

**AMBULANCE SERVICES CONTRACT
CITY OF CHANDLER CONTRACT NO. FD1-990-4220**

THIS AMBULANCE SERVICES CONTRACT (the "Agreement") is entered into by and between Maricopa Ambulance, LLC, a Delaware LLC ("Contractor"), and City of Chandler, Arizona ("City"). This Agreement is not in effect until approved by the Director of the Arizona Department of Health Services ("ADHS"), and any amendments, addendums or extensions to the agreement will not be in effect until reviewed and approved by the Director. Together, Contractor and City are the "Parties" or "parties".

Assuming the Agreement has been approved by the Director of ADHS, services under this Agreement will commence January 1, 2022, or upon such other date subsequent to Director approval, mutually agreed to by Contractor and City.

RECITALS

WHEREAS, Contractor has a Certificate of Necessity CON #147 issued by the Arizona Department of Health Services ("ADHS") necessary to provide emergency 911 ground ambulance services within the City's city limits and represents that it has the expertise and capacity to provide emergency 911 ground ambulance services within the City's city limits; and under requirements Arizona Revised Statutes, the Arizona Administrative Code, or the Arizona Department of Health Services rules or regulations, all as modified, updated or amended from time to time; and

WHEREAS, the City and Contractor wish to enter into this Agreement for the provision of emergency 911 ground ambulance services within the City's city limits; and

WHEREAS, Contractor and the City deem it beneficial for the City to provide City firefighter paramedic staffing to assist Contractor in providing the 911 ambulance service contemplated under this Contract, and be reimbursed for providing such staffing, pursuant to the terms and conditions set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Contract and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section I. Definitions

- 1.1 The term "Advanced Life Support" or "ALS" means those medical treatments, procedures (including assessment), and techniques, which may be administered or performed by ALS personnel established pursuant to A.R.S. sec. 36-2205.
- 1.2 The term "Ambulance" means vehicles used in the transport of those receiving EMS (emergency medical services).
- 1.3 The term "Code 3 Call," means:

- (a) an emergency response call in which the use of red lights and sirens are requested at the time of the initial request and red lights and sirens are used until arrival on the scene of an incident, or a call in which the initial request by the Emergency Dispatch Center was for a Code 2 Call, but was upgraded by the 9-1-1 Emergency Dispatch Center or responding fire unit to a Code 3 Call prior to arrival on the scene of an incident.
- 1.4 The term "Code 2 Call," as used in this Agreement, means:
 - (a) An emergency response call in which the use of red lights and sirens are not requested by the 9-1-1 Emergency Dispatch Center for Ambulance response to the scene of an incident, or
 - (b) A call in which the initial request by the 9-1-1 Emergency Dispatch Center as for a Code 3 Call, but was downgraded by the 9-1-1 Emergency Dispatch Center or responding fire unit to a Code 2 Call prior to arrival on the scene of an incident.
- 1.5 The term "Cumulative Response Time" means the sum-total elapsed time of 9-1-1 emergency dispatch and response time for an emergency call.
- 1.6 The term "Designated Ambulance" or "Dedicated Ambulance" means Ambulances used to perform the services required under this Agreement. The terms "Designated Ambulance" and "Dedicated Ambulance" may be used interchangeably.
- 1.7 The term "DHS," means the State of Arizona Department of Health Services.
- 1.8 The term "Emergency Paramedic" or "Paramedic" means a person who has been trained in an emergency paramedic training program and who is certified to act as a paramedic under the laws, rules or regulations of the State of Arizona.
- 1.9 The term "EMS Service Area," means all areas within the boundaries of the City of Chandler. Any use of the phrase "EMS Service Area," or similar terms will in all respects be limited to the geographical boundaries of the City of Chandler, and any automatic/mutual aid partners, special districts, state lands, and county islands contained therein. Both Parties acknowledge that these boundaries may change by annexation or otherwise bylaw.
- 1.10 The term "Exception" means ambulance responses not meeting the minimum response requirements established herein.
- 1.11 The term "9-1-1 Emergency Dispatch Center", means the Phoenix Fire Regional Dispatch (PFRD) or any future facility used to dispatch fire and emergency medical incidents. The term "Response Time", means the elapsed time from dispatch to "on-scene" arrival (wheels stopped) at the dispatched location.

- 1.12 The term "Response Zone" means the defined geographical areas within the City of Chandler.
- 1.13 The term "Peak Time", means any period less than twenty-four hours for which higher ambulance call volumes are anticipated.

Section II. Services To Be Provided

- 2.1 **Type of Service.** Except as otherwise expressly set forth herein, Contractor must provide emergency 911 ground ambulance services within Chandler's city limits, and outside Chandler's city limits when provided under the terms of an approved automatic aid agreement between the City and another political subdivision, provided this service area is within Contractor's CON certificated area, on an "as needed" basis.
- 2.2 **Dispatch and Access to 911 System.**
- 2.2.1 **Phoenix Fire Regional Dispatch (PFRD).** The City contracts with PFRD for access to the City of Phoenix 911 system and for dispatch services. The Contractor hereby agrees to dispatch Contractor ambulances through PFRD's dispatch system under the terms and conditions set forth herein.
- 2.2.2 **Dispatch Costs.** The City has entered an agreement with the PFRD to dispatch ambulances directly. Contractor agrees to reimburse the City for all costs incurred relating to the dispatch of ambulances within city limits pursuant to Exhibit B of this Contract. The parties agree that any reimbursement shall not exceed the actual amounts paid or due by the City for these services on behalf of Contractor and will reflect only those charges for dispatch of ambulances and related equipment costs and fees.
- 2.2.3 **Dispatch and Acceptance.** Unless requested otherwise, Contractor must respond to all requests for services under this Contract using emergency red lights and sirens (Code 3). The City may, however, request that Contractor respond without red lights and sirens (Code 2) and will confirm the response mode at the time of dispatch. Contractor must accept all requests for transportation services dispatched by or on behalf of the City.

Contractor must accept and respond within response time requirements of Section 2.3 to all requests for ambulance transportation dispatched by the City for incidents arising within the EMS Service Area. When the City requests multiple ambulances on a single incident, the Contractor will be responsible for meeting the response time requirements of Section 2.3 for the first two arriving Ambulances.

The City and Contractor acknowledge that certain requests for ambulance service within the EMS Service Area may require transportation of the patient

beyond the boundaries of the EMS Service Area and Contractor agrees to provide such service as may be required.

In the event Contractor notifies the City of a possible prolonged response time, the City reserves the right, in its sole discretion, to dispatch requests for transportation and medical services to other ambulance companies, to provide such service itself as prescribed in ARS sec. 36-2208(B), or to otherwise obtain the necessary ambulance services as provided by law.

2.3 **Response Time.** Response Time: Minimum compliance is achieved when 95% or more of responses for Code 3 and Code 2 calls for any month combined meet the specified Cumulative Response Time requirement. If 95% is not achieved in Code 3 responses in any month, Contractor will conduct a three-month review/assessment of Code 3 calls.

2.3.1 **Code 3 Responses.** Contractor must arrive on the scene where emergency care is required within eight (8) minutes fifty-nine (59) seconds for ninety-five percent (95%) of all Code 3 cumulative calls received by Contractor for transportation requests within the City's city limits for each calendar month. The Parties agree arrival at 9 minutes 00 seconds is deemed late.

2.3.2 **Code 2 Responses.** Contractor must arrive at the scene where emergency care is required within fourteen (14) minutes and fifty-nine (59) seconds for ninety-five percent (95%) of all Code 2 cumulative calls received by Contractor for transportation requests within the City's city limits for each calendar month. The Parties agree arrival at 15 minutes 00 seconds is deemed late.

2.3.3 **Switch in Response Type After Dispatch.** If Contractor was originally requested to provide a Code 3 response but was later requested to provide a Code 2 response on a particular call, Contractor must arrive on the scene where emergency care is required within fourteen (14) minutes fifty-nine (59) seconds from the time that Contractor was originally dispatched to provide a Code 3 response. If Contractor was originally requested to provide a Code 2 response but was later requested to provide a Code 3 response on a particular call, Contractor must arrive on the scene where emergency care is required within the shorter of the following:

- (i) eight (8) minutes fifty-nine (59) seconds from the time that Contractor was requested to go to a Code 3 response; or
- (ii) fourteen (14) minutes fifty-nine (59) seconds from the time that Contractor was originally dispatched to provide a Code 2 response.

2.3.4 **Measure of Response Time.** Arrival "on-scene" means the moment an ambulance crew member notifies the 9-1-1 Emergency Dispatch Center that it is fully stopped at the location where the ambulance will be parked while

the crew exits to approach the patient. In situations where the ambulance has responded to a location other than the specified scene (e.g. staging areas for hazardous scenes), arrival “on-scene” will be the time the ambulance arrives at the designated staging location. The City may also require the Contractor to log time “at patient” for medical research purposes. However, during the term of this Agreement, at patient times will not be considered part of the contractually stipulated response time.

In instances where the ambulance fails to report “on-scene” as required in this section, the time of the next communication with the ambulance crew, after arrival “on-scene”, will be used as the “on-scene” time. However, Contractor may appeal such instances by providing appropriate documentation of the actual “on-scene” arrival time. Such documentation may include Automatic Vehicle Locator position equipment or verification by City’s fire department personnel.

- 2.3.5 **Review of Response Time Performance.** Response time performance will be reviewed by the City on a weekly, monthly, and annual basis. Such review may include evaluation of performance on a unit location or City-wide basis. Contractor will meet with the City on a monthly basis to discuss response time and Contract implementation issues including any individual incident where the requirements of Section 2.3 above were not met.

For purposes of response time calculations, cumulative response time will be calculated from the point in time when the 9-1-1 Emergency Dispatch Center initially notifies Contractor of a request for service (noted as “dispatch” in CAD) to the time the Contractor’s responding Ambulance notifies the 9-1-1 Emergency Dispatch Center and Contractor of its “on- scene” arrival time (wheels stopped) at the specific location to which Contractor was dispatched.

The City may conduct a monthly evaluation of response times at the end of each month for the prior month’s reporting. The evaluation will include all responses that occurred within the City’s boundaries. The City will provide incident numbers for all out of compliance incidents as requested by the Contractor.

- (i) **Exception Reports.** The City may generate monthly exception reports reflecting possible non-compliant response times. These reports will be provided to the Contractor whereby the Contractor will research each incident and be prepared to provide a written response to the City at the following evaluation meeting. Contractor must also identify cause of possible delay and immediately implement corrective actions, if applicable, prior to monthly evaluation meetings.

The exceptions detailed below may be considered by the City. In all cases Contractor must document that the exemption being

requested was the direct cause for the late response. The Contractor may have access to all the City's information related to Contractor activities and include audio and data information on EMS/911 responses. Exception requests that may be considered by the City during the Contract period include, but are not limited to:

- (a) Call was reduced from Code-3 (emergency response) to Code-2 (non-emergency response) by on-scene responders or by the dispatcher;
- (b) Multiple units responded to the same scene;
- (c) "Move up and cover" or "mutual aid" consistent with EMS policy and procedure;
- (d) "Weather", e.g., Haboob;
- (e) "Technology Failure" e.g., MCT terminal failure;
- (f) Late responses due to circumstances not in Contractor control, e.g., railroads, as determined by both the Contractor and the City.

In some cases, late responses will be excused from financial penalties and from response time compliance reports. The burden of proof that there is good cause for an exemption rests with the Contractor, and the Contractor must have acted in good faith. The alleged good cause must have been the causative factor in producing the excessive response time. Exceptions may be considered on a case-by-case basis.

2.3.5.1 **Evaluation Data.** The evaluation of response time data will include the total number of requests for services within the EMS Service Area and the total number of exceptions. Exceptions may be determined at evaluation meetings. Contractor may request waiver of exceptions based upon extenuating circumstances. The Fire Chief, or designee, will issue final determination whether a call is excluded from the exceptions.

2.3.6 **Notice.** Contractor must immediately notify PFRD if Contractor does not have an ambulance that is staffed and equipped as necessary to respond to an incident close enough to the incident scene to meet any required response time in Section 2.3.

2.3.7 **Notice of Extended or Prolonged Cumulative Response Time – Code 3.**

Contractor must use commercially reasonable best efforts to notify the City's 9-1-1 Emergency Dispatch Center, at time of dispatch or at the earliest indication, the possibility of an extended Code 3 Cumulative Response Time greater than ten (10) minutes. Upon notification of a possible extended response time, the City or 9-1-1 Emergency Dispatch Center may, in its discretion and considering the severity of the situation, obtain other transport means that are faster. Contractor must notify the City's 9-1-1 Emergency Dispatch Center, at time of dispatch or at the earliest indication, the possibility of a prolonged Code 3 Cumulative Response Time greater than twenty (20) minutes. Upon notification of a possible prolonged response time, the City or the 9-1-1 Emergency Dispatch Center may, in its discretion, obtain a response time estimate from another ambulance company and if the Cumulative Response Time estimate is less than twenty (20) minutes or the response time stated by Contractor, the City or the 9-1-1 Emergency Dispatch Center may request the dispatch of another ambulance company to transport. The 9-1-1 Emergency Dispatch Center will notify the Contractor that such second dispatch has been made, and Contractor will be advised to discontinue response to the scene. Such incidents will be considered as not meeting response time requirements as stated in Section 2.3.1.

2.3.8 Notice of Extended or Prolonged Cumulative Response Time – Code 2.

Contractor must use commercially reasonable best efforts to notify the 9-1-1 Emergency Dispatch Center, at time of dispatch or at the earliest indication, the possibility of an extended Code 2 Cumulative Response Time greater than twenty (20) minutes. Upon notification of a possible extended response time, the City or the 9-1-1 Emergency Dispatch Center may, in its discretion and considering the severity of the situation, obtain other transport means that are faster. Contractor shall notify the 9-1-1 Emergency Dispatch Center, at time of dispatch or at the earliest indication, the possibility of a prolonged Code 2 Cumulative Response Time greater than thirty (30) minutes. Upon notification of a possible prolonged response time, the City or the 9-1-1 Emergency Dispatch Center may, in its discretion, obtain a Cumulative Response Time estimate from another ambulance company and if the Cumulative Response Time estimate is less than thirty (30) minutes or the response time stated by Contractor, the City or the 9-1-1 Emergency Dispatch Center may request the dispatch of another ambulance company. The 9-1-1 Emergency Dispatch Center shall notify the Contractor that such second dispatch has been made, and Contractor shall be advised to discontinue response to the scene. Such incidents will be considered as not meeting response time requirements as stated in Section 2.3.2.

- 2.4 Liquidated Damages for Failure to Meet Requirements.** The City will notify Contractor in writing of any liquidated damages being assessed not less than thirty (30) days after they first become known to the City. Upon notification of any liquidated damage assessments, Contractor will have fifteen (15) days to dispute any

assessment, any dispute must be submitted in writing. An Assistant Fire Chief, or designee, will meet with Contractor to review the assessment and Contractor's response and to determine the validity or invalidity of the assessment. Should the City and Contractor fail to reach an agreement on the validity or invalidity of the assessment, the matter will be referred to the Fire Chief, or designee, who will review the circumstances of the assessment with the Contractor and City personnel. The determination of the Fire Chief will be final.

2.4.1 Failure to Meet 95% Response Time Requirement in EMS Service Area:

The following liquidated damages will be assessed when the Cumulative Response Time compliance for Code 3 calls and Code 2 calls combined fall below 95% for any given month in the EMS Service Area.

Compliance %	Liquidated Damages
94.9%-90.0%	\$5,000
89.9%-88.0%	\$7,000
87.9%-87.0%	\$9,000
86.9%-86.0%	\$11,000
85.9%-85.0%	\$13,000
84.9% and below	\$15,000 plus \$3,000 per percentage point thereafter

2.4.2 Notwithstanding liquidated damages in Section 2.4.1, each Code 3 Cumulative Response Time in excess of 19 minutes 59 seconds will be assessed liquidated damages of \$1,000. Notwithstanding liquidated damages in Section 2.4.1, each Code 2 Cumulative Response Time in excess of 29 minutes 59 seconds will be assessed liquidated damages of \$1,000.

2.4.3 Failure to meet requirement for MCT for "enroute" activation will result liquidated damages of \$1,000 per percentage point under 95%.

2.4.4 Failure to meet requirement for MCT use for "on- scene" activation will result liquidated damages of \$1,000 per percentage point under 95%.

2.5 **Emergency and Disaster Assistance.** Contractor must set forth its plans for responding to major emergency and disaster situations within Chandler's city limits and its city limits where Designated Ambulances may be involved. In addition, Contractor must set forth its plans for declared disaster situations and required assistance. All such plans must be in accordance with and comply with applicable law, regulation, rules, policies, and protocols.

2.6 **Interruption of Service.** In the event Contractor is unable to perform services under this Agreement, Contractor must notify City of such possibility at least seventy-two (72) hours prior to the anticipated inability to perform as agreed upon in this Agreement. If Contractor knows or suspects such inability to perform with

less than seventy-two (72) hour notice, Contractor must notify the City of such possibility immediately.

In the event the Contractor is unable to provide services as required by this Agreement, the Contractor shall allow the City to staff and operate a sufficient number of Ambulances, as permitted by Arizona law, in order to meet the response time standards. Contractor agrees to reimburse the City for reasonable labor costs. Any alteration in the method or nature service delivery as described in this section shall be subject to the statutory authority and approval of DHS as provided in ARS 36-2242.

- 2.7 If required, Contractor must execute an Associate Agreement and maintain good standing with the Regional Wireless Cooperative ("RWC"). Contractor must pay any fees as set forth in the RWC Agreement.
- 2.8 **Radio Communications.** When Contractor utilizes the City's radio frequencies, Contractor will be required to adhere to Federal Communications Commission (FCC) rules and regulations regarding radio communications. Specific guidelines regarding direct communications on the City's communication system will be by directive from the City or by PFRD. The City will be the authority regarding the City's communication system utilization. Contractor acknowledges that the FCC license is held by the City or PFRD and that any shared transmitter use under this Agreement and pursuant to Section 90.179 of the FCC's Rule shall be subject to the City's or PFRD's control.

Section III. Ambulance Resources

- 3.1 **Number of Ambulances Provided.** Contractor hereby commits to dedicate the number and type of Advanced Life Support (ALS) equipped ambulances for twenty-four hour and peak-time use as necessary to provide the services required under this Agreement. Upon execution of this Agreement, Contractor will provide a list of Designated Ambulances to the City. Designated Ambulances will be billeted in the designated City fire station locations agreed between City and Contractor. Contractor may provide such other, additional ambulance resources that it deems necessary to consistently satisfy the response time requirements set forth in this Agreement.
- 3.2 **Conditions on Use of Designated City Fire Stations.**
 - 3.2.1 **Contractor Attendants.** Contractor must hire, train, and supervise all medical attendants in accordance with the laws of the State of Arizona and regulations of DHS. Attendants must be properly certified Emergency Medical Care Technician (EMCT) or Emergency Medical Care Technician - Paramedic (EMCT-P).

Designated Ambulances responding to calls for service within the EMS

Services Area may be staffed with personnel on a 24-hour shift schedule (3 platoon system; A, B, & C shifts) or such other schedule as the system requires. Due to workload, the Contractor may staff these units with split shift multiple crews as long as the same crews are used on each shift. The personnel may be replaced with any other Contractor personnel for the purpose of covering vacations, sick leave, or other temporary absences.

While at any designated City fire station, Contractor's attendants must participate in all applicable station activities in the same manner as City Fire Department personnel and must otherwise conduct themselves in the manner necessary to promote a harmonious work atmosphere.

Station activities include cleaning and maintenance of the station and equipment, preparation and clean-up of meals, educating and interacting with the public during station tours and participation in appropriate physical training activities.

The City expects that at all times Contractor's personnel will present themselves in a professional manner. Contractor's personnel must be attired at all times in their assigned uniform that indicates the employee works for the contracted Ambulance provider.

Contractor's attendants assigned to City fire stations must not be deemed to be employees of the City. Contractor is legally responsible for all salaries, wages, bonuses, retirement, withholdings, workmen's compensation and occupational diseases compensation insurance, unemployment compensation, other benefits and all taxes and premiums appurtenant thereto and all other appropriate insurance concerning Contractor's attendants assigned to City fire stations, as Contractor does with all of its other personnel utilized in fulfilling its obligations under this Agreement.

Contractor must indemnify and hold harmless the City for any damage or liability caused solely by Contractor's attendants while at a designated City fire station.

- 3.2.2 **No Repair.** Except for periodically cleaning or checking the tire pressure of the ambulances billeted at any designated City fire stations, no maintenance or repair of such ambulances may be conducted at any designated City fire station, unless specifically as approved by City.
- 3.2.3 **Contractor Access.** Personnel designated by Contractor will have reasonable access to any designated City fire stations billeting Contractor's ambulances to provide necessary supervisory oversight, retrieve ambulances for servicing, restock supplies, review, and prepare response and billing records and undertake similar activities related to the provision of 911 ambulance services under this Agreement. Contractor will provide a list to the

City of all persons it has designated to have access to designated City fire stations and must update this list monthly.

3.2.4 **Condition of Fire Stations.** Contractor accepts use of each of the designated City fire stations in their “as is” condition and has independently verified that these stations are suitable for billeting its ambulances. Contractor may not alter any City building or structure under this Agreement without the City’s express, written approval.

3.2.5 **Waiver.** The City is not be responsible for any damage to any of Contractor’s ambulances billeted in a designated City structure or building, or for any injury to any Contractor personnel given access to a designated City structure or building under this Agreement, and Contractor expressly waives any right to damages related to such occurrences unless such damage is due solely to the negligence of the City or its employees.

3.2.6 **Reimbursement.** The Parties agree that the rent reimbursement amounts set forth in Exhibit B of this Agreement for use of the designated City fire stations are fair and reasonable and will be paid as set forth in Exhibit B of this Agreement.

3.3 **Additional Ambulances.** In addition to the minimum obligations for ambulance units required under this Agreement and Contractor’s right to designate additional units from time to time to meet its obligations under this Agreement, Contractor may increase the required number of twenty-four hour ALS equipped ambulances by one (1) to address any of the following circumstances:

- (i) increased ambulance call volume by ten percent (10%) over the call volume experienced during the first year of this Agreement; or
- (ii) population increases within the City’s city limits of twenty percent (20%) or more over the population in effect during the first year of this Agreement; or
- (iii) increased traffic congestion within the City’s city limits resulting in on-scene wait time increases experienced by City’s Chandler Fire Department personnel of ten percent (10%) or more over the on- scene wait times experienced during the first year of this Agreement; or
- (iv) increased 95th percentile ambulance response times of ten percent (10%) or more over the 95th percentile response times experienced during the first year of this Agreement.

3.4 **Designation of Ambulances.** For purposes of this Agreement, each Designated Ambulance provided by Contractor under this Agreement:

- (i) must remain within its ambulance billeting location unless being used to respond to an emergency call or during training activities; and
- (ii) must be assigned by Contractor to an emergency call within the City and must be available to respond to Code 3 calls into jurisdictions who have automatic aid agreements with the City of Chandler only if it is the closest appropriate apparatus to the emergency scene; and
- (iii) must immediately return to its ambulance billeting location at the conclusion of an emergency call unless assigned to another emergency call for which it is the closest appropriate apparatus to the emergency scene; and must have the words "Chandler Fire Department" legibly printed on both sides of the ambulance with a letter size at least equal to that used for Contractor's markings and be labeled in compliance with Arizona law.

3.5 **Replacement Ambulances.** Contractor must notify the City's Fire Department Shift Commander, as soon as practically possible, if any ambulance designated to service under this Agreement is temporarily removed from service and provide a replacement ambulance for each Designated Ambulance removed from service for any of the following reasons:

- (i) removal of a Designated Ambulance from service for scheduled routine maintenance or repair; or
- (ii) removal of a Designated Ambulance from service for unplanned maintenance or repair, when the ambulance is expected to be out of service for longer than four (4) hours, unless otherwise provided by the City's Fire Department Shift Commander; or
- (iii) removal of Contractor personnel for administrative or disciplinary purposes; or
- (iv) unavailability for any reason of a Designated Ambulance normally assigned to a station for a period of more than three (3) consecutive hours.

3.6 **Positioning of Reserve Ambulances.** Contractor will start service with a peakload of seven (7) ambulances but provide ten (10) virtually identical ambulances. This reserve inventory is primarily to facilitate maintenance on the fleet of ambulances and equipment, but also provides surge capacity if reserve ambulances are not in a maintenance status. City Fire Department and Contractor agree that reserve ambulances that are not actively deployed or in a state of maintenance, may be positioned in Chandler to facilitate a rapid transfer of the ambulance crew into a reserve ambulance due to a need to exchange ambulances. Similarly, when possible, positioning one or more reserve ambulances not

otherwise engaged in service or maintenance in the City of Chandler, enhances the ability to call back additional crew members to increase ambulance supply to address episodic surge in demand.

3.6.1 Contractor hereby commits to designate two (2) ambulances for “back-up” purposes to the front-line ambulances as set forth in Exhibit A in order to provide the services required under this Agreement. These Designated Ambulances will be housed at a City facility to facilitate weekly apparatus check-offs and after-hours access for vehicle change outs. All additional ambulances used for back-up purposes shall meet the same specifications of the Designated Ambulances. The location of the reserve ambulances will be placed at the discretion of the City after consultation with Contractor.

3.7 **Move-Up Policy.** For purposes of this Agreement, “move-ups” mean a system of ambulance resource allocation designed to place ambulances in geographically strategic locations with the intent of minimizing response times during periods of increased ambulance activity. Contractor shall notify the City of any such intent to change, and confirm that service will not be diminished due to such change, prior to any implementation.

3.8 **Joint Training.** The City and Contractor agree to cooperate in providing periodic training to City and Contractor personnel in an ambulance setting and to acquaint individuals with the field of emergency medical service operations. This joint training may occur in an ambulance unit that is not designated to services under this Agreement.

In no event will the City’s participation in joint training be construed or deemed to constitute control over Contractor’s employees or any students.

3.9 **Equipment and Maintenance.**

3.9.1 **Maintenance.** Contractor will be solely responsible for properly maintaining all ambulances utilized under this Agreement and for meeting all requirements of the CON issued by ADHS to Contractor for emergency 911 ground ambulance service within the City’s city limits. As used herein, maintenance also refers to repair and replacement of the ambulances to be utilized pursuant to this Agreement.

Prior to removing a Designated Ambulance from service for maintenance or repair, a back-up ambulance must be posted at the appropriate City fire station.

Designated ambulances must be replaced within six (6) months upon reaching 150,000 miles.

- 3.9.2 **Basic Equipment.** Contractor will be solely responsible for providing all of the emergency medical equipment and supplies necessary for the Contractor to perform the required services under this Agreement. The equipment and supplies must be current in nature and maintained in accordance with standard medical practices, the laws of the State of Arizona, and regulations of DHS. Failure to meet this Section requirement will result in per occurrence liquidated damages of \$1,000.

Without limiting the foregoing, Contractor shall install and maintain in each ambulance serving the EMS Service Area the following equipment:

- (i) equipment necessary to adequately and safely transport children under the age of eighteen (18) available in each Designated Ambulance and available upon request for non-designated ambulances; and
- (ii) that equipment, by "brand-name", agreed by the parties; and
- (iii) a fixed mobile radio that is integrated into an ambulance headset system and two (2) portable radios that are dual-band (800 MHz and VHF) capable as well as compatible with the Regional Wireless Cooperative system that will allow for the dispatch and coordination of Contractor's ambulances through the City's dispatching authority; and
- (iv) a mobile computer terminal (MCT) unit meeting City specifications for receiving and transmitting dispatch and status notices; and
- (v) automatic vehicle locator (AVL) equipment meeting City specifications; and
- (vi) compartment space for storage of PPE, including turnout coat, pants, boots, helmet, self-contained breathing apparatus, mask; and
- (vii) an Opticom emitter system approved and programmed to regional traffic control standards; and.
- (viii) Power-LOAD motorized gurney loading system.

- 3.9.3 **Additional or Different Equipment.** The City reserves the right to require Contractor to carry additional or different equipment during the term of this Contract if reasonably necessary and will give Contractor ninety (90) days' notice of intent to require such additional or different equipment. Such

request(s) shall not require expenditures of more than Three Thousand Dollars (\$3,000) per Designated Ambulance in total value in any calendar year. Notwithstanding the foregoing, prior to providing notice of its intent to require additional or different equipment, to the extent reasonably possible, the parties shall meet to discuss the desired requirements and work in good faith on a reasonable resolution in compliance with the intent of this Contract.

3.9.4 **Minimum Ambulance Fleet Specifications.** The Designated Ambulances in service under this Agreement shall meet the following minimum specifications:

- (i) Must be Type III and certified by the manufacturer to meet federal specification KKK-A-1822F as well as meet applicable National Fire Protection Association standards in effect. An exception to this requirement will be permitted only for those items and features that must deviate from the above-referenced federal specifications in order to satisfy ADHS requirements; and
- (ii) Must be capable of transporting two (2) patients and two (2) attendants in the patient compartment, one person in the passenger seat, one driver and all required equipment without exceeding the Manufacturer's Maximum Gross Vehicle Weight assuming the standard per person weight of one hundred seventy-five (175) pounds; and
- (iii) Must provide a usable safety restraint system for personnel attending to the patient; and
- (iv) Must be equipped with adequate crew cab air conditioning and separate standalone RV style A/C, heating, and ventilation as agreed upon by the Parties; and
- (v) Must contain appropriate space for SCBA equipment and firefighter turnout gear.

3.9.5 **Ambulances Not Designated to Service under this Contract.** Ambulances not designated to service under this Contract shall be similarly equipped as Designated Ambulances and shall be required to include the MCT and AVL equipment necessary to receive dispatches for emergency transportation calls within the City's city limits. Use of Substitute Ambulances for periods greater than twelve (12) hours shall require notification by the Contractor to the City.

Section IV. Staffing

4.1 **Basic Staffing Criteria.** Contractor must assign two (2) attendants per ambulance

and maintain such staffing at all times when such ambulances are designated to use pursuant to this Agreement. On designated ALS equipped ambulances, one attendant must be a state certified EMCT-P and the other must be a state certified EMCT. Contractor must also meet all ADHS requirements with regard to staffing and is solely responsible for all staffing conditions not inconsistent with the terms of this Agreement.

More than two failures to staff a contracted ambulance position resulting in the ambulance being out of service for greater than one hour within a 30-day period may result in a per occurrence assessment of liquidated damages in the amount of \$1,000.

- 4.2 **Training.** In addition to the certification and training required by ADHS and other sections of this Agreement, all of Contractor's attendants to be assigned on a regular basis to an ambulance that is dedicated to the City under this Agreement must attend the following training programs provided by the City at the regularly scheduled date and time that the City offers such training:

- (i) 8-hour orientation training program which includes training on EMS, Fire, Special Operations and Incident Scene procedures provided by City's fire department personnel; and periodic EMS training provided by the City's fire department personnel.

Ambulance operators must be properly certified EMCT or EMCT-P and have completed a comprehensive emergency driver-training program and possess an appropriate driver's license. Contractor must provide on a regular basis driver's training continued education and require all Contractor Ambulance personnel to attend.

In addition to the certification and training required by the ADHS and this Agreement, all Ambulance crew members assigned to or available for assignment to the Designated 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. Orientation training and six (6) months 911 experience must be completed by each Ambulance crew member before that crew member is assigned temporarily or permanently to a Designated 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.

- 4.3 **Records.** Contractor must maintain complete and accurate staffing records in accordance with applicable laws, rules, and DHS regulations.

4.4 **Personnel Issues.** While Contractor will be responsive to City input regarding issues the City may have with Contractor's personnel, Contractor is solely responsible for the hiring, termination, and initiation of disciplinary action of all of its personnel and Contractor's personnel must remain subject to the rules, policies and regulations adopted by Contractor. Contractor agrees, however, to immediately reassign any personnel assigned to a designated City fire station at the reasonable request of the City when a supervisor cites safety or other immediate concern or the request is made by a Chandler Fire Department Chief Officer.

4.5 **Contract Labor.**

4.5.1 **General Provisions.** Contractor hereby contracts for the labor of City Firefighter Paramedics ("City Attendant Staff") for use in staffing Advanced Life Support (ALS) equipped ambulances to assist in providing 911 ambulance transports within the City and for automatic aid under the terms of an approved automatic aid agreement, provided such automatic aid is within Contractor's CON certificated area, in conjunction with the services provided by Contractor pursuant to this Agreement.

4.5.2 **Staffing Commitment.** The City will provide City Attendant Staff for the twenty-four hour and peak-time ambulances dedicated to service under Exhibit A of this Agreement in accordance with the terms of this Agreement and the schedule set forth in Exhibit A. The City is not obligated to provide any City Attendant Staff beyond that set forth in this Agreement.

4.5.3 **City Employees.** City Attendant Staff are the employees of the City subject to all laws, rules, policies, regulations, procedures, standards, and contractual provisions applicable to City employees, including internal City Fire Department policies, procedures, and guidelines. The City will be solely responsible for all salaries, wages, retirement, withholdings, workers' compensation, occupational disease insurance, unemployment compensation, other benefits and all taxes and premiums appurtenant to said wages and all other appropriate insurance related to the City employees provided hereunder. Further, while the services of the City Attendant Staff will be provided in a manner consistent with Contractor's established standards for ambulance operations, as set forth in Subsection 4.5.4 below, the City will be solely responsible for the hiring, performance management and appraisal, and initiation and conduct of disciplinary action, including termination, of all City personnel provided pursuant to this Agreement.

- (i) The City's ALS provider is, at all times, required to maintain certification as required by the ADHS at the Paramedic level. If at any time it is found that a City's ALS provider is not certified, or loses his/her certification, Contractor will be notified as soon as possible. Any damages or reimbursements to any patients, state or federal

payers that are caused by the actions of a non-certified City ALS provider, will be the responsibility of the City.

4.5.4 Compliance with Ambulance Operation Standards.

- (i) City Staff must render services under this Contract in a manner consistent with Contractor's standards, policies and procedures for the operation of Contractor's ambulances. An Electronic Patient Care Record (e-PCR) must be completed in a timely manner for each patient transported and be submitted to Contractor and the receiving facility prior to the end of each 24-hour tour. City Staff will be responsible for completing the patient care encounter on the Department specific ePCR program per department documentation standards. Any additional Contractor documentation requirements will be the responsibility of Contractor Staff and should be performed on Contractor designated ePCR.
- (ii) Each ambulance staffed with City Attendant Staff under this Agreement must operate within the defined deployment, move-up and general operational systems for 911 services set forth in this Agreement.

4.5.5 Periodic Training. City Attendant Staff staffing each of the twenty-four hour ambulances identified in Exhibit A will periodically need to attend pre-scheduled City training and receive annual medical exams. Ambulances may be returned to service based on need and Battalion Chief request. The City will provide Contractor with notice at least forty-eight (48) hours before any such event for each twenty-four (24) hour ambulance identified in Exhibit A. Attendance by City Attendant Staff for City training and medical exams will not reduce the compensation amounts to be paid to City by Contractor as set forth in Exhibit B.

4.5.6 Reimbursement. The parties agree that the staffing cost reimbursements set forth in Exhibit B of this Agreement are based upon the City's estimated costs and fair market value for the labor and services provided and that the costs do not exceed the City's actual costs of providing City Attendant Staff. The cost reimbursements will be paid as set forth in Exhibit B of this Agreement and any increases in these costs shall not exceed the percentage allowed in A.R.S. sec. 36-2234(E).

Section V. Contract Administration

5.1 Contract Administrator. Contractor will provide the City with the name, contact information, and responsibilities of the executive responsible for this Agreement and the staff member with daily operational supervisory responsibilities of the attendants Contractor has assigned to the ambulances dedicated to service under

this Agreement, prior to commencement of services under this Agreement, and will timely update this contact information as necessary during the term of this Agreement.

At minimum, the Contract Administrator is responsible for the following:

- (i) Assure compliance with the Agreement.
- (ii) Develop and coordinate training for personnel.
- (iii) Participate in meetings with the City.
- (iv) Act as liaison with the City and medical facilities receiving patients. Coordinate research and reporting on ambulance services and transports.
- (v) Perform field observations and report such observations to Contractor and the City.
- (vi) Monitor response times.
- (vii) Coordinate ambulance coverage for special events and Fire Department training.
- (viii) Coordinate or conduct customer (including patient) surveys and such other similar duties as assigned.
- (ix) Act as primary liaison between the City and the Contractor in the problem resolution process.

5.2 **Complaints.** Contractor will notify the City of all written complaints and compliments concerning ambulance services within the City or involving a City designated unit. Issues involving Contractor or City personnel will be reported by the close of the business day following receipt of the complaint. Complaints of a financial or billing nature will be reported to the City within ten (10) working days of the receipt of the complaint. Contractor will provide to the City any investigational findings and a disposition of all complaints described in this paragraph within twenty (20) days of the receipt of complaint.

5.3 **Records.**

5.3.1 All books, accounts, reports, files, and other records related to or arising out of this Agreement (collectively "Records") are subject at all reasonable times to inspection and audit by the City for five years after the expiration or termination of this Agreement. Contractor must produce the Records at a mutually agreed to location within Maricopa County, Arizona. Contractor must maintain complete and accurate records in accordance with applicable laws, rules, and regulations including record retention requirements of DHS.

5.3.2 Contractor must make its publicly available financials available to the City upon reasonable request. Nothing herein shall limit or alter Contractor's obligation to maintain books and records as required by law or ADHS. All accounting records shall be maintained and reported in accordance with

standard accounting procedures.

- 5.3.3 Contractor must maintain a complete and accurate record of all requests for service and deployment of resources. These records must include the time and date of the request, location of the incident, identification of the ambulance and personnel dispatched, the arrival time of the ambulance at the scene, and the total elapsed time between dispatch and arrival. The record must also include the time of departure from the scene and arrival time at the emergency care facility.
- 5.3.4 Upon request by the City, Contractor must provide a list of all Designated Ambulances used to provide service under this Agreement. This list will include vehicle identification number, make, model, year of manufacture, current mileage, and summary of maintenance history.
- 5.3.5 Upon request by the City, Contractor must provide to designated City personnel a list of all management, supervisory, vehicle maintenance, and field and dispatch personnel.
- 5.3.6 Upon request by the City, Contractor must submit service and deployment records to designated City personnel.
- 5.3.7 Failure to meet the requirements of this Section may result in a per occurrence assessment of liquidated damages in the amount of \$1,000.
- 5.4 **Evaluation.** The City may survey users or professionals that interact with the Contractor during transports (i.e. City staff or hospital staff) periodically to determine the level of satisfaction with the service provided by Contractor. Contractor will be given an opportunity to respond to any unfavorable responses.
- 5.5 **No Cost to City.** All patient charges by Contractor for services to the public under the terms of this Agreement will be in accordance with such public rates and charges set under federal or Arizona law. In the event a ground ambulance is enroute to or has arrived on the scene, where Contractor did not transport the patient Contractor must not charge the patient for such response.

In general, the City will not be responsible for the costs of a response. However, if the City would be responsible for an ambulance service charge because it is the employer or insurer for an individual receiving ambulance service (e.g., self-insured worker's compensation for ambulance service to a City employee), the City will be responsible for said costs as would any similar employer or responsible party. As such, in the event a ground ambulance is enroute to or has arrived on the scene and medical control then deems air transport necessary, Contractor must not charge the City for such response. Charges for services provided under this Agreement will be paid directly to Contractor by the individual(s) receiving the service. The City will not be responsible for non-payment of bills tendered to the

individual(s) receiving the service.

- 5.6 **Payment Procedures.** Contractor must reimburse the City by wire transfer for all ongoing costs to be incurred by the City for access to the 911 system as identified in Subsection 1.11 and for providing City Attendant Staff positions and use of designated City fire stations for billeting ambulances as set forth in Exhibits A and B of this Agreement on the fifth day of each month in which these costs are to be incurred. Contractor's payment obligation is independent of collection for any patient transported and is based on the staffing levels and use of City fire stations for billeting ambulances set forth in Exhibit A. Contractor is not responsible for any City Attendant Staff compensation beyond the amounts set forth in Exhibit B. If this Agreement commences or terminates before the beginning or end of any month, the monthly reimbursement amounts set forth in this Agreement will be prorated. The City will not bill Contractor for its "first response" services except for the supplies used in providing such first response services as set forth in this Agreement.
- 5.6.1 **Cost of Living Adjustments.** The compensation amounts set forth for the City Attendant Staff positions set forth in Exhibit B may be increased annually by one and 35/100 percent (1.35%), with the first such annual adjustment being made on July 1, 2022.
- 5.6.2 **Late Charges.** In the event payment of the amounts set forth herein are more than ten (10) days overdue, a late charge of one and one-half percent (1.5%) of the amount due per month may be added to the unpaid amount as liquidated damages, it being agreed that such amount is a reasonable estimate of the costs and expenses the City will incur as a result of such late payment. Acceptance of the late charge will not constitute a waiver by the City of Contractor's default with respect to such nonpayment by Contractor, nor prevent the City from exercising all other rights and remedies available under this Agreement or at law or in equity.
- 5.6.3 **Notice of Charges.** The City will provide Contractor with a document setting forth the costs for dispatch services, the costs for providing use of designated City fire stations and the cost of living adjusted reimbursement amounts for providing City Attendant Staff, on or before June 1 of each year for the monthly reimbursements to be made starting July 1 of that year, with the first such notice being provided by the later of July 1, 2021 and thirty (30) days before commencement of services pursuant to this Agreement. Notwithstanding the foregoing, no increase may take effect if such increase would result in the reimbursement that exceeds the City's actual costs and/or the fair market value of such services.
- 5.7 **Notice of Litigation.** Contractor must notify the City within twenty-four (24) hours of any litigation or significant potential for litigation of which Contractor becomes

aware relating to its operations pursuant to this Agreement. Further, Contractor must disclose in writing to the City all litigation involving Contractor that involves allegations against Contractor's performance of its duties under Arizona law or this Agreement, or allegations of liability occurring within the city limits of Chandler.

Section VI. Incident Procedures Control of Incident or Scene. The Chandler Fire Department is responsible for incident management for all responders and patients throughout the incident. Control of scene matters and command structure are set forth in Volume II of the Phoenix Regional Operations Manual and CFD Policies and Procedures and is subject to change and further direction as determined by the Chandler Fire Department.

- 6.1 **Replacement of Supplies.** Medical supplies used by first response personnel at a medical incident will be replaced by the ambulance transporting the patient to the hospital. The City and Contractor will periodically review and update a list of approved supplies. Every effort should be made to complete the transfer of supplies before the ambulance leaves for the hospital. The transfer of supplies should be accomplished in a quick and efficient manner so as not to hinder the transportation of the patient to the hospital. Any supplies not transferred at the time of patient transport will be requested through the Fire Department EMS division directly to Contractor. Absent documented supplier problems, Contractor will provide any supplies so requested by the City within fourteen (14) calendar days of request. The obligation to replace medical supplies set forth in this Section only applies where Contractor actually transports the patient for whom such medical supplies were used and are on a one for one basis.

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

- 6.2 **Solicitation of Information.** Contractor may solicit information about a patient's accident and medical insurance. Contractor may not, however, collect any fee or charge from the patient, patient's relatives, or any responsible party until after the patient has been accepted at the receiving hospital.
- 6.3 **Emergency Stand-By.** Contractor agrees to provide an ambulance for emergency scene stand-by, at no charge to the City, when a City Fire Captain or higher-ranking City fire official has reason to believe a life-threatening emergency situation warrants an ambulance stand-by.

Section VII. Community Activities

Upon request, Contractor agrees to participate in various health and safety related community activities at no cost to City. Notwithstanding the foregoing, Contractor's requirements under this Section may not affect its obligations to provide services under this Agreement, nor may it have any monetary impact on Contractor.

Section VIII. Indemnification

Each party ("Indemnitor") shall indemnify, defend, and hold harmless the other party ("Indemnatee"), its officers, directors, agents, representatives, and employees (collectively "Indemnitees"), from and against any and all costs, claims, causes of action, demands, losses, liabilities, penalties, fines, citations, expenses, forfeitures or other damages, including, but not limited to, settlements, defense costs, judgments, court costs, expert fees and reasonable fees of attorneys (individually a "Claim" and collectively "Claims"), asserted against Indemnatee(s) or which Indemnatee(s) might incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, or any violation of any applicable law, to the extent but only to the extent that such Claims are incident to or arise out of this Agreement and are caused by a negligent, willful, or intentional wrongful act or omission of Indemnitor or Indemnitor's officers, directors, agents, representatives, or employees, or as a result of Indemnitor's breach of this Agreement. Nothing in this section shall limit any right to contribution or other allocation of fault between the parties as determined by a court of competent jurisdiction and as permitted by applicable law.

Section IX. Insurance

9.1 **General Requirements.** Contractor must procure insurance under the terms and conditions and for the amounts of coverage set forth below against claims that may arise from or relate to performance of the work under this Agreement by Contractor and its agents, representatives, employees, and subcontractors. Contractor and any subcontractors must maintain this insurance until all of their obligations have been discharged, including any warranty periods under this Agreement. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits stated in this Agreement are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, the Contractor's agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

Section X. Term

The term of this Agreement shall begin upon the effective date and continue for an initial period of four (4) years, unless earlier terminated as provided herein.

The Parties may, at their option, extend the term of this Agreement for up to three (3) additional one (1) year terms by entering a signed and written amendment on or before 90 calendar days prior to the expiration of the original term (or then current term) of the Agreement.

The City and Contractor will conduct an operational review of the Agreement six (6) months after commencement of services. The intent of the review is to identify any potential amendments to the Agreement that may be necessary to address minor operational modifications.

Any renewal, modification or extension of this Agreement shall be subject to the approval of DHS pursuant to its authority as granted in ARS sec 36-2232.

Section XI. Performance Bond

- 11.1 Prior to execution of this Agreement contractor shall provide a performance bond in the amount of two million dollars (\$2,000,000) for the faithful performance of services and conditions set forth herein. The following shall be the conditions precedent before the City may draw on the performance security: (a) the City declares Contractor in Material Default for one or more of the reasons set forth in Section XII below; (b) the Contractor fails to cure the Material Default within thirty (30) days or exceeds the number of Material Defaults permitted in a twelve (12) month period; and (c) the City terminates the Agreement in accordance with the procedures set forth in Section XII below.
- 11.2 The bond shall be issued by a surety company holding a Certificate of Authority to transact surety business in the state of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two years prior to the execution of this Agreement.
- 11.3 The bond shall be made payable and acceptable to the City of Chandler.
- 11.4 The bond shall be written or countersigned by an authorized representative of the surety who is either a resident of the state of Arizona or whose principal office is maintained in this state, as required by law, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.
- 11.5 The bond submitted shall be provided by a company which has been rated "A-VII or better" by the A.M. Best Company.
- 11.6 Personal or individual bonds are not acceptable.

- 11.7 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under this Agreement, the Contractor shall promptly furnish a copy of the bond or shall permit a copy of the bond to be made.

Section XII. Termination and City Remedies

- 12.1 **Right to Assurance.** If the City in good faith has reason to believe that Contractor does not intend to, or is unable to perform or continue performing under this Agreement, the Fire Chief, or designee, may demand in writing that Contractor give a written assurance of intent to perform. Failure by Contractor to provide written assurance within the number of days specified in the demand may, at the City's option, be the basis for terminating this Agreement in addition to any other rights and remedies provided by law or this Agreement.
- 12.2 **Nonconforming Tender.** Services and materials supplied under this Agreement must fully comply with Agreement requirements and specifications. Services or materials that do not fully comply constitute a breach of Agreement.
- 12.3 **Termination for Cause.** The City may terminate this Agreement for Contractor's failure to comply with the terms of this Agreement. No such termination for cause under this Section may be permitted, however, unless and until:
- (i) The City has given prior written notice to Contractor specifying the failure to comply which will, unless corrected, constitute a material breach of this Agreement on the part of the Contractor; and
 - (ii) Within thirty (30) days from the date of the notice, Contractor either has not come into compliance, or if such failure cannot be corrected within thirty (30) days, Contractor has not initiated reasonable steps to correct the same or thereafter does not diligently continue to take reasonable steps to correct such failure to comply.
 - (iii) Notwithstanding the provisions above, if Contractor persistently and repeatedly fails to meet any particular material obligation under this Agreement, no additional notice and opportunity to cure will be required pursuant to this Section 12.3 in order for such persistent and repeated failure to be basis for a termination for cause.
- 12.4 **Termination for Life Safety Issues.** The City may, by written notice, immediately terminate this Agreement if the City determines that Contractor's significant or persistent failure to meet the requirements of this Agreement may endanger public health or safety. For purposes of this provision, significant or persistent failure must be noticed pursuant to Section 12.2 of this Agreement and have continued for

either three (3) consecutive months or existed for a period covering more than four (4) months over any consecutive twelve (12) month period. This includes, but is not limited to, both the failure to meet the response time requirements set forth in Section 2.3 or to follow the move up and ambulance resource dedication protocols set forth in Section 3 and Exhibit A of this Contract. Termination of this Contract pursuant to this Section 12 may be made by the City's Fire Chief. Contractor may appeal the determination of the City's Fire Chief to the City Manager within five (5) working days of the notice of termination, but Contractor will not be dispatched to provide services pursuant to this Contract during the appeal unless and until the City Manager reverses the decision rendered by the City's Fire Chief. A decision on the appeal shall be rendered within ten (10) working days of appeal and, if no formal decision is rendered within this timeframe, the appeal shall be deemed denied. If Contractor fails to administratively appeal the determination of the City's Fire Chief as provided herein, Contractor shall be deemed to have waived its right to contest the termination. Because of the life safety issues involved, any dispute as to the termination of this Contract pursuant to this Section 12 is not subject to the alternative dispute resolution provisions.

- 12.5 **Continuous Service Delivery.** The City may terminate this Agreement in the event of any material default by Contractor as defined herein. As a condition precedent to termination by the City, the City shall provide Contractor with no less than thirty (30) days' advance written notice citing, with specificity, the basis for the material default (the "Breach Notice"). In the event Contractor shall have cured the material default within such thirty (30) day period, or such longer period as may be specified in the Breach Notice, this Agreement shall remain in full force and effect. In the event the City reasonably deems Contractor to remain in material default as of the end of the notice period specified in the Breach Notice, the City shall provide Contractor with a notice of termination ("Termination Notice"), setting forth the specific reasons the City believes Contractor remains in Material Breach and the effective date of termination ("Termination Date"), which shall be no less than thirty (30) days from the date of the Termination Notice. In the event of termination by either party for any reason, or of expiration of this Agreement, Contractor shall cooperate with the City and with the successor provider to help assure a smooth transition.

The City may terminate the Agreement if Contractor is deemed to be in material default four (4) or more times in any twelve (12) month period regardless of whether Contractor has cured the material default.

- 12.6 **Termination for Convenience.** This Agreement is for the convenience of the City and, as such, may be terminated without cause. Such termination will be effective one hundred twenty (120) days after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for the undisputed portion of its fees under this Agreement as of the termination date.
- 12.7 **Cancellation for Conflict of Interest.** The Parties acknowledge that this

Agreement is subject to cancellation by the City under the provisions of Arizona Revised Statutes section 38-511.

- 12.8 **Gratuities**. The City may, by written notice, terminate this Agreement, in whole or in part, if the City determines that employment or a gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of the City for the purpose of influencing the outcome of the procurement or securing this Agreement, an amendment to this Agreement, or favorable treatment concerning this Agreement, including the making of any determination or decision about contract performance. The City, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by Contractor.
- 12.9 **Suspension or Debarment**. The City may, by written notice to Contractor, immediately terminate this Agreement if the City determines that Contractor has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Contractor subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that Contractor is not currently suspended or debarred. If Contractor becomes suspended or debarred, Contractor shall immediately notify the City.
- 12.10 **Termination for Change of Control**. To the extent reasonably possible Contractor will provide notice at least sixty (60) days prior to closing that it or its parent entity, assets, or interests are being acquired by another entity. Within thirty (30) days of receipt of such notice, the City may elect to terminate this Agreement, provided that the date of termination is at least sixty days (60) from the date of such notice to Contractor to allow for the efficient transition.
- 12.11 **Continuation of Performance Through Termination**. Contractor shall continue to perform, in accordance with the requirements of this Contract, up to the date of termination, as directed in the termination notice. Further, termination of this Agreement shall in no way obviate any Contractor obligation or responsibility pursuant to the CON issued to Contractor by ADHS to provide ambulance services within Chandler's city limits.
- 12.12 **No Waiver**. Either Party's failure to insist on strict performance of any term or condition of this Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 12.13 **Non-exclusive Remedies**. The rights and the remedies of the City under this Agreement are not exclusive.

Section XIII. Miscellaneous

- 13.1 **Force Majeure.** If either Party is delayed or prevented from the performance of any act required under this Agreement by reason of acts of God or other cause beyond the control and without fault of the Party (financial inability excepted), performance of that act may be excused, but only for the period of the delay, if the Party provides written notice to the other Party within ten days of such act. The time for performance of the act may be extended for a period equivalent to the period of delay from the date written notice is received by the other Party.
- 13.2 **Notices.** All notices or demands required to be given pursuant to the terms of this Agreement shall, unless specified otherwise, be given to the other Party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the City:

Tom Dwiggins, Fire Chief
151 East Boston Street
Chandler, Arizona 85225
480-782-2130
480-782-2125

Copy to: Marsha Reed, City Manager

In the case of the Contractor:

Alan Smith, Regional President
23200 N. Pima Rd. Ste 210
Scottsdale, AZ 85255
(901)-489-6003

With a copy addressed to:

Legal Department
Priority Ambulance, LLC
9721 Cogdill Rd. Ste 302
Knoxville, TN 37932

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

- 13.3 **Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding. Changes to this Agreement directed by a person who is not specifically authorized by the City in writing or made unilaterally by the Contractor are violations of this Contract. Any such changes, including unauthorized written contract amendments shall be void and without

effect, and Contractor shall not be entitled to any claim under this Contract based on such changes.

- 13.4 **Independent Contractor**. This Agreement is not intended to and shall not constitute, create, give rise to, or otherwise recognize a joint venture, partnership agreement or relationship, or any other formal business organization or association of any kind between the parties, and the rights and obligations of the parties shall be only those expressly stated in this Agreement. The parties hereby agree that no person supplied by Contractor in the performance of this Agreement shall be an employee of the City and further agree that no right of the City's merit system, personnel rules and policies, or the State retirement systems shall accrue to such persons. Contractor shall have the total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation insurance, unemployment compensation, other benefits, and all taxes and premiums appurtenant thereto concerning Contractor's employees in the performance of this Agreement, and Contractor shall indemnify and hold City harmless with respect thereto. City shall have the total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation insurance, unemployment compensation, other benefits, and all taxes and premiums appurtenant thereto concerning City's employees in the performance of this Agreement, and City shall indemnify and hold Contractor harmless with respect thereto.
- 13.5 **Authority**. Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.
- 13.6 **Severability**. If any provision of this Agreement is declared invalid, illegal or unenforceable, that provision shall be severed from this Agreement, and the remaining provisions shall otherwise remain in full force and effect.
- 13.7 **Headings**. The headings used in this Contract are inserted for reference purposes only and do not affect the interpretation of the terms and conditions hereof.
- 13.8 **Time of Essence**. Time is hereby declared to be of the essence for the performance of all terms, covenants, conditions and obligations under this Agreement.
- 13.9 **Exhibits**. The exhibits referenced to herein and attached hereto are incorporated herein by reference. Any conflict between the language set forth in any Exhibit and the language set forth in the body of this Agreement shall be controlled by the language set forth in the body of this Agreement.
- 13.10 **Interpretations and Definitions**. The parties agree that each party and its counsel have reviewed this Agreement and that any rule of construction to the effect that

ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Contract.

- 13.11 **Time**. Periods of time, stated as a number of days, shall be calendar days unless otherwise designated.
- 13.12 **Assignment**. No right, title, or interest in this Agreement shall be assigned voluntarily or by operation of law by Contractor without the written permission of the City; and no delegation of any duty of Contractor shall be made without written permission of the City. Any attempted assignment of delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this subsection.
- 13.13 **Funds Appropriation**. If sufficient funds are not appropriated to continue this Agreement and for the payment of charges hereunder, the City may terminate this Agreement at the end of the fiscal period. The City agrees to give written notice of termination to the Contractor at least thirty (30) days prior to the end of its current fiscal period and will pay to Contractor all charges incurred through the end of such period.
- 13.14 **Licenses**. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by Contractor as applicable to this Agreement.
- 13.15 **Conduct**. Contractor's employees, officers, and agents shall not identify themselves as being employees of the City. Contractor's employees, officers, and agents shall conduct themselves in such a manner as to avoid embarrassment to the City and shall be courteous to the public.
- 13.16 **Immigration Reform and Control Act**. Contractor shall comply with the Immigration Reform and Control Act of 1986 (IRCA). Contractor understands and acknowledges the applicability of the IRCA to Contractor. Contractor agrees to permit City inspection of its personnel records to verify such compliance.
- 13.16.1 Legal Worker Requirements. A.R.S. 41-4401 prohibits the City from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. 23-214(A). Therefore, Contractor agrees to warrant its compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. 23-214, subsection A. A breach of this warranty will be deemed a material breach of the Agreement and may be subject to penalties up to and including termination of the Agreement. City retains the legal right to inspect the papers of any Contractor's or subcontractor's employee who provides services under this Agreement to ensure that the Contractor and

subcontractors comply with the warranty under this provision.

- 13.16.2 **Compliance with Law.** Contractor shall comply with all requirements of any applicable federal, state, county, or city laws, statutes, ordinances, charters, codes, rules, regulations, and other governmental requirements, including but not limited to Arizona Statute and regulations of DHS and the charter or ordinances of the City. No provisions of this Agreement shall be construed to require Contractor to violate any orders or decisions issued by the Director of DHS or any governing statute or administrative rules regarding the provision of Ambulances or Ambulance service to the public.

Additionally, Contractor agrees to comply with the requirements of (and as defined in) the Health Insurance Portability and Accountability Act of 1996, as codified as 42 U.S.C. § 1320d through d-8 ("HIPAA"), and the regulations promulgated thereunder, including without limitation the federal privacy regulations as contained in 45 CFR Part 164 (the "Federal Privacy Standards"), the federal security regulations as contained in 45 CFR Part 142 (the "Federal Security Standards"), and state privacy laws, all as amended, regarding the confidentiality of all patient information and records applicable to the obligations of the City and as set forth in Attachment E. Contractor's obligations under this sub-part shall survive the expiration or termination of this Agreement regardless of the reason for such termination.

- 13.17 **Drug Free Workplace Program.** Contractor shall maintain a drug free workplace in compliance with federal law.
- 13.18 **Compliance with Federal Anti-Kickback Statute.** To the extent required by law, each Party shall comply with the Federal Health Care Programs' Anti-Kickback Statute (42 U.S.C. § 1320a-7b) and any applicable regulations promulgated thereunder. The Parties further recognize that this Contract shall be subject to amendments of the Anti-Kickback Statute or any of its applicable regulations. In the event any applicable provisions of the Anti-Kickback Statute or its regulations invalidate, or are otherwise inconsistent with the terms of this Contract, or would cause one or both of the parties to be in violation of the law, the parties shall exercise their best efforts to accommodate the terms and intent of this Contract to the greatest extent possible consistent with the requirements of the Statute and its applicable regulations.
- 13.19 **Good Faith Negotiation.** This Agreement has been negotiated in good faith by the parties. Nothing contained in this Contract, including any compensation paid or payable, is intended or shall be construed: (i) to require, influence or otherwise induce or solicit either party regarding referrals of business or patients, or recommending the ordering of any items or services of any kind whatsoever to the other party or any of its affiliates, or to any other person, or otherwise generate

business between the parties to be reimbursed in whole or in part by any Federal Health Care Program, or (ii) to interfere with a patient's right to choose his or her own health care provider.

- 13.20 **Data Confidentiality and Data Security.** As used in the Agreement, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to the Contractor or its subcontractors in the performance of this Agreement. Contractor or its subcontractors must not use the data for any purposes except to perform the services required under this Agreement.

These prohibitions do not apply to the following data provided to the Contractor have first given the required notice to the City: (a) data which was known to the Contractor prior to its performance under this Agreement unless such data was acquired in connection with work performed for the City; or (b) data which was acquired by the Contractor in its performance under this Agreement and which was disclosed to the Contractor by a third party, who to the best of the Contractor's knowledge and belief, had the legal right to make such disclosure and the Contractor is not otherwise required to hold such data in confidence; or (c) data which is required to be disclosed by virtue of law, regulation, or court order, to which the Contractor are subject.

All data must continue to be subject to the confidentiality provisions of this Agreement. Contractor assumes all liability to maintain the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this Section are violated by the Contractor, its employees, agents or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

- 13.21 **Personal Identifying Information-Data Security.** Personal identifying information, financial account information, or other restricted information, whether electronic format or hard copy, must be secured and protected at all times by Contractor. At a minimum, Contractor must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or other restricted information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Contractor in connection with this Agreement is believed to have been compromised, Contractor must immediately notify the Fire Chief. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential

breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement below.

FOR THE CITY

FOR THE CONTRACTOR

By: _____

By: ALAN SMITH

Its: Mayor

Its: West Region President

Date: _____

Date: 2/25/2021

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

Exhibit A: Resources

Designated Ambulances. Contractor hereby commits to designate six (6) ALS equipped ambulances for twenty-four hour deployment and one (1) ALS equipped ambulance for peak-time deployment to provide the services required under this Contract. The location of the resources will be placed upon mutual consent of the City and Contractor and may be reviewed periodically to ensure response time and other performance standards of the contract.

The City will provide City Attendant Staff for each of the designated twenty-four hour ALS equipped ambulances identified above in accordance with this Contract. Provision of City Attendant Staff for each of these Designated Ambulances on a twenty-four (24) hour basis will require three (3) City firefighter paramedics per ambulance for a total of eighteen (18) City firefighter paramedics.

The Contractor will provide an EMCT approved for duty in Arizona, for each ambulance identified above. The Contractor EMCT and City Attendant staff acting as part of the ambulance staff will form the medical team and the Contractor will maintain control of the ambulance.

The City will provide City Attendant Staff for each day of the week of operation of the dedicated peak-time ambulance identified above in accordance with this Agreement during all of the peak-time hours identified.

Exhibit B: Reimbursement

1. City Attendant Staff. Fair Market Value for labor reimbursement shall be calculated as the City's mid-level annual pay and benefits for a Paramedic Firefighter at the time of the contract. Contractor shall pay the City the following amounts for providing City attendant Staff:

- a. \$121,531 annually for each of the eighteen (18) CFHM Paramedics staffing six (6) twenty-four hour ambulances identified in **Exhibit A.***
(18 CFD Paramedics x \$121,531) = \$2,187,558
Monthly Reimbursement of: \$182,296*

Each twenty-four (24) hour Ambulance requires three (3) full time Paramedics to cover all seven days of staffing (one per day, per shift) (6 Rescues x 3 CFD Paramedics) = 18CFHM Paramedics.

- b. \$125,523 annually to cover the paramedic hourly staffing demand for peak-time ambulances identified in Exhibit A.
(59.5 hours x \$40.57 per hour x 52 weeks/year = \$125,523)
Monthly Reimbursement of: \$10,460*

2. Station Location. Contractor shall pay the City \$1,906 per month for each Fire Station in which the City and Contractor agree to base a 24-hour designated ambulance. For each Fire Station in which the City and Contractor agree to base peak-time designated ambulances, the Contractor shall pay the City \$689 per month.

Section 3.6 Positioning of Reserve Ambulances references an agreement to position reserve ambulances in the City. The City will provide mutually acceptable parking space and access to shoreline power at no cost to Contractor.

The initial plan is for six (6) 24 hour ambulances and one (1) peak-time ambulance. (6, 24-hour ambulances x \$1,906 + 1, peak-time ambulance x \$689= \$12,125 per month)

Monthly Reimbursement of: \$12,125

*As set forth in Exhibit A of this Contract, the monthly amounts set forth for providing City Attendant Staff shall be increased by one and 35/100 percent (1.35%) per year.

TOTAL MONTHLY REIMBURSEMENT: \$204,881 ambulance staffing reimbursement

Exhibit C: Insurance

General.

- A. At the same time as execution of this Agreement, the Contractor shall furnish the City a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-VII or better. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The Contractor and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Contractor from liabilities that might arise out of the performance of the Agreement services under this Agreement by Contractor, its agents, representatives, employees, subcontractors, and the Contractor is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Contractor shall execute a written contract with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor in this Agreement. The Contractor is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

Minimum Scope and Limits of Insurance. The Contractor shall provide coverage with limits of liability not less than those stated below.

- A. Commercial General Liability-Occurrence Form. Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$10,000,000 for each occurrence, \$10,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this

paragraph, the Excess insurance must be equal or broader in coverage scope than underlying insurance.

B. Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles

Vehicle Liability: Contractor must maintain Business/Automobile Liability insurance with a limit of \$5,000,000 each accident on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be equal or broader in coverage scope than underlying insurance.

C. Workers Compensation and Employers Liability Insurance: Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

D. Professional Liability. If the Agreement is the subject of any professional services or work performed by the Contractor, or if the Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by the Contractor, or anyone employed by the Contractor, or anyone whose acts, mistakes, errors and omissions the Contractor is legally liable, with a liability limit of \$10,000,000 each claim and \$10,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or services, and the Contractor will submit Certificates of Insurance as evidence the required coverage is in effect.

E. Network Security and Privacy Liability Minimum Limits:

Per Loss	\$	5,000,000
Aggregate	\$	5,000,000

The insurance shall provide coverage for the following risks

1. Liability arising from theft, dissemination and / or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.
2. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure

3. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.

Additional Policy Provisions Required.

B. Self-Insured Retentions or Deductibles. Any self-insured retentions and deductibles must be declared to the City.

1. The Contractor's insurance must contain standard ISO contractual liability coverage.
2. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the Contractor and must not contribute to it.
3. The Contractor's insurance must 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. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Agreement.
4. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
5. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

C. Insurance Cancellation During Term of Contract/Agreement.

1. If any of the required policies expire during the life of this Contract/Agreement, the Contractor must forward renewal or replacement Certificates to the City within 15 days after the renewal date containing all the required insurance provisions.
2. Each insurance policy required by the insurance provisions of this Contract/Agreement shall provide the required coverage and shall not be canceled except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the City of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

D. City as Additional Insured. The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions or include blanket additional insured language providing coverage as required by written contract: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.
2. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.

Exhibit D: Access to Secured Facilities

Contract Worker Access Controls, Badge and Key Access Requirements. A Contract Worker shall not be allowed to begin work in any City facility without: (A) The prior completion and the City's acceptance of the required background screening; and (B) when required, the Contract Worker's receipt of a City issued badge. A badge will be issued to a Contract Worker solely for access to the City facility(s) to which the Contract Worker is assigned. Each Contract Worker who enters a City facility must use the badge issued to the Contract Worker.

Key Access Procedures. If the Contract Worker's services require keyed access to enter a City facility(s), a separate key issue/return form must be completed and submitted by Contractor for each key issued.

Stolen or Lost Badges or Keys. Contractor shall report lost or stolen badges or keys to the City immediately. A new badge application or key issue form shall be completed and submitted along with payment of the applicable fees prior to issuance of a new badge or key.

Return of Badges or Keys. All badges and keys are the property of the City and must be returned to the City within one business day of when the Contract Worker's access to a City facility is no longer required to furnish the services under this Agreement. Contractor shall collect a Contract Worker's badge and key(s) upon the termination of the Contract Worker's employment; when the Contract Worker's services are no longer required at the particular City facility(s); or upon termination, cancellation or expiration of this Agreement.

Contractor's default under this Section shall include, but is not limited to the following: (1) Contract Worker gains access to a City facility(s) without the proper badge or key; (2) Contract Worker uses a badge or key of another to gain access to a City facility; (3) Contract Worker commences services under this Agreement without the proper badge, key or Background Screening; (4) Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable Background Screening; or (5) Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement. Contractor acknowledges and agrees that the access control, badge and key requirements in this Section are necessary to preserve and protect public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this Section within three business days from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this Section shall constitute a breach of this Section. In addition to any other remedy available to the City at law or in equity, Contractor shall be liable for and shall pay to the City the sum of \$1,000.00 for each breach by Contractor of this Section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this Agreement in the event that Contractor breaches this Section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages in the event that Contractor breaches this Section. The parties further agree that three breaches by Contractor of this Section arising out of any default within a consecutive period of three months or three breaches by Contractor of this Section arising out of the same default within a period of 12 consecutive months shall constitute a material breach of this Agreement by Contractor and the City

expressly reserves all of its rights, remedies and interests under this Agreement, at law and in equity including, but not limited to, termination of this Agreement.

Contractor and Subcontractor Worker Background Screening. Contract Worker Background Screening. Contractor agrees that all contract workers and subcontractors (collectively Contract Worker(s)) that Contractor furnishes to the City pursuant to this Agreement shall be subject to background and security checks and screening (collectively Background Screening) at Contractor's sole cost and expense as set forth in this Section. The Background Screening provided by Contractor shall comply with all applicable laws, rules and regulations. Contractor further agrees that the Background Screening required in this Section is necessary to preserve and protect public health, safety and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of Contractor's services under this Agreement or Contractor's failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Contractor and its Contract Workers shall take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this Agreement.

Background Screening Requirements and Criteria. Contractor agrees that it will verify legal Arizona worker status as required by Arizona Revised Statutes §41-4401. Contractor further agrees that it will conduct a background check for real identity/legal name on all Contract Workers prior to proposing the Contract Worker to the City.

Additional City Rights Regarding Security Inquiries. In addition to the foregoing, the City reserves the right but not the obligations to: (1) have a Contract Worker be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4); (2) act on newly acquired information whether or not such information should have been previously discovered; (3) unilaterally change its standards and criteria relative to the acceptability of Contract Workers; and (4) object, at any time and for any reason, to a Contract Worker performing work (including supervision and oversight) under this Contract.

Contractor Certification. By executing this Agreement, Contractor certifies and warrants that Contractor has read the Background Screening requirements and criteria in this Section, understands them and that all Background Screening information furnished to the City is accurate and current. Also, by executing this Agreement, Contractor further certifies and warrants that Contractor has satisfied all such Background Screening requirements as required. A Contract Worker rejected for work under this Agreement shall not be proposed to perform work under other City contracts or engagements without the City's prior written approval.

Terms of This Section Applicable to all of Contractor's Contracts and Subcontracts. Contractor shall include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Agreement including, but not limited to, supervision and oversight services.

Materiality of Background Screening Requirements: Indemnity. The Background Screening requirements of this Section are material to the City's entry into this Agreement and any breach of this Section by

Contractor shall be deemed a material breach of this Agreement. In addition to the indemnity provisions set forth above, Contractor shall defend, indemnify and hold harmless the City for any and all Claims arising out of this Background Screening Section including, but not limited to, the disqualification of a Contract Worker by Contractor or the City for failure to satisfy this Section.

Continuing Duty: Audit. Contractor's obligations and requirements that Contract Workers satisfy this Background Screening Section shall continue throughout the entire term of this Agreement. Contractor shall notify the City immediately of any change to a Background Screening of a Contract Worker previously approved by the City. Contractor shall maintain all records and documents related to all Background Screenings and the City reserves the right to audit Contractor's compliance with this Agreement.