

Staff Summary Report

Council Meeting Date: 05-01-2008

Agenda Item Number: _____

SUBJECT: Request approval of a revised contract with PMT Ambulance for emergency medical transportation services.

DOCUMENT NAME: 20080501fslg13 **PURCHASES (1004-01)**

SUPPORTING DOCS: Yes

COMMENTS: (T08-053-01)

PREPARED BY: Lisa Goodman, CPPB, Procurement Officer, 480-350-8533

REVIEWED BY: Michael Greene, CPM, Central Services Administrator, 480-350-8516
Cliff Jones, Fire Chief, 480-858-7201

**LEGAL REVIEW AS
TO CONTRACT FORM**

ONLY: David Park, Assistant City Attorney, 480-350-8907

FISCAL NOTE: This is a no cost contract to the City of Tempe.

RECOMMENDATION: Approve the revised contract.

ADDITIONAL INFO: The Arizona Department of Health Services (ADHS) reviewed the contract awarded by Council on February 7, 2008 and requested modifications and amendments to be made before issuing an approval letter. Upon receipt of a signed contract by PMT Ambulance and the City of Tempe containing the proposed modifications and amendments submitted to ADHS on April 17, 2008, ADHS will issue a letter of approval.

Changes from the original contract, as requested by ADHS, are as follows:

1. Page 4, #1 Scope of Work – language reworded
2. Page 4, #2 Term of Contract – added last sentence, paragraph 2
3. Page 6, #15 Response Time Requirements – AAC reference added
4. Page 10, #22 Contractor Provided Equipment, Materials and Supplies – paragraph 2 reworded.
5. Page 11, #23 Contractor Provided Ambulances – last paragraph added
6. Page 11, #26 Contractor’s Ambulance Crews – first paragraph, last sentence added
7. Page 11, #26 Contractor’s Ambulance Crews – second paragraph, language reworded
8. Page 13, #35 Contract Administration – first paragraph, language reworded
9. Page 14, #36 Alternative Transportation – removed from contract, subsequent clauses were renumbered
10. Page 14, #38 Supplies, Materials and Pharmaceuticals to be Provided/Reimbursed to the City – last sentence added
11. Page 15, #43 Termination of Contract For Default – last paragraph added
12. Page 17, #44 Uncured Events of Default – last paragraph added
13. Page 23, #64 Stopping the Work – last sentence added
14. Page 25, #74 Continuous Service Delivery – last paragraph added
15. Page 25, #75 Standby Lease – last paragraph added

16. Page 28, #94 Remedies – last paragraph added
17. Page 35, Exhibit C, #13 – last two (2) sentences added
18. Page 37, Exhibit D, First Paragraph – language reworded

**Arizona
Department of
Health Services**

Division of Public Health Services

*Office of the Assistant Director
Public Health Preparedness Services*

150 N. 18th Avenue, Suite 540
Phoenix, Arizona 85007
(602) 364-3173 / 1-800-200-8523
(602) 364-3567 FAX

JANET NAPOLITANO, GOVERNOR
SUSAN GERARD, DIRECTOR

CONTROL #3190

April 22, 2008

CERTIFIED MAIL

Jim Roeder, Vice President of Clinical Services
Professional Medical Transport, Inc.
2495 South Industrial Park Avenue
Tempe, Arizona 85282

Re: Proposed Contract between PMT and the City of Tempe

Dear Mr. Roeder:

The Bureau has reviewed your draft contract with proposed modifications and amendments submitted on April 17, 2008, the contract is not approved. Upon receipt of a signed contract, the Bureau will issue an approval letter in accordance with A.R.S. §36-2234(K) if the language is the same as the April 17, 2008 version.

If we can be of any further assistance please do not hesitate to contact me.

Sincerely, .



Terry Mullins, Bureau Chief
Bureau of Emergency Medical Services and Trauma System



April 17, 2008

Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
ATTN: Terry Mullins
150 N. 18th Avenue, Suite 540
Phoenix, AZ 85007

Re: Contract for Tempe 9-1-1 Ambulance Services

Dear Mr. Mullins

Please accept this letter and its attachment as our request for the Department's approval our proposed contract, between PMT Ambulance and Tempe, for the provision of 9-1-1 ambulance services in the City of Tempe. Included with this cover letter is the contract with exhibits consisting of thirty-seven pages (37). This contract contains all the changes and amendments recommended by the Department and agreed to by PMT Ambulance and the City of Tempe.

If you have any questions regarding this matter, please do not hesitate to call me either at my office (480-446-2549) or on my cell phone (602-696-4489). You may also reach me by e-mail at jroeder@pmtambulance.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Roeder', is written over the word 'Sincerely,'.

Jim Roeder
Director of Clinical Services

cc: Bob Ramsey
Pat Cantelme

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A subsidiary of StarWest Associates, LLC

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1501 W. Fountainhead Pkwy, Ste 650, Tempe, AZ 85282 • (480) 736-9350 • Fax: (480) 736-9355

Purchase Contract #T08-053-01

This Contract is attached to the Contract Award Notice and made a part thereof and is entered into by the City of Tempe (the "City") and PMT Ambulance ("Contractor").

This Contract is intended to reflect the Goals and Objectives of the City as follows:

- **Support for both the City's and Its Fire Department's Mission and Values** – The City and its Fire Department are mission driven organizations that pursue methods to improve conditions in the community they serve.
- **Public Service and Patient Care** - The Fire Department has established a reputation of excellence in public service, fire protection and patient care.
- **Public Safety, Firefighter Safety and Contractor's Employee Safety** - The safety of the public, Fire Department personnel and Contractor's employees, is of paramount concern to the Fire Department.
- **Preparing for the Future** – The Fire Department recognizes that during the term of the Contract, many changes will take place within the Contractor's organization as well as the City's.

SECTION 1. DEFINITIONS

- 1) **"ALS"** shall mean advanced life support.
- 2) **"Administrative Medical Director"** shall mean the individual appointed by the City to act as administrative medical director for the Fire Department and who has the qualifications set forth in Arizona Administrative Regulation R9-25-204.
- 3) **"Affiliate"** of a specified Person means a Person who (a) Controls, is directly or indirectly Controlled by, or is under common Control with, the specified Person; (b) owns, directly or indirectly ten percent (10%) or more of the equity interest of the specified Person; or (c) is a general partner (if the specified Person is a partnership), managing member or manager (if the specified Person is a limited liability company), officer, director, non-financial institution trustee or fiduciary of the specified Person or of any Person described in clause (a) or (b); or (d) is a member of the Immediate Family of the specified Person or the Person described in clauses (a) through (c) above. A Person shall be deemed to Control another Person for the purposes of this definition if the first Person possesses, directly or indirectly the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.
- 4) **"Ambulance"** shall have the meaning set forth in and meeting the requirements of A.R.S. § 36-2201 and which meets the additional requirements set forth in the Scope of Work part of this Contract and, where indicated in the text of the Contract, also meets the requirements set forth in Exhibits A, B, and C of this Contract.
- 5) **"Ambulance Response"** shall mean the response of an Ambulance pursuant to Arizona Statutes and Rules to a dispatch issued by PFDRDC in connection with a services request that is a Code 3 Call and/or Code 2 Call.
- 6) **"Arizona Department of Health Services (ADHS)"** shall mean the department of the State of Arizona responsible for regulating health services.

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- 7) "**Authorized Representative**" shall mean the duly authorized representative of a Contractor and his or her duly authorized successor who signs the Contract on behalf the representative.
- 8) "**AVL**" shall mean automatic vehicle locator.
- 9) "**BLS**" shall mean basic life support.
- 10) "**CAD**" shall mean computer assisted dispatch.
- 11) "**Captain**" shall mean a member of the Fire Department serving in the position of Captain.
- 12) "**Certificate of Necessity (CON)**" shall have the meaning set forth in A.R.S. § 36-2201.
- 13) "**City (City or Tempe)**" shall mean the municipal corporation now existing and known as the City of Tempe, Arizona.
- 14) "**City Council**" shall mean the governing body for the City (the City Council includes the Mayor of the City).
- 15) "**City Procurement Officer**" shall mean Lisa Goodman (and any successor appointed by the Financial Services Manager for the City of Tempe).
- 16) "**Civilian Paramedic**" shall mean a employee of the city with the employment designation of Paramedic, but who is not a Firefighter.
- 17) "**Code 3 Call**" shall mean a call for which the use of red lights and sirens are requested by PFDRDC for Ambulance Response to the scene of an incident.
- 18) "**Code 2 Call**" shall mean:
 - a) A call for which the use of red lights and sirens are not requested by PFDRDC for Ambulance Response to the scene of an incident.
 - b) A call in which the initial request by PFDRDC was for a Code 3 Call, but was downgraded by PFDRDC to a Code 2 Call prior to arrival on the scene of an incident.
 - c) A call in which the initial request by PFDRDC was for a Code 2 Call, but was upgraded by PFDRDC to a Code 3 Call prior to arrival on the scene of an incident.
- 19) "**Commencement Date**" means the date designated as the date performance of service is set to begin.
- 20) "**Conflict of Interest**" shall have the meaning set forth in this Contract.
- 21) "**Contract**" shall mean a Contract to be entered into between a Contractor and City.
- 22) "**Contract Administrator**" shall mean the EMS Battalion Chief and his/her designee.
- 23) "**Contract Award**" shall mean the award of a Contract by the City Council subject to the Contractor submitting a Performance Letter of Credit and signing of a Contract by the City.
- 24) "**Contractor**" shall mean each Proposer, if any, that receives a Contract Award and enters into a Contract with the City pursuant to this RFP process.
- 25) "**Control**" shall mean the power directly or indirectly to direct the management or policies of an entity whether through the ownership of voting securities, other equity interests, by contract or otherwise. Without limiting the generality of the preceding, Control includes actual working or effective Control of an entity however exercised; and an agreement among the holders of voting stock or rights of an entity which effectively assigns voting Control and/or decision making to any person or entity other than the entity in question.
- 26) "**Control of Scene**" shall mean the Fire Department current protocol for control of the scene (including incident scene command structure and patient transfer process) to which an Ambulance has

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been dispatched and is known as the current Volume II of the Phoenix Fire Department Regional Operations Manual.

- 27) **"Dedicated Ambulance"** shall have the meaning set forth in the definitions and Scope of Work part of this Contract.
- 28) **"EMS"** shall mean emergency medical services as described in A.R.S. § 36-2201.
- 29) **"EMS Battalion Chief"** shall mean the Battalion Chief of the Fire Department responsible for EMS.
- 30) **"EMS System"** shall mean the system, in which the City participates, describing certain emergency medical services and ambulance transportation services for the City and other participating cities, agencies, etc. in the Greater Metropolitan Phoenix Area or Areas.
- 31) **"EMT-B"** shall mean emergency medical technician-basic.
- 32) **"EMT-P"** shall mean emergency medical technician-paramedic.
- 33) **"Financial Services Manager"** shall mean Jerry Hart (and any successor appointed by the City).
- 34) **"Fire Department"** shall mean the City of Tempe Fire Department.
- 35) **"Fire Chief"** shall mean the department head for the City Fire Department.
- 36) **"Firefighter"** shall mean a member of the Fire Department with the firefighter employment designation.
- 37) **"Firefighter Paramedic"** shall mean a Firefighter with the employment designation of Firefighter Paramedic.
- 38) **"First Responder"** shall have the meaning set forth in A.R.S. § 36-2201, and shall include qualified personnel of the Fire Department and the Contractor.
- 39) **"Immediate Family"** shall mean any spouse, son, daughter or parent of any individual (by blood or by marriage), or any trust, estate, partnership, joint venture, limited liability company, corporation, operation or any other legal entity or business or investment enterprise directly or indirectly controlled by such spouse, son, daughter or parent.
- 40) **"Key Personnel"** shall mean the key personnel of Contractor identified by job position and personal information in the Scope of Work part of this Contract.
- 41) **"Mobile Computer Terminal (MCT)"** shall mean the mobile computer located in response vehicles that are part of the PFDRDC dispatch system.
- 42) **"MTCC"** shall mean the Medical Transportation Contract Coordinator hired by the City.
- 43) **"Performance Letter of Credit"** shall have the meaning set forth in this Contract.
- 44) **"Person"** means an individual, general or limited partnership, corporation, joint stock company, trust (including a business trust), unincorporated association, joint venture, limited liability company, governmental authority or other entity.
- 45) **"Phoenix Fire Department Regional Dispatch Center (PFDRDC or the Dispatch Center)"** shall mean the Dispatch Center at the City of Phoenix Fire Department.
- 46) **"Primary Service Area (PSA)"** shall mean the entire area within the boundaries of the City
- 47) **"Procurement Code"** shall mean the Procurement Code of the City.
- 48) **"Procurement Administrator"** shall mean the City Procurement Office person designated to administer the procurement aspects of the Contract.

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- 49) **"Response Time"** means the calculation of time beginning when a 911 call is entered into CAD by the PFDRDC Dispatch Center and ends when the Contractor physically arrives on the scene of the incident and reports via radio or via MCT to the PFDRDC that Contractor is on scene and ready to deliver Services.
- 50) **"Response Time Requirements"** shall have the meaning set forth in the Scope of Work part of this Contract.
- 51) **"Services"** shall mean those Services provided to meet the requirements set forth in this Contract in order to deliver emergency medical transportation Services.
- 52) **"Specifications"** shall mean those requirements for Ambulance equipment and Ambulance materials and supplies as to quality (including brand names) and features as set forth in Exhibits A, B, and C.
- 53) **"Station"** shall have the meaning set forth in the Scope of Work part of this Contract.
- 54) **"Subcontractor"** shall have the meaning set forth in the City Procurement Code.
- 55) **"Substitute Ambulance"** shall have the meaning of any Ambulance used in place of Dedicated Ambulance that is temporarily unavailable due to maintenance or repair.

SECTION 2. SCOPE OF WORK

The parties agree as follows:

1) Scope of Work

Contractor will be required to provide all services with two (2) Dedicated Ambulance at the ALS level of service and with four (4) Dedicated Ambulances at the BLS level of service. Additionally, Contractor will provide automatic aid and mutual aid services, contract services specifically included in this agreement, communications and dispatch services as required in accordance with the EMS System and this Contract. Contractor may not furnish standby coverage for special events or conduct inter-facility transfers with Dedicated Ambulances. Contractor may not use any Dedicated Ambulance, equipment or personnel of the Tempe required EMS System to provide services for any such purposes not permitted by this Contract.

2) Term of Contract

The initial term for this contract will be for a term of two (2) years, with three (3), twelve (12) month extensions. Any such twelve (12) month extension shall be at the sole discretion of the City and each renewal shall be presented to and authorized by the City Council prior to such renewal being effective.

The initial term shall begin on the Commencement Date pending approval by ADHS. The Commencement Date shall be on May 8, 2008 at 8:00 a.m. Any extension, amendment, or renewal of this contract shall commence after review and approval by ADHS.

3) Preconditions to Commencement Date

Prior to the Commencement Date and the start of service, Contractor, at its own expense, shall be required to have each of Contractor's employees who will be assigned to work on Tempe Dedicated Ambulances, to attend, and successfully complete, a forty (40) hour Tempe qualified training course no later than the Commencement Date.

4) Transition Plan

A transition plan will be completed by the Contractor and approved by the City.

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5) **EMS System**

The City and the Fire Department participate with other cities and their fire departments in the greater metropolitan Phoenix area in the EMS System. Through their participation, the City and the Fire Department have agreed to the roles assigned to the City and the Fire Department within such EMS System and the City has thus adopted the EMS System as its system for the services to meet certain assigned responsibilities. In accordance with the EMS System, the City contracts for services pursuant to an exclusive contract with a single emergency medical ground transport provider for the entire City. The EMS System permits the interests of the City and Contractor to be aligned to provide emergency ground transportation ambulance services as called for within the EMS System and as otherwise necessary.

6) **No Subsidy and No Payment**

The City will provide no financial subsidy or payment of any kind to Contractor. The ADHS sets rates that may be charged by ambulance companies having a CON. The division of responsibility within the EMS System, or as otherwise required and assigned by the Contract is intended to achieve the best combination of public/private expertise and services for the public health and safety.

7) **Primary Service Area**

The entire Primary Service Area (PSA) is the area within the boundaries of the City. The area is approximately forty (40) square miles.

8) **City's Responsibilities/EMS System**

Contractor acknowledges that they are fully aware of the responsibilities of the City and the Fire Department within the EMS System.

9) **Administrative Medical Director**

The position of Administrative Medical Director is established by the City in accordance with Arizona Administrative Code R9-25-204, which also sets forth qualifications and duties of the Administrative Medical Director.

10) **Contractor Contact Person**

It is the City's desire to have continual involvement in a Contractor's operations in the PSA. Therefore, the Contractor is required to provide the title, reporting relationship and limits of authority for a senior executive, who will office within the PSA and serve as the Contractor's Contact Person with the Fire Department.

11) **City Medical Transportation Contract Coordinator**

The City's Medical Transportation Contract Coordinator (MTCC) shall oversee performance aspects of the Contract.

12) **Contractor's Responsibilities**

In accordance with the EMS System and this Contract, Contractor will furnish the services in response to appropriate dispatch and field operation directives including, but not limited to the following:

- a) Employment of all of Contractor's personnel required for the services and related functions.
- b) Supervision, training and management of Contractor's employees, agents and Subcontractor(s) (if any).
- c) Provision and maintenance of the Dedicated Ambulances and the equipment, materials and supplies required and necessary to provide the services.
- d) Accurate completion and timely submission of all required data and reports of every kind, including notices.

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- e) Meeting Response Times and other performance requirements in compliance with applicable law (including, but not limited to, Arizona Department of Health Services laws and regulations), this Contract and the EMS System.
- f) Participate and cooperate with the Administrative Medical Director and City representatives in audits, inspections and investigations, with timely responses and completion of requirements.
- g) Provide indemnification, insurance performance guarantees and other security as required by the City.

13) Financial Statements

Quarterly income statements for the Contractor's operations shall be provided to the City within ninety (90) days of the end of each calendar quarter. An income statement with a breakdown of the City of Tempe's portion of revenues and expenses will also be provided on a quarterly basis. The income statements shall include a statement of representations by a Certified Public Accountant that has direct responsibility for financial aspects of the Contractor's operations under this Contract that fairly presents the results of operations, financial positions and cash flows of the Contractor. It is understood that the City may make these financial statements available to other parties as deemed appropriate. Within ninety (90) days after the end of each fiscal year, the Contractor will provide to the City a copy of its audited financial statements.

Should audited statements not be available, the Contractor shall submit financial statements together with notarized guarantees of accuracy signed by the Chief Financial Officer and the Chief Executive Officer of the Contractor.

The Contractor shall also comply with such other miscellaneous reporting requirements as may be specified by the City from time to time.

14) Response Time Performance

Superior Response Time performance over any period of time does not permit inferior Response Time performance over any other period of time. Contractor shall use its best effort to minimize variations or fluctuations in Response Time performance.

15) Response Time Requirements

Minimum compliance is achieved when 90% or more of responses for Code 3 Calls and Code 2 Calls meet the specified Response Time requirements. To be in compliance for Code 3 Calls, Contractor must be able to place an Ambulance on the scene of each presumptively life-threatening emergency within nine (9) minutes for not less than 90% of all Code 3 Calls. To be in compliance for Code 2 Calls, Contractor must be able to place an Ambulance on the scene of each non-life threatening emergency within fifteen (15) minutes for not less than 90% of all Code 2 Calls.

Priority	Maximum Allowable Response Time	Definition
Code 3 Calls (First Priority)	9:00 minutes	Life Threatening Emergencies
Code 2 Calls (Secondary Priority)	15:00 minutes	Non Life Threatening Emergencies

Response priorities are defined according to a priority dispatch protocol approved by the Fire Chief, including Response Times as defined by Arizona Statutes, Rules and the Arizona Department of Health Services and Response Times as defined by AAC R9-25-901.47 and as identified by Phoenix Fire Department Regional Dispatch Center's (PFDRDC)'s protocols. Currently all dispatches of

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Ambulances are Code 3 Calls or Code 2 Calls. The City may adopt additional priorities and associated Response Times as circumstances require.

Contractor shall furnish written explanation for each Code 3 response that exceeds nine (9) minutes and each Code 2 response that exceeds fifteen (15) minutes.

16) Reporting

In every instance with respect to the specified Response Time criteria, Contractor shall submit a written report, at least monthly, in a format approved by the City, Administrative Medical Director, and MTCC documenting the cause of each late response and efforts to eliminate recurrence.

17) Response Time Measurement

The Response Time measurement methodology employed will influence operational requirements of the EMS System and the Contract.

For all dispatches for services, arrival of the Ambulance (staffed as required) shall be signaled by a Contractor's transmission to the Dispatch Center. Such transmission shall not be made until the Ambulance actually arrives and is stopped at the specific location to which it has been dispatched. In the case of apartment or business complexes, such transmission shall not be made until the Ambulance actually arrives at the point closest to the apartment or business to which it has been dispatched and to which its Ambulance can be driven. Only arrival at a location by a Contractor's Ambulance is a measurement of Response Time.

Arrival on scene means the moment an Ambulance crew member notifies the PFDRDC either via radio or MCT that the Ambulance is fully stopped at the location where it is required to be stopped while Ambulance personnel exit to attend those in need of service. In situations where the Ambulance has been requested to respond to a location other than the scene (e.g. staging areas for hazardous scenes), arrival on scene shall be the time the Ambulance arrives at the designated location.

In instances when an Ambulance crew fails to timely report arrival on scene, the time of the next communication by the Ambulance crew with PFDRDC will be used as the on scene time. However, a Contractor may appeal such instances when it can document the actual arrival time through other means, such as Fire Department personnel or PFDRDC CAD system Automated Vehicle Locator (AVL) position reporting.

If a dispatch is upgraded, prior to the arrival on scene of the first Ambulance (e.g. a Code 2 Call is upgraded to a Code 3 Call), Contractor's compliance with Contract standards and responsibility for penalties will be calculated based on the shorter of: (i) time elapsed from call receipt to time of upgrade plus the higher priority Response Time standard; or (ii) the lower priority Response Time standard. For example, an Ambulance is dispatched on a Code 2 Call (required Response Time of 15:00) and is upgraded to a Code 3 Call (required Response Time of 9:00) after two (2) minutes have elapsed from dispatch. Because $9:00 + 2:00 = 11:00$ is shorter than 15:00, the response is subject to the Response Time requirement set forth in (i) above, and is considered a Code 3 Call response. By way of further example, an Ambulance is dispatched by Code 2 Call and is upgraded to Code 3 Call after seven (7) minutes have elapsed. Because 15:00 is shorter than $9:00 + 7:00 = 16:00$, the response is subject to the Response Time requirement set forth in (ii) above and is considered a Code 2 Call response.

Downgrades may be initiated by medically trained Fire Department personnel as authorized by the Medical Director and by PFDRDC. If a dispatch is downgraded, prior to the arrival on scene of the Ambulance, Contractor's compliance with Contract standards and responsibility for penalties will be

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calculated based on (i) the lower priority Response Time requirement, if the Ambulance response is downgraded before it would have been judged late under the higher priority Response Time requirement; or (ii) the higher priority Response Time requirement, if the Ambulance response when downgraded would have been judged late under the higher priority Response Time requirement.

If an Ambulance is reassigned en route prior to arrival at the scene (e.g. to respond to a higher priority request), Contractor's compliance and penalties will be calculated based on the Response Time requirement applicable to the assigned priority of the initial dispatch. The Response Time will be measured to the arrival of another of Contractor's Ambulance on the scene from which the en route Ambulance was diverted.

If an Ambulance is cancelled by an authorized agency, after an assignment has been made but prior to the arrival of the Ambulance at the scene (and no ambulance is required at the scene), the Response Time will be measured to the moment of cancellation. If the elapsed Response Time at the moment of cancellation exceeds the Response Time requirement for the assigned priority of the call, the unit will be determined to be late and the appropriate penalty may be assessed.

Contractor will not be held accountable for emergency or non-emergency Response Time compliance for any response dispatched to a location outside the Primary Service Area. Responses to requests for service outside of the Primary Service Area will not be counted in the total number of responses used to determine compliance with the Contract.

Each incident requiring response will be counted as a single response regardless of the number of Ambulances that respond. The dispatch time of the first Ambulance dispatched and the on scene time of the first arriving of Contractor's Ambulances will be used to compute the Response Time for the incident.

Contractor shall be required to provide for reserve service capacity in order to increase service should temporary EMS System or dispatch overload occur. However, it is understood that from time to time unusual factors beyond Contractor's reasonable control may affect the achievement of the specified Response Time requirement. Unusual factors are limited to unusually severe weather conditions, declared disasters or periods of unusually high demand for emergency services. Unusually high demand for emergency services will be determined by the Fire Department. Equipment failures, traffic congestion, Ambulance failures, dispatch errors, inability to staff Ambulances and other similar causes will not be grounds for granting an exception to compliance with the Response Time requirements.

If Contractor thinks that any response or group of responses should be excluded from the compliance calculations due to unusual factors beyond Contractor's reasonable control, Contractor may provide detailed supporting information in writing to the EMS Battalion Chief and the MTCC. Contractor may request that the City exclude a response or group of responses from Response Time calculations and late penalties. Any such request must be made in writing and be received by the EMS Battalion Chief within five (5) business days after the end of each month. The EMS Battalion Chief will review the request and issue a determination. Should Contractor dispute the determination, Contractor may appeal in writing to the Fire Chief for a definitive ruling within five (5) business days. The Fire Chief's ruling will be final and binding.

There are events and eventualities within the Primary Service Area which will be or may be predictable as to timing and occurrence and/or will be or may be anticipated as to timing and occurrence. Such events/eventualities include major events at Arizona State University (scheduled in

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advance), the annual Block Party, the possibility of an incident involving multiple patients on Tempe Town Lake or other special events.

Contractor shall assure a complete audit trail for all Response Times. The MTCC and Administrative Medical Director shall have prompt access to all relevant data in order to assure compliance and to calculate penalties.

18) Non-Performance Penalties

The following penalties will be assessed when Assigned Service Area Response Time compliance for Code 2 Call or Code 3 Call transports fall below 90% for any given month:

89%	\$7,000
88%	\$9,000
87%	\$10,000
86%	\$11,000
85%	\$12,000

Each Code 3 Response Time exceeding twelve (12) minutes will be assessed a non-performance penalty of one thousand dollars (\$1,000).

Each Code 2 Response Time exceeding twenty (20) minutes will be assessed a non-performance penalty of five hundred dollars (\$500).

Non-performance penalties are due within fifteen (15) days of notice of non-performance.

Failure to meet Code 2 Call or Code 3 Call Response Time requirements for at least ninety percent (90%) of responses each month for three (3) consecutive months or for four (4) months in any contract year will be a services default and may result in termination of the Contract and the imposition of liquidated damages.

19) Reporting Requirements

Contractor will provide, by the seventh day of each calendar month, reports detailing its performance during the preceding month as it relates to every performance requirement stipulated herein. After the seventh day, for each day that Contractor fails to provide the reports, the City shall assess a penalty of five hundred dollars (\$500).

20) Dispatch Center / Communication Center

The City currently uses the PFDRDC for Tempe Fire Department emergency dispatch services. Contractor is required to use PFDRDC for all dispatching and reporting functions. Upon execution of a contract or IGA between the City of Tempe and the City of Phoenix, the Contractor shall completely reimburse the City for the ability to interface with the PFDRDC and any City of Tempe communications center on the Dedicated Ambulances and at the Stations including the installation, operation and maintenance of necessary equipment for the term of the contract.

For services rendered to Tempe, the City will provide access to the Opticom Traffic Signal Pre-emption System. Contractor shall be responsible for the reimbursement to Tempe of all equipment

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installed and necessary to activate such system and to maintain and operate such a system. All equipment specifications must be approved by the City.

21) Radio Systems

Contractor is advised that during the term of any awarded contract the Dispatch Center may change over to an eight hundred (800) MHz system or a similar system and Contractor will be required to change to such a radio system at no cost to the City.

22) Contractor Provided Equipment, Materials and Supplies

The City will not provide equipment, materials and supplies for the use of Contractor. At a minimum, equipment, materials and supplies set forth in Exhibits A and B must be provided and by the name and type, etc. where specifications are set forth in such Exhibits.

Additionally, the City reserves the right to require Contractor, at Contractor's expense, to carry additional equipment not specified within the contract or its Exhibits during the term of this contract if reasonably necessary and will give Contractor ninety (90) days notice of intent to require such additional equipment. The total cost of equipment, in addition to that listed in Exhibits A, B and C, will not exceed \$3000 per year, per vehicle

23) Contractor Provided Ambulances

Contractor must meet the City's minimum requirements for six (6) dedicated Type III ambulances.

Contractor must provide two (2) Dedicated Ambulances for ALS Service and each of these dedicated ambulances must meet or exceed ADHS requirements for Ambulances providing ALS services. Contractor must provide four (4) Dedicated Ambulances for BLS Service and each of these Dedicated Ambulances must meet or exceed ADHS requirements for Ambulances providing BLS services. Additionally, each Dedicated Ambulance must, at all times, meet the requirements listed in Exhibits A, B, and C attached hereto.

Each Dedicated Ambulance will have a digital cellular telephone pre-programmed with all phone numbers needed for medical communications. Programming shall be updated from time to time to reflect the needs of the City and Contractor, at Contractor's expense.

Ambulances must meet all applicable Federal, State and local requirements and it shall be the responsibility of the Contractor to assure appropriate certifications from ambulance manufacturers and to assure that all Ambulances are operated within Federal (U.S. Department of Transportation), State (Arizona Department of Health Services and other State of Arizona agencies imposing requirements) and local guidelines (City, Fire Department and all other applicable local guidelines and requirements). Guidelines include all applicable limitations on gross vehicle weight.

Substitute Ambulances in the place of Dedicated Ambulances shall be similarly equipped as the Dedicated Ambulances. Use of Substitute Ambulances for periods greater than twelve (12) hours shall require notification by Contractor to the MTCC.

Contractor shall monitor and be responsible for, through their established maintenance program, the condition, safety and reliability of all Dedicated Ambulances. Contractor shall be responsible for maintaining current maintenance records and such records shall be available to the City upon request. Dedicated Ambulances that accumulate one hundred seventy-five thousand (175,000) miles or reach sixty (60) months in total service time shall be replaced by new ambulances at Contractor's expense. Contractor has sixty (60) days from the date of either mileage or age occurrence to replace the identified ambulance with a new ambulance.

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The Dedicated Ambulances must be stationed in the Primary Service Area on a twenty-four (24) hour a day, seven (7) days a week basis. The Dedicated Ambulances shall be stationed as follows:

- i) One (1) ALS Dedicated Ambulance at Tempe Fire Station 276;
- ii) One (1) ALS Dedicated Ambulance at Tempe Fire Station 271; and
- iii) Four (4) BLS Dedicated Ambulances at Contractor's Stations that are located within PSA

This requirement is necessary to permit such Dedicated Ambulances to meet Response Time Requirements.

Any sub-operation station established under this contract will meet the requirements of A.R.S. § 36-2232(C).

24) Scheduling and Staffing

Scheduling of Contractor's staff will be the responsibility of the Contractor. Contractor will provide continuity of personnel by scheduling required Ambulance staff on A, B and C shifts in coordination with the Fire Department's schedule in order to create an efficient and harmonious work atmosphere for optimum patient care and transport.

All Dedicated Ambulance crews shall have a minimum six (6) months service on a 911 Ambulance.

All Ambulance crew personnel assigned to or available to drive Contractor's Ambulances must complete a comprehensive emergency driver-training program and possess a valid Arizona driver's license in accordance with the Arizona Department of Transportation, Motor Vehicle Division requirements and all certification/licensing required by the Arizona Department of Health Services and the City; and Contractor shall prohibit required Contractor's staff from working more than sixty (60) consecutive hours without a ten (10) hour off duty rest interval.

25) Reporting on Personnel

Contractor agrees to provide the City on a quarterly basis (to be set forth in the Contract) information and analysis necessary for the City to evaluate the performance of Contractor's Ambulance personnel (including direct supervision and support personnel) in order for the City to assess compliance with the Contract. The Contract will set forth Contractor obligations to notify the City of the terminated employment of its Dedicated Ambulance personnel (both voluntary and involuntary); and the immediate notification of the employment of new personnel (to include direct supervisory and support personnel).

26) Contractor's Ambulance Crews

For BLS services, Contractor's Dedicated Ambulances are to be staffed by no more than two (2) Contractor employees. For BLS, one (1) employee will be an EMT-B and the other employee an EMT-B Qualified Driver. For ALS Service, the Contractor shall staff such Ambulance with one EMT-B Qualified Driver and the City shall at its sole discretion staff with one (1) Firefighter Paramedic or one (1) Civilian Paramedic. Contractor shall have control over all personnel staffing its ambulances, and is responsible for establishing the ambulance staffing schedule for all individuals under its control, including City Firefighter Paramedics and Civilian Paramedics. Contractor has the right to refuse particular City personnel as necessary.

Contractor agrees to reimburse City for all costs of either Firefighter Paramedic or Civilian Paramedic provided by City. The costs for a Firefighter Paramedic, or for a Civilian Paramedic, shall not exceed \$79,593.50 including salary, benefits and overtime. Any increases in these costs shall not exceed the

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percentage allowed in A.R.S. § 36-2234(E). At the Commencement Date, the City will use Civilian Paramedics. If the City intends to switch either from Firefighter Paramedic to Civilian Paramedic, or vice-versa, no later than ninety (90) days prior to the first day of the change, the City shall so notify the Contractor of the change.

27) Contractor Billing and Collection for Fire Department EMT-P Services

Contractor will charge fees for its services and the services of Firefighter EMT-P or Civilian EMT-P personnel as appropriate and permitted. All billing and collection services will also be the responsibility of Contractor. Fees may only be charged as established by the Arizona Department of Health Services and in accordance with arrangements applicable to each Payer (including federal, state and local government Payers). Without considering any amounts collected, Contractor shall be entirely responsible for paying the Fire Department for the services of Fire Department's employees providing services in accordance with the provisions set forth in Exhibit D.

28) Contractor Training of Ambulance Personnel

Contractor shall be responsible for the permits, licenses and certifications of its Ambulance personnel required by all agencies having authority in such matters.

In addition to the certification and training required by the Arizona Department of Health Services and this Contract, all Ambulance crew assigned to or available for assignment to the Dedicated Ambulances will attend the following training programs provided by the Fire Department at the regularly scheduled dates and times that the Fire Department offers such training: an orientation-training program provided by the Fire Department's personnel; and at least three (3) hours EMS training every quarter to be provided by the Fire Department's personnel. Orientation training and six (6) months experience must be completed by each Ambulance crew member before that crew member is assigned to a Dedicated Ambulance. Contractor will be responsible for compensating the crew members attending training and for providing, or otherwise arranging for, transportation for its crew members to attend training.

29) Stations

Contractor will provide Stations within the PSA for all Dedicated Ambulances providing BLS services. Such Stations shall be staffed and in locations that will permit Contractor to comply with Response Time Requirements as set forth in this Contract. All Stations shall be subject to inspection by the City. Contractor's Stations must accommodate Ambulances indoors or undercover and, at such Stations or in immediate proximity thereto, provide accommodations for crew and other necessary Ambulance personnel as required and as necessary to provide the services. The Contract will contain a provision requiring Contractor to obtain advance written approval of changes with regard to the location of its Stations within the Primary Service Area throughout the term(s) of the Contract from the Fire Chief. The Fire Chief will only approve changes if the Contractor establishes that the changes will not impair the Contractor's ability to meet Response Time requirements as set forth in this Contract.

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30) Payment for Use of City Fire Stations

Contractor's use of City Fire Stations for billeting of Dedicated ALS Ambulances includes apparatus room space for parking of one (1) Dedicated Ambulance at each designated Fire Station and use of the Fire Station facility for Contractor's EMT. Contractor will pay the City four hundred dollars (\$400) per month per station for the use of these areas of the Fire Station. When using a Fire Station, Contractor's employees shall comply with the Fire Department's rules, regulations and standard operating procedures.

For Dedicated Ambulances providing ALS services, Contractor shall be required to billet one (1) ALS Dedicated Ambulance each at Fire Station 276 and at Fire Station 271.

31) Move-Up Policy

Contractor agrees to comply with all applicable provisions of the EMS System, the Tempe Fire Department and PFDRDC in regards to the move-up policies. Contractor shall maintain a plan for compliance with the move-up policies. Changes to Contractor's approved plan during the term of the Contract will require written approval in advance from the Fire Chief.

32) Solicitation of Information/Patients

Contractor will never attempt to solicit such information or to collect services or fees from a patient, patient's representatives or any other Payor until the patient has been accepted at a receiving medical facility, as applicable. Nothing herein shall be construed to prohibit Contractor from soliciting authorization for transport, but only as long as the solicitation of such authorization does not compromise or detrimentally affect patient care.

33) Survey of Patients

The Contractor and the City may survey patients transported pursuant to the Contract. All such survey information shall be shared by the parties, to the extent allowed by law.

34) Control of Scene

The Fire Department is responsible for scene management for all responders and patients at the scene. Control of scene matters and command structure are set forth in Volume II of the Phoenix Regional Operations Manual and Volume II of the Tempe Fire Department Policies and Procedure Manual and is subject to change and further direction as determined by the Fire Department.

35) Contract Administration

The Contract Administrator for the City for the Contract is the EMS Battalion Chief and/or his or her designee. The City has created the position of MTCC to coordinate, implement and manage emergency medical transportation and the Contract. Contractor shall be required to reimburse the City \$63,600 of the costs for the MTCC. Any increase in this cost shall not exceed the percentage allowed by A.R.S. 36-2231(E).

At a minimum, the MTCC shall have responsibility for the following:

- a) Assuring compliance with the Contract.
- b) Developing and conducting scene training for Ambulance personnel.
- c) Participating in Contractor's Ambulance personnel meetings (quarterly).
- d) Acting as liaison with the Contractor and medical facilities receiving patients.
- e) Researching and reporting to Contractor on ambulance services and transport.
- f) Performing field observations and reporting such observations to Contractor and the City.
- g) Monitoring of Response Times.
- h) Coordinating Ambulance coverage for identified events and Fire Department training.
- i) Conducting customer (including patient) surveys and such other similar duties as are assigned by the City.
- j) Acting as primary liaison between the City and the Contractor in the problem resolution process.

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36) Electronic Patient Care Reporting (ePCR)

Contractor must fully implement the Electronic Patient Care Reporting System (ePCR) prior to commencement of the contract and incur all of the Contractor costs associated therewith, including all costs for future upgrades to remain compatible. The Regional Emergency Medical System Managers have selected a hardware and software vendor for Valley-wide implementation and maintenance of a system for electronically documenting patient care. The ePCR vendor will charge the City for the entry of every incident involving a patient for which there is a dispatch within the Primary Service Area or Areas. Contractor agrees to reimburse City for per patient documentation costs for all patients transported by Contractor, pursuant to Exhibit D of this Contract.

37) Emergency Assistance/Disaster Assistance/Automatic Aid/Mutual Aid

Contractor must set forth its plans for responding to major emergency situations within the Primary Service Area and outside the Primary Service Area where Dedicated Ambulances may be involved. In addition, Contractor must set forth its plans for declared disaster situations and required assistance, "automatic aid" and "automatic aid arrangements" and "mutual aid" and "mutual aid arrangements." All such plans must be in accordance with and comply with applicable law, regulations, rules, policies, questions and protocols.

38) Supplies, Materials and Pharmaceuticals to Be Provided/Reimbursed to the City

Contractor will be responsible for providing supplies, materials and pharmaceuticals to the Fire Department in replacement of supplies, materials and pharmaceuticals utilized by the Fire Department in providing services to patients (including supplies, materials and pharmaceuticals utilized by the City's EMT-P personnel involved in transport). In lieu of providing such supplies, materials and pharmaceuticals, the Contractor may enter into an arrangement pursuant to the Contract to reimburse to the City its cost of such supplies, materials, pharmaceuticals and related costs. Reimbursement or replacement of supplies by Contractor to the City is limited to those supplies used on patients that are transported by Contractor.

39) Base Hospital

The City has entered into an Emergency Medical Services Base Hospital Contract with Tempe St. Luke's Hospital, LP. The Agreement sets forth Hospital responsibilities and identifies hospital personnel for providing medical direction to the City, including direction to the Fire Department and Contractor personnel engaged in carrying out the medical ground ambulance transportation services specified within this Contract. Contractor must at all times utilize the services available pursuant to the Emergency Medical Service Base Hospital Contract and, as a Contractor for medical services with the City, Contractor must comply fully with the terms and conditions of such Contract. Specifically, Contractor agrees to require its personnel to utilize, in every indicated circumstance, medical advice and services available pursuant to the Emergency Medical Service Base Hospital Contract. Should the City enter into a Base Hospital Contract with any other hospital, the Contractor agrees to honor that Contract in the same manner as the current Contract.

40) Records

The Contractor shall operate and manage the data collection system in accordance with City standards. It is understood that the data system shall include, but not be limited to, the following generally described sources. It is also understood the Contractor shall make these records available upon request by the City.

- a) A uniform dispatch report form to the City specifications.
- b) A uniform patient care form to the City specifications.
- c) A patient care form to the City specifications.
- d) Equipment maintenance and inventory control schedules as required by the City.

- e) Deployment planning reports.
- f) Continuing education and certification records documenting training and compliance.

A patient care form shall be completed for all patients for whom care is rendered at the scene, regardless of whether the patient is transported. Patient care records should clearly identify those instances when two or more patients are transported in the same ambulance so that proper billing can be done. In order to ensure that the City can conduct system-wide quality improvement activities, at the request of the City, the Contractor shall provide to the City copies of accurately completed patient care forms including, but not limited to, correct name, address, date of birth, social security number, insurance billing, and signature of the patient or patient representative (or clearly stated reason why patient is unable to sign) and sufficient information to appropriately document medical necessity. These patient care forms are to be delivered to the City as specified by the Fire Department.

The Contractor will provide all patient care records in an electronic format. It is the City's desire to develop a single patient records and CQI data system for communications by Fire Responders and the Contractor.

The Contractor shall comply with all applicable federal regulations, including, but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Contractor understands and acknowledges the applicability of these regulations to Contractor. The Contractor agrees to permit City inspection of its records to verify such compliance.

The Contractor shall maintain, for at least three (3) years, records regarding the personnel dispatched on each responding Ambulance. The Contractor shall make available to the City a complete and current record of all personnel employed to perform Contractor's obligations under this Contract.

Patient care forms shall be delivered to the City upon request. For every patient care form not delivered within five (5) days, the City will assess liquidated damages of \$125.

41) Compensation

Payment by means of wire transfer or other direct delivery method acceptable to the City shall be made to the City within thirty (30) days of receipt of invoices from the City. Invoices shall include all records as required by the Contractor. Final payments by the Contractor to the city for compensation and reimbursements shall be made within thirty (30) days after the expiration of this contract. If the Contractor fails to pay within thirty (30) days, the City may deduct the payment from the Contractor's Letter of Credit, provided as a party of the Contract, and may immediately conduct an audit of the Contractor's financial records.

42) Cancellation of City Contracts

The City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating such contract or agreement on behalf of the City's departments or agencies is, at any time while the contract or agreement or any extension of the contract or agreement is in effect, an employee of any other party of such contract or agreement in any capacity or a consultant to any other party of such contract or agreement with respect to the subject matter of such contract or agreement. The cancellation shall be effective when written notice from the City is received by all other parties to the contract or agreement, unless the notice specifies a later time (A.R.S. § 38-511).

43) Termination of Contract For Default

In the event of termination of the Contract for default(s), the City, consistent with its primary obligation to protect the public health and welfare which may, with or without notice of any kind, require

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immediate action, including an emergency takeover of Contractor's Dedicated Ambulances, will give Contractor reasonable written notice setting forth the nature of the default(s) and a timeline or deadline by which Contractor must cure such default. Contractor will be permitted to submit a written plan to cure such default(s). Depending on the event of default, Contractor may be afforded the opportunity to cure such default(s) within a timeframe as set forth in the contract. Failure to satisfactorily cure (such failure to be determined in the sole discretion of the City), or failure to timely deliver an acceptable cure plan to the City and to perform the cure in a timely and satisfactory manner may permit the City to terminate the Contract. Contractor will cooperate fully and immediately with the City to effect a prompt and orderly transfer of all responsibilities.

Contractor may dispute a default(s) asserted by the City; however, such dispute will not delay, in any way, the transfer of operations as required by or to the City (immediate if the interests of the public health and safety require as determined by the City in its sole discretion). Such dispute by Contractor will not delay or in any way interfere with the City's access to the Performance Letter of Credit. Contractor agrees that all rights and remedies (including drawing against the Performance Letter of Credit) afforded the City in the event of default(s) and termination is reasonable and necessary for the protection of the public health and safety.

Contractor's cooperation with and support of the City's termination of the Contract, as well as the City's draw against the Performance Letter of Credit, will not be construed as acceptance by Contractor of the finding of a default(s) nor preclude the Contractor from seeking recourse.

Any actions specified in this, or any other, section will only be taken in compliance with A.R.S. §§ 36-2217, 2232-33, and subject to Arizona Department of Health Services approval.

44) Default by Contractor and Provisions for Termination

Conditions and circumstances that will constitute a default by Contractor pursuant to the Contract will include, but not be limited, to the following:

- a) Failure to operate in a manner which enables the City and/or Contractor to remain in compliance with federal, state and local laws, regulations and rules.
- b) Falsification of information supplied prior or subsequent to Contract Award.
- c) Creating or otherwise falsifying Ambulance Responses or transports so as to inflate the volume or value of services.
- d) Failure to provide or falsifying data that will be reasonably required to be generated in the course of operations, including by way of example, dispatch data, patient report data, Response Time data, financial data, training data, billing and collection data, and other performance data and records.
- e) Excessive and unauthorized scaling down of operations to the detriment of performance at any time and during a "lame duck" period.

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- f) Failure to cause its employees to conduct themselves in a professional and courteous manner and present a professional appearance.
- g) Failure to consistently maintain Ambulances and equipment in accordance with manufacturer recommended maintenance procedures and as required by applicable laws, regulations and rules and as required in the Contract.
- h) Failure to cooperate with and assist the City if a default(s) warranting termination of the Contract is asserted by the City.
- i) Acceptance by Contractor and Contractor's employees, agents, etc., of any bribe, kickback or consideration of any kind that could be reasonably construed as a violation of federal, state or local law.
- j) Payment by Contractor and any of Contractor's employees of any bribe, kickback or consideration of any kind that could be reasonably construed as a violation of any federal, state or local law.
- k) Failure to meet the standards of care adopted by the City of Tempe Fire Department.
- l) Failure to maintain insurance required by the Contract.
- m) Failure to meet Response Time requirements as set forth in the Contract.
- n) Failure to maintain the Performance Letter of Credit required by the Contract.
- o) Failure to submit reports and information and cooperate fully with audits and inspections in accordance with the Contract.
- p) Any other failure of performance required by the Contract which is determined by the City to represent a serious default and/or to represent a failure in performance that could or does endanger public health and safety.
- q) Any failure to pay any amounts owed under a Contract or liquidated damages assessed pursuant to the Contract on or before the due dates specified therein.
- r) The dissolution or termination, as a matter of law, of Contractor without the prior approval of City, which shall not unreasonably be withheld.
- s) If Contractor files a voluntary petition in bankruptcy; is adjudicated insolvent; obtains an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. § 301); files any petition or fails to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeks or consents to or acquiesces in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of Contractor, or any of Contractor's property and/or this Contract and/or of any and all of the revenues, issues, earnings, profits or income thereof; makes an assignment for the benefit of creditors; or fails to pay Contractor's debts generally as they become due.

45) Uncured Events of Default

Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to City or a third party, Contractor shall have thirty (30) days from written notice from City to Contractor of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in the Contract. Upon the occurrence of an Event of Default by Contractor which cannot be cured by the immediate payment of money to City or a third party, the City shall be entitled to any and all rights and remedies in law or equity, pursuant to the Contract, including, but not limited to, an emergency takeover, the imposition of liquidated damages and the termination of the Contract.

If any Event of Default is not cured within the time period allowed for curing the Event of Default, as provided for herein, such Event of Default shall, without additional notice, become an Uncured Event of Default, which shall entitle City to exercise the remedies provided for in the Contract.

Any actions specified in this, or any other, section will only be taken in compliance with A.R.S. §§ 36-2217, 2232-33, and subject to Arizona Department of Health Services approval.

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46) "Lame Duck" Provisions

Should current Contractor be unsuccessful in a subsequent emergency medical services and ground ambulance transport services contract award process, Contractor shall, as required by the City, continue to provide services required under the Contract until a new contractor is selected and is performing services. Under these circumstances, Contractor will service as a lame duck contractor for a reasonable period of time. To assure continued performance consistent with the requirements of the contract for such period, the following will apply:

- a) Contractor will continue all services at the same level of effort and performance that were provided under the contract prior to the beginning of a new contract award process.
- b) The City recognizes that if a new contractor prevails in a future award process, Contractor may reasonably begin to transition the performance of services to the new contractor. The City will not unreasonably withhold its approval of Contractor's orderly transition process, including reasonable plans to relocate staff, relocate equipment, etc., but only to the extent that such transitioning does not impair the performance of services during the period.
- c) During any future contract award process conducted by the City, Contractor will permit its non-management personnel to discuss with competing organizations issues related to employment, if Contractor is not a Proposer. Contractor may, however, require that its non-management personnel refrain from providing information to a competing organization regarding Contractor's then current operations and Contractor may also prohibit its management personnel from communicating with representatives of competing organizations during such contract award process. However, once the City has made its decision regarding award, and in the event a new contractor is selected, Contractor will permit free discussion between its Tempe based employees and the new contractor without restriction and without consequence to any employee.

47) Applicable Law

This agreement shall be governed by, and the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this resultant agreement or in statutes or ordinances pertaining specifically to the City. This agreement shall be governed by State of Arizona law and suits pertaining to this agreement may only be brought in courts located in Maricopa County, Arizona.

48) Permits, Licenses and Certificates of Necessity

Contractor will be required to obtain and hold any and all federal, state and local permits, licenses and CON required to fully perform the Contract. Contractor will make all necessary payments for such permits, licenses and CON. Contractor will assure that all necessary renewals of such permits, licenses and CON are timely made and kept current during the term of the contract. Contractor will be responsible for assuring that all of its personnel hold valid federal, state and local permits, licenses and certificates required in order for Contractor to meet its responsibilities under the Contract.

49) Compliance with State and Local Laws, Regulations and Rules

All services furnished by Contractor under the Contract shall be rendered in full compliance with all applicable state laws, regulations, rules, etc. It shall be Contractor's responsibility to be fully familiar with all state laws, regulations, rules, etc. that apply to the services to be provided by Contractor and all obligations imposed upon the Contractor and to comply therewith at all times. Contractor will agree to comply with and perform the Contract in accordance with the provisions of any applicable ordinance, regulation, rule, written guideline, protocol and written policy established by the City and any other local jurisdiction(s) having authority in the matters covered by the Contract.

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50) Federal Compliance

Contractor will be required to comply with all applicable federal laws, regulations, rules, etc. including, but not limited to, the Immigration Reform and Control Act of 1986 (IRCA), OSHA Regulations, including Title 29, Section 1910.1200 "Hazard Communication", and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractor will be required to understand and acknowledge being fully familiar with all such federal laws, regulations, rules, etc., including those enumerated in the preceding sentence, that are applicable to the Contract.

51) Interpretation of Contract

The Contract shall be governed by and interpreted in accordance with the laws of the State of Arizona. The Contract will also be governed by and interpreted in accordance with City ordinances, regulations, rules, written guidelines and written policies, including, but not limited to, Chapter 26A-21 of the Tempe City Code.

52) Insurance

Prior to commencing any work or services under the Contract, Contractor shall be required to procure and maintain for the duration of the Contract and for two years thereafter, insurance against claims for injuries to persons, including personal injury, death, and damages to property, which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees, and subcontractors. Contractor shall maintain limits no less than:

a) **Commercial General Liability**

\$10,000,000 combined single limit per occurrence for bodily injury and property damage, including coverage for contractual liability (including defense expense coverage for additional insureds), personal injury, broad form property damage, and products and completed operations. The general aggregate limit shall apply separately to this project/location or the general aggregate shall be twice the required occurrence limit.

b) **Automobile Liability**

\$10,000,000 combined single limit per accident for bodily injury and property damage, including coverage for owned, hired, and non-owned vehicles (as reasonable required).

c) **Workers' Compensation and Employers Liability**

Workers' Compensation and Employers Liability statutory limits as required by the State of Arizona.

d) **Other Insurance**

Evidence of medical malpractice coverage with minimum limits of \$5,000,000 combined single limit per occurrence, either through a stand-alone policy, or an endorsement to regular policy to cover all operations of Contractor and Contractor's employees, agents, etc.

Any deductibles or self-insured retentions must be declared and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, employees, and volunteers, or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

53) Policy Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

a) **Commercial General Liability and Automobile Liability Coverage**

The City, its officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor including the insured's general supervision of Contractor; products used by and completed operations of Contractor; premises owned, occupied or used by Contractor, or automobiles owned, leased, hired

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or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents and volunteers.

Contractor's insurance coverage shall be primary as respects the City, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute to it. The amount and type of insurance coverage required by the Contract shall not limit the scope of the indemnity provided by the Contract.

Policy must prove that any failure by Contractor to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, or volunteers.

Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

b) **Workers' Compensation and Employers Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from work performed by Contractor for the City.

c) **Employee Dishonesty/Fidelity Coverage**

Contractor shall maintain crime/fidelity coverage, including but not limited to the perils of employee dishonesty, robbery, theft, and disappearance or destruction of money and securities in performance of their duties under the contract. The coverage limit shall be not less than \$100,000 per loss.

d) **All Coverages**

Each insurance policy required by the Contract shall be endorsed to state the coverage shall not be suspended, voided, and/or canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

e) **Certificates**

Contractor, prior to commencement of services shall furnish the City with certificates of insurance, in form and with insurers acceptable to the City which shall clearly evidence all insurance required in the Contract and provide that such insurance shall not be canceled, allowed to expire or be materially reduced in coverage except on thirty (30) days prior written notice to and approval by the City, and in accord with stated insurance requirements. City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed waiver of City's right to insist on, strict fulfillment of Contractor's obligations under the Contract.

f) **Certified Copies**

Certified copies of endorsements and policies will be provided if requested by the City in lieu of or in addition to certificates of insurance.

g) **Replacement Coverage**

Replacement certificates, replacement policies and replacement endorsements for any insurance expiring prior to completion of services will be provided.

h) **Maintaining Coverage**

Contractor shall maintain such insurance from the time services commence until services are completed and for two (2) years beyond the Contract expiration/termination. Should any of the required insurance be provided under a claims-made form, to the extent that should occurrences during the Contract give rise to the claims made after expiration/termination of the Contract, such claims shall be covered by such claims-made policies. Should any required insurance lapse during the Contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by the Contract, effective as of the lapse date. If insurance is not reinstated, City may at its sole option, terminate the Contract effective on the date of such lapse of insurance.

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i) **Qualifications of Insurance**

All required insurance shall be placed with insurers and agents licensed and authorized to do business in Arizona and having a Best's rating of no less than A-VII.

Contractor shall include all Subcontractor(s) as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverage for Subcontractor(s) shall be subject to all of the requirements stated herein for Contractor.

54) Indemnification by Contractor

Contractor will indemnify, defend, and hold harmless the City, its officials, officers, employees, agents, representatives, contractors, subcontractors and volunteers (each a "City Indemnitee"), from, for and against any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any attorney's fees and/or litigation expenses (hereafter collectively referred to as 'claims'), which may be brought or made against or incurred by a City Indemnitee, on account of loss of or damage to any property, for injuries to or death of any person, to the extent such claims are allegedly caused by, arising out of, or contributed to by reasons of any act, or omission, professional error, fault, mistake, or negligence of Contractor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with, alleged to arise in connection with or incident to the performance of the Contract, or to the extent such claims allege vicarious or derivative liability of the City or to the extent such claims are alleged to arise out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of Contractor and/or its subcontractors or claims under similar such laws or obligations. The Contractor's indemnity obligations will not be limited by any coverage exclusions or other provisions in any insurance policy maintained and required to be maintained by the Contractor which is intended to respond to such events, and the Contractor will be responsible for paying all deductible or self-insured retention amounts under any insurance policy. Contractor's obligation under this section will not extend to any liability caused by the gross negligence or willful misconduct of any City Indemnitee. These indemnification provisions are for the protection of the City Indemnitees only and shall not establish, of themselves, any liability to third parties. The provisions of this section will survive termination of the Contract.

55) Indemnification by City

The City will indemnify, defend and hold harmless the Contractor, its agents, representatives, officers, directors, officials and employees individually and collectively from and against all liability, caused solely by the negligence of the City or any of its employees or agents. City's duty to defend, indemnify and hold harmless the Contractor, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense (including but not limited to attorneys' fees and court costs) that is attributable to personal or bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting there from, caused solely by the negligence of the City, its employees or anyone for whose acts the City may be liable, and any and all penalties and damages incurred by Contractor as a result of City's failure to obtain any permit or license required under, or to comply with any applicable laws, ordinances or regulations.

56) Drug Free Workplace Program

Contractor will be required to maintain a drug free workplace in compliance with federal law. To ensure that Contractor maintains a drug free workplace, Contractor will be required to implement a program that provides for drug testing of all newly hired crew member employees of Dedicated Ambulances and direct support personnel for the Dedicated Ambulances.

57) Audits and Inspections

Authorized City representatives will be permitted at any time, and without notification, to observe

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Contractor's operations, including the operators of its offices, maintenance facilities, stations, Ambulances and any other facility, location or activity utilized and/or conducted in the performance of the Contract. Contractor's records (hard copy, as well as computer readable data), and any other material deemed necessary by the City to determine compliance with and/or to establish performance of the Contract will be open to inspection and subject to audit and/or reproduction by the City's authorized representatives to the extent necessary to adequately permit evaluation and verification of matters. All of Contractor's records concerning the Contract must be maintained for a period of six (6) years after termination of Contract. The City's representatives shall be afforded access, at reasonable times and places, to all of Contractor's personnel throughout the term(s) of the Contract. City representatives and/or medical direction representatives may ride as observers on any Contractor Ambulance at any time. City and medical direction representatives shall conduct themselves professionally and shall not interfere with the duties of Contractor's employees, and shall at all times be respectful of Contractor's relationships. City medical direction representatives, financial and audit representatives shall have the right to audit relevant reports and data that Contractor is required to have, maintain and/or provide to any authority.

Contractor will require each Subcontractor(s), insurer, and material/equipment and supply provider to permit City audit and inspection of their records, etc. in the same manner as the City may proceed with Contractor and Contractor's records. The actual cost of any City audit and inspection shall be reimbursed to the City by Contractor if substantial failures to perform, deficiencies, etc. (to be defined in the Contract) are established, within ten (10) business days of a City invoice.

58) Confidentiality of Records

Subject to A.R.S. § 39-121 et seq. and any other applicable law, the Contractor will establish and maintain procedures and controls that are acceptable to the City, including the Fire Department's designated HIPAA officer for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract will be used by or disclosed by it, its agents, officers or employees, except as required to perform duties under the Contract. Persons requesting such information should be referred to the Tempe Fire Department HIPAA privacy officer.

59) Return of City Equipment and Materials

Contractor agrees to return any City equipment and material in good working order, normal wear and tear excepted, at the termination of the Contract or as, when and where required by the City. For any City equipment and material not so returned or for any equipment and material returned damaged or unusable, the City may repair or replace the same at Contractor's expense.

60) Relationship of the Parties

Nothing in the Contract will be construed to create a relationship between the City and Contractor of employer and employee, principal and agent, partnership, joint venture, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of the Contract. Nothing in the Contract will create any rights or remedies in any third party, it being solely for the benefit of the City and Contractor.

61) End Term Provisions

Contractor shall have ninety (90) days after termination of the Contract in which to provide requested audited financial statements and all other documentation necessary to facilitate the close out of the Contract.

62) Notice of Litigation, Claims, and Disputes

At the time of the award of a Contract, the Contractor will be required to notify the City of any current

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litigation, significant potential for litigation, claims, significant potential for claims, any allegations of failure to perform under any jurisdiction, any SEC notifications, and any requests for inquiries from the Arizona State Department of Health Services of which Contractor knows. During the term of a Contract, a Contractor will disclose in writing to the City no later than ten (10) business days upon notification of knowledge of any current litigation, significant potential for litigation, claims, significant potential for claims, any allegations of failure to perform under any jurisdiction, any SEC notifications, and any requests for inquiries from the Arizona State Department of Health Services. Further, Contractor shall provide similar information involving Contractor's related organization(s), owners of Contractor (having a ten (10%) percent or greater interest in Proposer) and Key Personnel.

63) Contract Modification

Any amendments or modifications of the terms of the Contract will be required to be in writing and will be effective only after the approval of ADHS and signing of all parties to the Contract.

64) Stopping the Work

The City may unilaterally order, in writing, temporary stopping of work by Contractor or order delay of performance by Contractor, provided such order does not materially alter the scope of the Contract. Nothing in this section or this contract will prevent Contractor from performing ground ambulance services as permitted by C.O.N. #71 issued by ADHS as prescribed by A.R.S. § 36-2233.

65) Equal Employment Opportunity Matters

Contractor will be required to follow applicable affirmative action guidelines and applicable laws, regulations, rules, etc. in order to assure that employees and applicants applying for employment will not be discriminated against because of race, color, religion, sex, sexual orientation or national origin. Contractor shall comply with the Americans with Disabilities Act and similar state and local laws and will not discriminate against disabled persons in accordance with applicable laws, regulations and rules.

66) Notices

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provision collectively called "Notices"), shall be in writing and shall be hand delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

If intended for the City, to:

City of Tempe Procurement Office
Attn: Procurement Officer
20 E. 6th Street (Second Floor)
PO Box 5002
Tempe, Arizona 85280

If intended for Contractor, to:

PMT Ambulance
Attn: Patrick Cantelme
1501 W. Fountainhead Parkway, Ste. 650
Tempe, AZ 85282

or to such other address as either party may from time to time furnish in writing to the other by notice hereunder.

67) Procurement Administrator

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The Procurement Administrator for the City shall oversee the Contract and assist Contractor with compliance with the Contract. Contractor may communicate appropriate matters concerning the Contract with the City through the Procurement Administrator.

68) Standards (Equipment, Materials and Supplies)

Any specifications for equipment, materials and supplies set forth in the Contract must be acceptable in accordance with City standards. Equipment, materials and supplies provided by Contractor shall meet or exceed Contract requirements. The City may sample and test equipment, materials and supplies and the city shall have sole authority to reject supplies not meeting City needs and standards.

69) Product Endorsement/Advertising

Contractor (and any supplier or Subcontractor, or anyone on Contractor's behalf) will not be permitted to use the name of the City for any endorsement without the expressed written permission of the City.

70) Force Majeure

The Contract will contain Force Majeure provisions. Such provisions shall recognize the nature of the services to be provided and the obligations of Contractor to provide its services in accordance with time and quality standards under all circumstances that may be reasonably expected to be encountered in medical emergency situations.

71) Interpretation of Parol Evidence

Any Contract entered into shall be intended to be the final expression of the agreement between the parties and as a complete and exclusive statement of the contract. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of the contract, even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

72) Intellectual Property, Patents, Copyright

Contractor will assume full responsibility for the defense of itself and the City with respect to any patents, copyrights, claims of unfair competition and intellectual property. The City may be represented by and actively participate through its own attorneys, with all such costs and related costs to be paid by the Contractor.

73) Funds Appropriation

If funds are not appropriated to permit continuation of the Contract, the City may terminate the Contract at the end of the then current fiscal period. The City agrees to give written notice of such termination to Contractor at least thirty (30) days prior to the end of its then current fiscal period.

74) Continuous Service Delivery

The Contract will require that, in the event of default by Contractor, Contractor will work with the City to assure continuous delivery of services regardless of the underlying cause or consequence of such defaults. Contractor will agree that there is a public health and safety obligation that requires that the City provide uninterrupted Service delivery in the event of default, even if Contractor disagrees concerning such default. In order to protect the public and to assuring continuation of services, the Contractor will agree that, if necessary, the City may deliver the services and/or arrange for the delivery of services by another contractor. Further, Contractor will be required to agree that if notified by the City of termination due to Contractor's default(s), the City will have the contractual right to execute an emergency takeover of the Contractor's Dedicated Ambulances and equipment Contractor will be required to cooperate fully with such takeover and will challenge or appeal the matter only after such takeover has been completed. This cooperation will include allowing the City to directly operate

Contractor's Dedicated Ambulances for a period of up to twelve (12) months following the termination of the Contract following an asserted default(s), without liability or other damages due or owing by City to the Contractor.

Any actions specified in this, or any other, section will only be taken in compliance with A.R.S. §§ 36-2217, 2232-33, and subject to Arizona Department of Health Services approval.

75) Standby Lease

The Contractor, lenders and any other party in interest with respect to the Dedicated Ambulances will execute a standby lease, in form and substance acceptable to the City, which will provide the City immediate possession of such Dedicated Ambulances and related equipment for the continued operations of the system should Contractor be made unable to perform the services for any reason, including, but not limited to, defaults labor disputes or Force Majeure.

Any actions specified in this, or any other, section will only be taken in compliance with A.R.S. §§ 36-2217, 2232-33, and subject to Arizona Department of Health Services approval.

76) Performance Letter of Credit

Contractor will be required to provide the City, an automatically renewable, irrevocable performance letter of credit (Performance Letter of Credit) in form and substance acceptable to the City. Such instrument will provide for direct draw by the City and restriction of rights of Contractor and the provider of the instrument to object to and/or to refuse to honor a demand by the City. The amount of the Performance Letter of Credit will be one million dollars (\$1,000,000) and will be in a form acceptable by the City and reviewed by the City Attorney's Office. Because it will be impracticable to determine actual damages in the event of Contractor's breach or default resulting in Contract termination, Contractor and the City will agree that the amount of the Letter of Credit is a reasonable amount for liquidated damages. The liquidated damages amount is not a penalty, but will be agreed, deemed and taken to be and treated as reasonable damages incurred by the City. The Performance Letter of Credit will be required to be issued by a federally insured (FDIC) banking institution with a substantial local presence and rating acceptable to the City. Contractor will be required to maintain the Performance Letter of Credit, and the provider of the Performance Letter of Credit will agree to renew the Performance Letter of Credit, throughout the term(s) of the Contract and for a reasonable time thereafter.

77) Firearms & Explosives

Within the Primary Service Area, except to the extent permitted for certified peace officers, no firearms (including concealed weapons) or explosives shall be used in the providing of the services contemplated by the Contract. No person conducting business on City property is to carry a firearm or explosive of any type. Contractor is to comply with this requirement at all times. Contractor personnel carrying a firearm or explosive device in the Primary Service Area will be subject to police and legal action.

78) Whole Agreement

This Agreement represents the parties' whole Agreement. There are no other promises, terms, conditions or obligations, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written.

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79) Nondiscrimination

The parties agree to comply with all applicable state and federal laws, rules, regulation and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

80) Conflict of Interest

During the term of the Contract, Contractor, its owners, and Key Employees will not engage in any conduct or activity described in any applicable provisions of federal, state and local law dealing with conflicts of interest that are applicable to contracts generally and contracts entered into with a governmental entity.

81) Contracts With Affiliates or Parents

The Contract will prohibit Contractor from entering into any agreement or arrangement of any kind for the direct and indirect performance of the Contract by an Affiliate or Parent of Contractor, without written advance approval by the City.

82) Subcontracts

During the term of the Contract, Contractor will not enter into any agreement or arrangement that provides for or permits the performance of significant obligations of the Contract by any Subcontractor, without written advance approval of the City.

83) Variations

Contractor will be required to acknowledge that any variations of the foregoing provisions from any standard contract provisions required by the Procurement Code will require approval of the Procurement Administrator, after consultation with the City Attorney.

84) No Violation of Laws

The Contract will require that no provision thereof will be applicable in a manner that requires or will require a Contractor to violate or fail to comply with all applicable laws, regulations, rules, ordinances, policies and guidelines of governmental entities having jurisdiction in the matters covered by the Contract.

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85) Successors and Assigns

Contractor shall not Transfer or Assign:

- a) Any Contract shall not be sold, assigned, or transferred, either in whole or in part, or leased, sublet nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any Person, without the prior written consent of City, which consent shall not be unreasonably delayed or withheld. The sale, assignment or transfer of the Contract to an Affiliate or Parent of Contractor does require prior approval of City if the sale, assignment or transfer of the existing or newly created interest in the Contract results, directly or indirectly, in a transfer of Control of the Contract.
 - i) Such consent shall not be required for a transfer in trust, mortgage, or other hypothecation in whole or in part to secure indebtedness.
 - ii) The proposed assignee must show the transfer will not cause any increased risks of nonperformance of the Contract or any loss to the City of its bargained for consideration in the Contract. The assignee's showings must at a minimum detail facts sufficient to show the assignee's technical ability, financial capability, legal qualifications, current and past contractual obligations and performances, personnel qualifications and general character qualifications and such other qualifications as reasonably determined by City and the assignee must agree to comply with all provisions of this Contract.
 - iii) A new entity, if allowed, must assume in writing all of a Contractor's obligations and liabilities under this Contract (including assuming and being responsible for the performance, defaults, noncompliance with applicable law, obligations and liabilities under this Contract) and shall agree in writing to comply with all provisions of this Contract and become a signatory to the Contract.
 - iv) In no event shall a transfer of ownership be approved without the successor-in-interest becoming a signatory to and Contract.

86) Taxes

Contractor shall be responsible for complying with all federal, state and local tax laws, regulations and rules applicable to its performance of the Contract, including such ordinances, regulations and rules of the City.

87) Prevailing Party

The Contract will entitle the prevailing party in certain described circumstances to receive from the other party reasonable attorneys' fees and reasonable costs and expenses.

88) Captions

The captions used in the Contract will be for the convenience of the parties, will not constitute a part of the Contract and will not be used to construe or interpret the Contract.

89) Counterparts

The Contract will permit execution in one or more counterparts.

90) Severability

If any term or provision of the Contract is found to be illegal or unenforceable, then, notwithstanding such illegality or unenforceability, the Contract shall remain in full force and effect and such term or provision shall be deemed to be deleted.

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91) **Entire Agreement**

The Contract will constitute the entire understanding of the City and Contractor and will supersede all previous representations, written or oral.

92) **Mediation/Arbitration**

The Contract may contain reasonable provisions for mediation/arbitration of disputes and may contain different mediation/arbitration provisions with respect to disputes of different kinds.

93) **Dispute Resolution**

If a dispute arises under this Agreement, the parties agree to exhaust all applicable administrative remedies provided for under Arizona Law.

94) **Remedies**

The City shall have all rights and remedies available at law or in equity. The City's remedies shall be cumulative and the exercise of any rights and remedies shall be in addition to the exercise of any other rights and remedies available to the City (including liquidated damages).

Upon the occurrence of any Uncured Event of Default as described in the Contract, City shall be entitled to exercise any and all of the following cumulative remedies:

- a) The commencement of an action against Contractor at law for monetary damages.
- b) The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions which, as a matter of equity, are specifically enforceable.
- c) The City may draw on the letter of credit or bid bond pursuant to the Contract, and
- d) The assessment of liquidated damages.
- e) For a violation of a material provision of this resulting Contract, City shall have the right to forfeit and terminate the Contract and upon the forfeiture and termination thereof this Contract shall be automatically deemed null and void and have no force or effect. Contractor shall allow the emergency takeover of the Dedicated Ambulances and when requested by City and City shall retain any portion of the Contract payments and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination. City's right to forfeit and terminate the grant of the Contract pursuant to this Section is not a limitation on City's right of revocation.

Any actions specified in this, or any other, section will only be taken in compliance with A.R.S. §§ 36-2217, 2232-33, and subject to Arizona Department of Health Services approval.

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IN WITNESS WHEREOF, the parties hereto have executed this Contract this the ____ day of _____, 2008.

CITY OF TEMPE

By _____ Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

PROFESSIONAL MEDICAL TRANSPORT

By Patrick Cantelme
Patrick Cantelme Printed Name

CEO, PMT 911 Emergency Services
Title

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EXHIBIT A

AMBULANCE EQUIPMENT LIST

The items below are representative of equipment the Contractor shall be required to supply on Dedicated Ambulances.

1. AMBU Res-Cue replacement canister:
AMBU Inc. #276 000 010
2. NAJO Backboard- with Tempe Fire Department Lettering:
Ambu/NAJO redihold #NM1070-10850
3. Ferno K.E.D. Board:
Ferno #IE-1250
4. H.A.R.E. Traction Splint with Aluminum ratchet- Adult
Ferno #SP-4440 or equal
5. H.A.R.E. Traction Splint with Aluminum ratchet- Pediatric
Ferno #SP-4430 or equal
6. LSP Suction unit with extra tub or equal
7. S.T.A.R.T. Triage System Kit:
BoundTree #681207
NO EXCEPTIONS
8. Evac-U Splint Mattresses Adapter
Hartwell Medical #EV 15 PSA
9. Evac-U-Splint Mattress (Pediatric):
Hartwell Medical #6515 01 398 5469
10. Blood Pressure Cuff- XL Adult
ADC PROSPHYG™ 775X or equal
11. Blood Pressure Cuff- Adult
ADC PROSPHYG™ 775 or equal
12. Blood Pressure Cuff- Pediatric
ADC PROSPHYG™ 775C or equal
13. PneuSplint Kit
Laerdal #702-00001
14. Life Pack 12 Defib/Mon Adaptiv Biphasic, AED EL Screen Pacing, SpO2, 12 lead, EtCO2, Trending, 100mm Printer, Bluetooth, NIBP.
Medtronic Emergency Response Systems #99400-002493 or equal or in the case of BLS ambulances, Life Pack 500 AED.

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15. **Autovent 3000**
Allied Healthcare Products INC. #L461
16. **Stair Chair / Soft Breakdown**
Ferno Model #42 or equal
17. **ThermoScan 4000**
Welch Allyn #04000-200 or equal
18. **Blood Glucose Monitor**
Precision Xtra
Abbott Laboratories #99837 or equal

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EXHIBIT B

AMBULANCE MATERIALS AND SUPPLIES LIST

The items below are representative of materials and supplies the Contractor shall be required to supply on Dedicated Ambulances.

AIRWAY

1. Adult AMBU Bag with Mediport
2. Pediatric AMBU Bag with Mediport
3. Adult Stylette
4. Pediatric Stylette
5. AMBU ET Tube Holder
6. Cric Kit with tools
7. Uncuffed ET Tubes: sizes 2.5-5.0
8. Cuffed ET Tubes: sizes 5.5-9.5
9. 6.0 Endotrol
10. 7.0 Endotrol
11. Suction Tubing with Yankauer Tip
12. Bite Stick
13. B.A.M.M.
14. OPA: sizes 5.5-12
15. NPA: sizes 28fr.-32fr.
16. Handheld SVN setup
17. In-line SVN setup
18. Pediatric High Flow Oxygen Mask
19. Pediatric Nasal Cannula
20. Adult Non-Rebreather Mask
21. Adult Simple Mask
22. Adult Venturi Mask
23. Adult Nasal Cannula

INTRAVENOUS SUPPLIES

1. Normal Saline 250cc Bag
2. Normal Saline 1000cc Bag
3. Lactated Ringers 1000cc Bag
4. 15ga. Jamshedi I.O. Needle
5. 3.25" Angiocath Chest Needle
6. Protectiv Plus IV Catheters: sizes 14-24ga
7. Selec-3 IV Administration Set
8. Blood Tubing
9. Veni-Guard Sr.
10. Veni-Guard IV Start Kit
11. Sharps Shuttle
12. 2 gallon Sharps Container
13. Alcohol Preps
14. Easy IO drill and needles

BANDAGING/ TAPE/ SPLINTING

1. Medical Tape: sizes- .5", 1", 2", 3"

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2. Trauma Dressing 10" X 30"
3. Abdominal Pad 10" X 8"
4. Sterile 4" x 4" Gauze
5. Non-sterile 4" X 4" Gauze
6. Vaseline 4" X 4" Gauze
7. Triangular Bandage
8. Kling 4" X 75"
9. Band Aid 1" X 3"
10. Asherman Chest Seal
11. Rohampton Sterile Burn Sheet
12. Emergency Highway Blanket
13. Pneumo Splint Small
14. Pneumo Splint Medium
15. Pneumo Splint Large
16. Wire Ladder Splint

MONITORING

1. 100mm ECG Paper
2. Adult Blue Dot Electrodes
3. Pediatric 3/pk Electrodes
4. Defibrillation Pads
5. Medtronic Physio-control Adult Quik Combo Pads
6. Medtronic Physio-control Pediatric Quik Combo Pads
7. Medtronic Physio-control Adult Nasal CO2 Detector
8. Medtronic Physio-control Pediatric Nasal CO2 Detector
9. Medtronic Physio-control Adult/Pediatric Intubated CO2 Detector
10. Pediatric Oxisensor Pulse Oximeter Probe
11. Infant Oxisensor Pulse Oximeter Probe
12. Precision Xtra Test Strips or equivalent
13. Safe-T-Pro Lancets

SYRINGES/ BLOOD DRAW

1. 60cc Syringe with luer lock
2. 10cc Syringe with luer lock
3. 5cc Syringe with luer lock
4. 3cc Syringe with luer lock
5. 1cc Syringe with luer lock
6. 18ga X 1 1/2" Needle
7. Filter Needle
8. 23ga X 1 1/2" Needle

MISCELLANEOUS

1. Disposable Penlight
2. Ammonia Inhalant
3. BioHazard Bags: various sizes
4. Cold Pack
5. Heat Pack
6. 1000cc Sterile Water Bottle
7. N95 Isolation Mask: sizes medium and large
8. Hoover Head block or AMBU Headwedge
9. AMBU Perfit ACE Cervical Collar

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10. AMBU Perfit MINI ACE Cervical Collar
11. Trauma Shears
12. TFD OB Kit (Bountree Medical)

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EXHIBIT C

ADDITIONAL REQUIREMENTS FOR DEDICATED AMBULANCES

In addition to those requirements set forth in the Contract, the Dedicated Ambulances must meet the following specifications at Contractor's expense. :

1. Equipment necessary to adequately and safely transport children under the age of eighteen (18);
2. The equipment, materials and supplies by "brand-name" identified in Exhibits A and B;
3. Radios meeting City specifications* that are accessible from the patient treatment compartment of the ambulance and equipped with a David Clark (or equivalent) headset and microphone;
4. At least one handheld radio meeting City specifications*;
5. A Mobile Computer Terminal unit meeting City specifications for receiving and transmitting dispatch and status notices;
6. A cell phone programmed for contacting medical control;
7. Automatic Vehicle Locator (AVL) equipment meeting City specifications;
8. The equipment necessary to activate the Opticom Traffic Signal Pre-emption System meeting specifications approved by the City;
9. The equipment necessary to facilitate participation in the ePCR system;
10. Weapons of Mass Destruction (WMD) personal protection equipment (PPE) for each Contractor-employed EMT or Paramedic assigned to Dedicated Ambulances. This shall include a hooded suit, gloves, booties, air purifying respirator (APR) and APR cartridges. The PPE must be approved for working in a WMD atmosphere and kept on each Dedicated Ambulance. Contractor's personnel must be trained to operate in the WMD environment using PPE equipment;
11. Air-conditioning systems in the Ambulance capable of adequately cooling both the patient treatment area and the operator's cab in the extreme desert climate of Tempe, Arizona. Each Dedicated Ambulance shall have auxiliary powered air-conditioning units and an indoor or shaded area for stationing;
12. Dedicated Ambulances and Substitute Ambulances shall have a paint scheme and logos approved by the City;
13. The City reserves the right to require Contractor to carry additional equipment during the term of the Contract and will give Contractor reasonable notice as provided for in the Contract to make available such additional equipment. Additionally, the City reserves the right to require Contractor, at Contractor's expense, to carry additional equipment not specified within the contract or its Exhibits. The total cost of equipment in addition to that listed in Exhibits A, B & C will not exceed \$3000 per year, per vehicle.

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* The City currently utilizes a VHF high band (154-155MHz) radio system. Contractor must provide base, mobile and portable radios that enable voice interoperability by allowing the Contractor's dispatch center, ambulances and supervisors to communicate directly with Fire Department units and the Dispatch Center on radio channels and according to procedures established by the Fire Department. The Contractor should be aware of the pending change over by the Dispatch Center to an 800 MHz system and recognize that the required changes could have an impact on Contractor operating costs.

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EXHIBIT D

PAYMENT FOR FIRE DEPARTMENT SERVICES

Contractor agrees to pay City a fee equal to the difference between the current ADHS approved ALS/BLS rate and not be greater than the differential in effect at the time service is rendered for each ambulance transport for which a City firefighter or civilian paramedic provides ALS services on a Contractor ambulance staffed by two PMT EMT-Bs. Compensation shall not be required where such transport is conducted in a Dedicated ALS Ambulance that is staffed with a City employed Firefighter Paramedic or Civilian Paramedic.

Such fee shall increase in direct proportion to increases in Arizona Department of Health Services regulated fees for ALS ambulance transport.

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