefit of Medicaid-supported Lopez residents. Two beds will only be offered if both Medicaid residents agree to joint tenancy of a room. When an opening occurs for a Medicaid-supported bed, HAMLET will communicate availability of the bed to local agencies including PHD, San Juan County Senior Services – Lopez Island, Lopez Island Family Resource Center, UW Medicine Lopez Island Clinic, Lopez Island Home and Hospice Support, Hospice of the Northwest, Lopez Emergency Medical Services, and Lopez Community Churches (*specify which?*). HAMLET will also maintain a waiting list for services on site and will contact any Medicaid recipients on the list when a Medicaid bed becomes available. Notice will also be placed in both English and Spanish on publicly available websites such as *Lopez Rocks and the Lopez Island Community Board (Facebook) (the newspaper?)*. It will also be posted in both English and Spanish at *Lopez Village Market and the Southend General Store*. Potential applicants must already be on Medicaid and must meet usual criteria for admission to HAMLET HOUSE, including appropriate acuity for available staffing levels and skills.
- 1.4. Prioritization of applicants: The Parties will work together to establish a policy of the prioritization of applicants based on residency within the HAMLET, length of residency on Lopez Island, duration of time on the waiting list, urgency of need, etc. This policy will be agreed upon by the parties within 30 days of signing of the agreement and shall be attached as Attachment A.
- 1.5. Quality metrics: Within three months of the Effective Date, the Parties shall agree on a set of quality metrics that HAMLET HOUSE shall endeavor to meet annually. Once completed, the metrics shall be attached as Attachment B. HAMLET HOUSE shall report to the PHD semi-annually on its performance against the quality metrics and provide an analysis and work plan for any metrics that were not met.
- 1.6. Financial Reports: HAMLET shall provide financial information and reports requested by the PHD to audit the support payments described in Section 2 below.
- 1.7. Rents: HAMLET shall provide a summary of HAMLET HOUSE market rate rents and rent increases annually, and information about resident Medicaid support as a percent of those rents. Upon request from the PHD, HAMLET will also conduct a local survey of adult family home rents from similar facilities in the San Juan/Skagit/Island County regions.

2. Obligations of PHD.

- 2.1. Payment Amount and Frequency: The PHD shall contribute an amount not to exceed \$50,000 per year, adjusted annually by the estimated annual Seattle area Consumer Price Index for all Urban Consumers as determined by the US Bureau of Labor Statistics, during the Term. The Parties have agreed on an operating budget for the first calendar year (2025) which is attached as Attachment C (the Budget). HAMLET

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HOUSE shall submit subsequent year operating budgets to the PHD prior to November 30 each year. HAMLET HOUSE shall report its performance against the budget to the PHD on a quarterly basis (within 30 days of the end of each calendar quarter), including the number of Medicaid resident days in the quarter, and the PHD shall pay HAMLET the amount of the operating loss, not to exceed one quarter of the total approved budget for the year. If there is no loss for the quarter, or there are less than 45 Medicaid resident days in the quarter, payment will not be made.

2.2.If any Medicaid-supported residents were offered services during the negotiation period of this agreement in 2024, the agreement shall apply for these individuals at the beginning of the Term.

3. Term and Termination.

3.1 Term. This Agreement shall commence on January 1, 2025 and shall continue for a period of three (3) years (the "Term") under the same funding terms as specified in Section 2, Paragraph 2.1 unless otherwise terminated as set forth herein. Any residual funds remaining from the annual allocation at the end of each calendar year will not be carried into the subsequent year.

3.2 Termination For Breach. In the event of a material breach of this Agreement by a Party, the non-breaching Party may terminate this Agreement by giving the breaching Party thirty (30) days of advance written notice of the breach and intent to terminate unless the breaching Party cures the breach within such thirty (30) day notice period.

3.3 Termination For Convenience. In addition to the termination provisions set forth above, this Agreement may be terminated without cause by either Party after the first anniversary of the Effective Date upon ninety (90) days of advance written notice to the other Party.

4. Insurance and Indemnification.

4.1.HAMLET Insurance. HAMLET shall maintain adequate levels of insurance to cover all aspects of HAMLET HOUSE and the professional services of the health care personnel, including professional and general liability insurance with minimum limits of \$1 Million per occurrence and \$1 Million annual aggregate.

4.2.PHD Insurance. During the term of this Agreement, PHD will maintain comprehensive general liability insurance and directors/officers or errors/omissions insurance.

4.3.Indemnification. To the extent allowed under applicable law, each Party (the "Indemnifying Party") shall be responsible for and indemnify and hold the other Party (the "Indemnified Party") harmless against any and all claims, damages, or losses incurred by negligent act or omission by the Indemnifying Party, its employees, or agents, except to the extent any such loss is as a result of the acts or omissions of the Indemnified Party.

5. Compliance with Law.

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Each Party shall carry out its respective activities and obligations under this Agreement in conformance with applicable federal, state, and local laws and regulations. PHD and HAMLET agree to comply with the licensure laws and pertinent regulations of the state of Washington, the accreditation standards of any applicable recognized accrediting body and any other requirements of any other regulatory entity having legal authority as to their respective operations. The Parties intend this Agreement to comply with all laws, regulations, and requirements applicable to adult family homes, Medicare and Medicaid participants, and healthcare professionals in general. This Agreement shall be construed in a manner consistent with compliance with such statutes and regulations. If at any time either Party has reasonable grounds to believe this Agreement may not conform to evolving requirements or interpretations relevant to such matters, the Parties shall immediately reopen negotiations in good faith to bring it into compliance.

6. Cooperation in Compliance.

To ensure compliance with all legal and regulatory investigations, audits or similar inquiries, the Parties agree to work collaboratively and in good faith to provide ready access to relevant information and documentation maintained by the other Party. Access pursuant to these inquiries shall include the right to inspect, copy and audit accounting, administrative and billing records pursuant to a Party's obligations.

5. Legal Jeopardy.

If either Party believes, on the basis of an opinion of legal counsel, that this Agreement or the performance by either Party under this Agreement violates any material law, regulation, or governmental guidelines, State or federal, presents a substantial risk of the loss or restriction of that Party's license, or right to participate in Medicare, Medicaid or any other governmental program, such event referred to as "Legal Jeopardy," that Party may, upon written notice, require the other Party to enter into good faith negotiations to renegotiate the terms of this Agreement, in a manner that attempts to retain as much as possible of the economic arrangements originally contemplated by the Parties without violating any applicable legal or reimbursement requirements. If the Parties are unable to reach an agreement concerning the modification of this Agreement within ninety (90) days after the date of the notice seeking renegotiation (or sooner if required by law), then either Party may immediately terminate this Agreement by written notice to the other Party. The rights of the Parties under this Section are in addition to any other termination rights the Parties may have under this Agreement.

8. Dispute Resolution.

8.1 Informal Resolution. In the event of a dispute or disagreement between the Parties with respect to this Agreement the Parties shall meet and confer in good faith to resolve the dispute informally.

8.2. Mediation. If a dispute with respect to this Agreement cannot be resolved through informal meetings between the Parties, a Party may initiate mediation by giving written notice thereof to the other Party. Both Parties shall attend and participate in the mediation, which shall be binding upon the Parties only if a mutually agreeable resolution is achieved. The mediation proceeding shall commence not more than thirty (30) days

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after the written notice initiating the mediation process is given by one Party to the other Party and shall be conducted in San Juan County, in the State of Washington, by an independent third-party mediator mutually selected by the Parties. The mediator may be given written statements of the Parties and may inspect any applicable documents or instruments. All mediation proceedings shall be attended by representatives of each Party with reasonable authority to resolve the dispute. The costs and expenses associated with the mediator and the mediation shall be paid equally by the Parties regardless of the result of the mediation proceeding unless otherwise agreed to by the Parties. Further, each Party shall bear its own attorneys' fees and costs in connection with the mediation process.

9. Relationship of the Parties.

The Parties to this Agreement are independent Parties, and nothing in this Agreement shall be construed or be deemed to create between them any relationship of principal and agent, partnership, joint venture, or any relationship other than that of independent Parties.

10. General Provisions.

10.1 No Obligation to Refer. Nothing in this Agreement requires either Party to make referrals to the other Party.

10.2 Nondiscrimination. Both Parties agree to comply with all applicable non-discrimination laws and regulations.

10.3 Entire Agreement; Amendments. This Agreement constitutes the full and complete expression of the rights and obligations of the Parties with respect to the subject matter and supersedes all prior understandings and agreements, whether oral or written. This Agreement or any Attachments may not be amended except upon the written agreement of the Parties.

10.4 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of the Agreement, such provision shall be fully severable from this Agreement. Therefore, the Parties agree that should any covenant herein be declared illegal, invalid or unenforceable under present or future laws as currently stated, this Agreement shall be deemed modified as necessary to be enforceable while maintaining the original intent of the Parties, as originally stated, to the fullest extent legally possible, and the Parties agree to promptly (but in any case, within thirty (30) days), execute an amendment memorializing any such required amendments. If the Agreement is unable to be so amended, then it shall be construed and enforced as if such illegal, invalid or unenforceable provision never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

10.5 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Washington. Venue for any and all actions, claims, or proceedings arising from or related to this Agreement shall lie exclusively in, and each Party hereby submits to the exclusive jurisdiction of, the federal and state courts situated in San Juan County, Washington.

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10.6 Waiver. The waiver of any provision of this Agreement shall only be effective if set forth in a writing signed by the waiving Party. Any such or other waiver shall not operate as, or be deemed to be, a continuing waiver of the same or of any other provision of this Agreement.

10.7 No Third-Party Rights. The Parties do not intend the benefits of this Agreement to inure to any third person not a signatory to this Agreement except as otherwise described in this Agreement. The Agreement shall not be construed as creating any right, claim, or cause of action against any Party by any person or entity not a Party to this Agreement except as otherwise described in this Agreement.

10.8. Notices. When required by the terms of this Agreement, the parties will give notice by personal delivery or by Certified Mail, return receipt requested, postage prepaid, to the following addresses:

HAMLET: The Hamlet
P.O. Box 785
Lopez Island WA 98261

To PHD: San Juan County Public Hospital District #2
dba Lopez Island Hospital District
P.O. Box 976
Lopez Island, WA 98261

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Signature Page to Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

The Hamlet, a 501(c)(3) Nonprofit Corporation

Name & Title _____

Signature _____

Date signed _____

San Juan County Public Hospital District #2, dba Lopez Island Hospital District

Name & Title _____

Signature _____

Date signed _____