

Purchase Contract #T08-053-01

CONTRACT MODIFICATION

This MODIFICATION OF PURCHASE CONTRACT #T08-053-01 (herein after the "**Modification**") is entered into by and between the CITY OF TEMPE, a municipal corporation (hereinafter "**City**") and PMT Ambulance (hereinafter "**Contractor**"), this 2nd day of July, 2013.

RECITALS

- A. WHEREAS**, the City and Contractor are parties to Purchase Contract #T08-053-01, effective May 8, 2008 (collectively hereinafter "**the Agreement**") attached hereto as Exhibit A;
- B. WHEREAS**, the City and Contractor amended and renewed the Agreement for an additional twelve months, effective May 8, 2010, attached hereto as Exhibit B.
- C. WHEREAS**, the City and Contractor twice renewed the Agreement under the same terms and conditions as set forth in Exhibits A and B, for an additional twelve month terms, the first effective May, 8, 2011, and the second effective May 8, 2012.
- D. WHEREAS**, the City and Contractor renewed the Agreement under the same terms and conditions as set forth in Exhibits A and B, for an additional two months, effective May 8, 2013 through July 1, 2013.
- E. WHEREAS**, the City and Contractor wish to amend and renew the under the same terms and conditions set forth in Exhibits A and B, effective July 2, 2013, except as modified and amended below.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties as are more particularly set forth in the Agreement attached hereto as Exhibit A and Exhibit B, the same be and is hereby adopted and incorporated by this Modification as follows:

1. Section 2, paragraph 1 (Scope of Work) shall be amended as follows:

1) Scope of Work

Contractor will be required to provide all services with six (6) Dedicated Ambulances at the ALS level of service. Provided however, the City reserves the right to negotiate with Contractor to return to the base contract or previously executed amendments at a later date based on the City's needs. Additionally Contractor will provide automatic aid and mutual aid services, contract services specifically included in this agreement, communications and dispatch services as required in accordance with the EMS System and this Contract. Such automatic aid system response will be limited to the approved service area of C.O.N. #71. Contractor may not furnish standby coverage for special events or conduct inter-facility transfers with Dedicated Ambulances. Contractor may not use any Dedicated Ambulance, equipment or personnel of the Tempe required EMS System to provide services for any such purposes not permitted by this Contract.

2. Section 2, paragraph 2 (Term of Contract) shall be amended as follows:

2) **Term of Contract**

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

The initial term shall begin on the Commencement Date pending approval by ADHS. The Commencement Date was May 8, 2008. The first twelve (12) month extension shall commence on May 8, 2010 after review and approval of ADHS. Any future extensions, amendments, or renewals of this contract shall commence after review and approval by ADHS.

3. Section 2, paragraph 9 (Administrative Medical Director) shall be amended as follows:

9) **Administrative Medical Director**

The position of Administrative Medical Director is established by the City in accordance with Arizona Administrative Regulation R9-25-204, which also sets forth qualifications and duties of the Administrative Medical Director. Patient care provided by Contractor personnel or patient care provided on Contractor's ambulance units will be subject to the direction of Contractor's Administrative Medical Director in accordance with A.A.C. R9-25-204.

4. Section 2, paragraph 13 (Financial Statements) shall be amended as follows:

13) **Financial Statements**

Annual income statements for the Contractor's contract operations shall be provided to the Fire Chief within one-hundred twenty (120) days of the end of each fiscal year. A consolidated income statement with a breakdown of the Contractor's revenues and expenses for its Arizona operations and unaudited financial statements for the City of Tempe's operations will also be provided on an annual basis. The income statements shall include a statement of representations by a Certified Public Accountant that has direct responsibility for financial aspects of the Contractor's operations under this Contract that fairly presents the results of operations, financial positions and cash flows of the Contractor. Within one-hundred twenty (120) days after the end of each fiscal year, the Contractor will provide to the Fire Chief a copy of its consolidated audited financial statements.

The Contractor shall also comply with such other reasonable, miscellaneous reporting requirements related to the services provided under this Agreement as may be specified by the City from time to time.

5. Section 2, paragraph 16 (Reporting) shall be amended as follows:

16) **Reporting**

In every instance with respect to the specified Response Time criteria, Contractor shall submit a written report, within fifteen (15) days of each calendar month, in a format determined by the City, documenting the cause of each late response and efforts to eliminate recurrence.

6. Section 2, paragraph 17 (Response Time Measurement) shall be amended as follows:

17) **Response Time Measurement**

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

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

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

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

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

Downgrades may be initiated by medically trained Fire Department personnel as authorized by the Medical Director and by PFDRDC. If a dispatch is downgraded, prior to the arrival on scene of the Ambulance, Contractor's compliance with Contract standards and responsibility for penalties will be calculated based on (i) the lower priority Response Time requirement, if the Ambulance response time is downgraded before it would have been judged late under the higher priority Response Time requirement; or (ii) the higher priority Response Time requirement, if the Ambulance response when downgraded would have been judged late under the higher priority Response Time requirement.

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

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

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

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

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

If Contractor believes that any response or group of responses should be excluded from the compliance calculations due to unusual factors beyond Contractor's reasonable control, Contractor may provide detailed supporting information in writing to the Medical Services Deputy Chief or designee. Contractor may request that the City exclude a response or group of responses from Response Time calculations and late penalties. Any such request must be made in writing and be received by the Medical Services Deputy Chief within fifteen (15) days after the end of each month. The Medical Services Deputy Chief will review the request and issue a determination. Should Contractor dispute the determination, Contractor may appeal in writing to the Fire Chief for a definitive ruling within five (5) business days. The Fire Chief's ruling will be final and binding.

There are events and eventualities within the Primary Service Area which will be or may be predicable as to timing and occurrence and/or will be or may be anticipated as to timing and occurrence. Such events/eventualities include major events at Arizona State University (scheduled in advance), the annual New Year's Eve Block Party, Halloween weekend events, and the possibility of an incident involving multiple patients on Tempe Town Lake or other special events. Upon the City's reasonable request the Contractor will provide additional resources to meet 911 needs. Non-911 requests for units exceeding 50% of the system's Dedicated Ambulance units requires mutual agreement of the parties.

7. Section 2, paragraph 18 (Non-Performance Penalties) shall be amended as follows:

18) Non-Performance Penalties

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

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

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

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

Non-performance penalties are due within thirty (30) days of notice of invoice, which shall be issued to Contractor no later than fifteen (15) days of receiving Contractor's Response Time report.

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

8. Section 2, paragraph 20 (Dispatch Center / Communication Center) shall be amended as follows:

20) Dispatch Center / Communication Center

The City currently uses PFDRDC for Tempe Fire Department emergency dispatch services. Contractor is required to use PFDRDC for all dispatching and reporting functions. Contractor will seek a direct billing arrangement with PFDRDC. In the event Contractor does not directly contract with PFDRDC, Contractor shall reimburse the City for the Contractor's ability to interface with the PFDRDC or other communications center designated by the City on the Dedicated Ambulances and at the Stations including the installation, operation and maintenance of necessary equipment for the term of the contract. Such reimbursements from the Contractor shall be made to the City on a quarterly basis.

9. Section 2, paragraph 22 (Contractor Provided Equipment, Materials and Supplies) shall be amended as follows:

22) Contractor Provided Equipment, Materials and Supplies

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

Additionally, the City reserves the right to require Contractor, at Contractor's expense, to carry additional equipment not specified within the contract or its Exhibits during the term of this contract if reasonably necessary and will give Contractor ninety (90) days' notice of intent to require such additional equipment. The total cost of equipment, in addition to that listed in Exhibits A, B, and C, and including Section 21, will not exceed three thousand dollars (\$3,000) per year, per vehicle. Contractor shall be required to utilize the LifePak 15 monitor/defibrillator or whichever brand and model represents at least 51% of the City's first response apparatus inventory for that product. In the event Contractor is required to utilize such cardiac monitors, Contractor must acquire monitors prior to June 30, 2014 and may use such monitors for the life of this Agreement.

10. Section 2, paragraph 23 (Contractor Provided Ambulances) shall be amended as follows:

23) Contractor Provided Ambulances

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

Contractor must provide six (6) Dedicated Ambulances for ALS Service and each of these dedicated ambulances must meet or exceed ADHS requirements for Ambulances providing ALS services. The City reserves the right to negotiate with Contractor to return to the base contract or previously executed amendments at a later date based on the City's needs. Additionally, each Dedicated Ambulance must, at all times, meet the requirements listed in Exhibits A, B, and C attached hereto.

All Dedicated Ambulances shall include the following:

- a) Branding of "Tempe Fire" (6 ¼" lettering) on both sides of vehicle to be consistent with the current branding of the City department;
- b) Branding of "PMT Ambulance" (6 ¼" lettering) on both sides of vehicle, or as otherwise required by A.A.C. R9-25-1006; and
- c) Attendant box shall be equipped with a driver side attendant seat for the Cardio Cerebral Recitation (CCR).

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

Each Dedicated Ambulance shall be Wi-Fi capable for the primary purpose of facilitating ePCR transmittal.

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

Substitute Ambulance in the place of Dedicated Ambulances shall be similarly equipped as the Dedicated Ambulances. Use of Substitute Ambulances for periods greater than forty-eight (48) hours shall require notification by Contractor to the Medical Services Deputy Chief or his/her designee. If vehicle will be out of service for more than one-hundred twenty (120) days, Contractor will replace with a vehicle equipped and branded as specified in Section 21.

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

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

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

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

11. Section 2, paragraph 24 (Scheduling and Staffing) shall be amended as follows:

24) Scheduling and Staffing

Scheduling of Contractor's staff will be the responsibility of the Contractor. Contractor will provide continuity of personnel by scheduling required Ambulance staff on A, B, and C shifts in coordination with the Fire Department's existing schedule, as mutually agreed by the parties, in order to create an efficient and harmonious work atmosphere for optimum patient care and transport. Notwithstanding this provision, Contractor shall not be required to staff more than a 36-hour shift schedule.

All Dedicated, permanently assigned Ambulance crews shall have a minimum of one (1) staff member with at least six (6) months service on an Ambulance.

All Ambulance crew personnel assigned to or available to drive Contractor's Ambulances must complete a comprehensive emergency driver-training program and possess a valid Arizona driver's license in accordance with the Arizona Department of Transportation, Motor Vehicle Division requirements and all certification/licensing required by the Arizona Department of Health Services and the City; and Contractor shall prohibit required Contractor's staff from working more than thirty-six (36) consecutive hours without a twelve (12) hour off duty rest interval.

12. Section 2, paragraph 26 (Contractor's Ambulance Crews) shall be amended as follows:

26) Contractor's Ambulance Crews

For ALS Dedicated Ambulances billeted at Tempe Fire Stations, the Contractor shall staff each with one EMT-B Qualified Driver and the City shall staff with one (1) Firefighter Paramedic or one (1) Civilian Paramedic. If the City determines it is unable to provide either a Firefighter or Civilian Paramedic for any period of time, upon receipt of 10 days written notice by the City, Contractor agrees to staff one, or both, billeted Ambulances with one (1) EMT-P employee. Upon the return of such Fire Department Paramedic, City shall provide Contractor at least forty-eight (48) hours written notice of such scheduling change.

For all ALS Dedicated Ambulances not billeted at Tempe Fire Stations, the Contractor shall staff each with no more than two (2) Contractor employees – one (1) employee shall be an EMT-P and the other employee either an EMT-B qualified Driver or EMT-P Qualified Driver.

If the City should request BLS Services, Contractor's BLS Dedicated Ambulances are to be staffed with no more than two (2) Contractor employees – one (1) employee will be an EMT-B and the other employee an EMT-B Qualified Driver.

Contractor shall have control over all personnel staffing its ambulances, and is responsible for establishing the ambulances staffing schedule for all individuals under its control, including City Firefighter Paramedics and Civilian Paramedics. Contractor has the right to refuse particular City personnel as necessary.

Contractor agrees to reimburse City for all costs of either Firefighter Paramedic or Civilian Paramedic provided by the City. The costs for a Firefighter Paramedic, or for a Civilian Paramedic, shall not exceed \$88,757.00 including salary, benefits and overtime. Any increases in these costs shall not exceed the percentage allowed in A.R.S. 36-2234(E). At the Commencement Date, the City will use Civilian Paramedics. The City shall notify the Contractor no later than ninety (90) days prior to the first day of the change, if the City intends to switch from Firefighter Paramedic to Civilian Paramedic, or vice-versa.

13. Section 2, paragraph 27 (Contractor Billing and Collection for Fire Department EMT-P Services) shall be amended as follows:

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

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

14. Section 2, paragraph 31 (Move-Up Policy) shall be amended as follows:

31) Move-Up Policy

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

15. Section 2, paragraph 32 (Solicitation of Information/Patients) shall be amended as follows:

32) Solicitation of Information/Patients

Collection of patient information by Contractor and/or City personnel shall not compromise or detrimentally affect patient care. Contractor and City personnel shall both be responsible for obtaining any information necessary to properly document patient care and support billing for services.

16. Section 2, paragraph 34 (Control of Scene) shall be amended as follows:

34) Control of Scene

The 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 Volume II of the Tempe Fire Department Policies and Procedure Manual and is subject to change and further direction as determined by the Fire Department.

To provide for the transfer of responsibility for the care of such person or persons, City and Contractor hereby establish and agree upon the Patient Transfer Procedures attached hereto and incorporated herein as Exhibit E, specifically detailing such procedures. The parties and their respective medical directors also hereby establish and agree upon the Paramedic Follow-up (Ride-In) Guidelines, attached hereto and incorporated as Exhibit F. The patient's condition will determine the need for a City Fire paramedic to accompany the patient in the ambulance in accordance with the Paramedic Follow-up (Ride-In) Guidelines. Other than an incident which is governed by the Paramedic Follow-up (Ride-In) Guidelines. Contractor shall be responsible to assure patient care during transport, and, therefore shall make the final determination as to who may accompany the ambulance.

17. Section 2, paragraph 43 (Termination of Contract for Default) shall be amended as follows:

43) Termination of Contract for Default

In the event of termination of the Contract for material default(s), the City, consistent with its primary obligation to protect the public health and welfare which may, with or without notice of any kind, require immediate action, including an emergency takeover of Contractor's Dedicated Ambulances, will give Contractor reasonable written notice setting forth the nature of the default(s) and a timeline or deadline by which Contractor must cure such default. Contractor will be permitted to submit a written plan to cure such default(s). Depending on the event of default, Contractor may be afforded the opportunity to cure such default(s) within a timeframe as set forth in the contract. Failure to satisfactorily cure (such failure to be determined in the sole discretion of the City), or failure to timely deliver an acceptable cure plan to the City and to perform the cure in a timely and satisfactory manner may permit the City to terminate the Contract. Contractor will cooperate fully and immediately with the City to effect a prompt and orderly transfer of all responsibilities.

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

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

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

18. Section 2, paragraph 44 (Default by Contractor and Provisions for Termination) shall be amended as follows:

44) Default by Contractor and Provisions for Termination

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

- a) Failure to operate in a manner which enables the City and/or Contractor to remain in compliance with federal, state and local laws, regulations and rules.
- b) Falsification of information supplied prior to subsequent to Contract Award.
- c) Creating or otherwise falsifying Ambulance Responses or transports so as to inflate the volume or value of services.

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

19. Section 2, paragraph 54 (Indemnification by Contractor) shall be amended as follows:

54) Indemnification by Contractor

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

20. Section 2, paragraph 55 (Indemnification by City) shall be amended as follows:

55) Indemnification by City

The City will indemnify, defend and hold harmless the Contractor, its agents, representatives, officers, directors, officials and employees individually and collectively ("Contractor Indemnitee") from for and against any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any attorneys' fees and/or litigation expenses (hereafter collectively referred to as "claims"), which may be brought or made or incurred by Contractor Indemnitee, on account of loss of or damage to any property, for injuries to or death of any person, to the extent such claims are allegedly caused by, arising out of or contributed to by reasons of any act, omission, professional error, fault, mistake, or negligence of the City or any of its employees or agents, unless such claims are caused by Contractor's own gross negligence or intentional misconduct. City's duty to defend, indemnify and hold harmless the Contractor, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense (including but not limited to attorneys' fees and court costs) that is attributable to personal or bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting there from, caused solely by the negligence of the City, its employees or anyone for whose acts the City may be liable, and any and all penalties and damages incurred by Contractor as a result of City's failure to obtain any permit or license required under, or to comply with any applicable laws, ordinances or regulations.

21. Section 2, paragraph 69 (Product Endorsement/Advertising) shall be amended as follows:

69) Product Endorsement/Advertising

Contractor (and any supplier or Subcontractor, or anyone on Contractor's behalf) will not be permitted to use the name of the City for any endorsement without the expressed written permission of the City. Contractor may publicly disclose the fact that it performs services for the City.

22. Section 2, paragraph 76 (Performance Security) shall be amended as follows:

76) Performance Security

Contractor shall be required to furnish non-revocable security binding the Contractor to provide faithful performance of the Contract in the amount one million dollars (\$1,000,000) payable to the City of Tempe. The performance security shall be in the form of a performance bond. This security must be in the possession of the City Procurement Office within the time specified by the City. If the Contractor fails to execute the security document as required, the Contractor shall be found in default and the contract shall be terminated by the City.

23. Exhibit A to the Agreement shall be amended as follows:

**EXHIBITA
AMBULANCE EQUIPMENT LIST**

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

1. AMBU Res-Cue replacement canister:
AMBU Inc. #276 000 010
2. NAJO Backboard – with Tempe Fire Department Lettering:
Ambu/NAJO redihold #NM1070-10850
3. Ferno K.E.D. Board:
Ferno #IE-1250
4. H.A.R.E. Traction Splint with Aluminum ratchet - Adult
Ferno #SP-4440 or equal
5. H.A.R.E. Traction Splint with Aluminum ratchet - Pediatric
Ferno #SP-4430 or equal
6. LSP Suction unit with extra tub or equal
7. S.T.A.R.T. Triage System Kit:
BoundTree #681207
NO EXCEPTIONS
8. Evac-U Splint Mattresses Adapter
Hartwell Medical #EV 15 PSA
9. Evac-U Mattress (Pediatric)
Hartwell Medical #6515 01 398 5469
10. Blood Pressure Cuff – XL Adult
ADC PROSPHYG™ 775X or equal

11. Blood Pressure Cuff – Adult
ADC PROSPHYG™ 775 or equal
 12. Blood Pressure Cuff – Pediatric
ADC PROSPHYG™ 775C or equal
 13. PneuSplint Kit
Laerdal #702-00001
 14. LifePak 15 Monitor/Defibrillator, CPR, Pace, to 360J, SPO2, 12-Lead GL, NIBP, CO2, Trend BT Physio-Control, Inc. #99577-001145
Note: Contractor shall be required to utilize the LifePak 15 monitor/defibrillator or whichever brand and model represents at least 51% of the City of Tempe first response apparatus inventory for that product.
 15. Electric-powered Gurney
 16. Stair Chair / Soft Breakdown
Ferno Model #42 or equal
 17. ThermoScan 4000
Welch Allyn #04000-200 or equal
 18. Blood Glucose Monitor and Strips
Freestyle Precision
Abbott Laboratories #XCGS174-1412 or equal
 19. CPAP Unit and CPAP Masks PORTO2VENT CPAPOS
Note: Contractor shall be required to utilize the CPAP Unit and CPAP Masks or whichever brand and model represents at least 51% of the City of Tempe first response apparatus inventory for that product.
24. Exhibit C to the Agreement shall be amended as follows:

EXHIBIT C

ADDITIONAL REQUIREMENTS FOR DEDICATED AMBULANCES

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

1. Equipment necessary to adequately and safely transport children under the age of eighteen (18);
2. The equipment, materials and supplies by "brand-name" identified in Exhibits A and B;
3. Radios meeting City specifications* that are accessible from the patient treatment compartment of the

- ambulance and equipped with a David Clark (or equivalent) headset and microphone;
4. At least one handheld radio meeting City specifications*;
 5. A Mobile Computer Terminal unit and/or Automatic Vehicle Locator (AVL) meeting City specifications for receiving and transmitting dispatch and status notices;
 6. A cell phone programmed for contacting medical control;
 7. The equipment necessary to activate the Opticom Traffic Signal Pre-emption System meeting specifications approved by the City;
 8. The equipment necessary for Contractor to facilitate its ePCR system;
 9. Weapons of Mass Destruction (WMD) personal protection equipment (PPE) for each Contractor-employed EMT or Paramedic assigned to Dedicated Ambulances. This shall include a hooded suit, gloves, booties, air purifying respirator (APR) and APR cartridges. The PPE must be approved for working in a WMD atmosphere and kept on each Dedicated Ambulance. Contractor's personnel must be trained to operate in the WMD environment use PPE equipment;
 10. Air-conditioning systems in the Ambulance capable of adequately cooling both the patient treatment area and the operator's cab in the extreme desert climate of Tempe, Arizona. Each Dedicated Ambulance shall have auxiliary powered air-conditioning units and an indoor or shaded area for stationing;
 11. Dedicated Ambulances shall have a paint scheme and logos approved by the City, compliant with ADHS regulations and consistent with Section 23 of the Agreement;
 12. The City reserves the right to require Contractor to carry additional equipment during the term of the Contract and will give Contractor reasonable notice as provided in the Contract to make available such additional equipment.
25. Exhibit D to the Agreement shall be amended as follows:

EXHIBIT D

PAYMENT FOR FIRE DEPARTMENT SERVICES

Contractor agrees to pay City a fee for each ambulance transport for which a City Firefighter or Civilian Paramedic provides any ALS services, including occasions where both City personnel and Contractor's personnel both provide ALS. Compensation shall not be required where such transport is conducted in a Dedicated ALS Ambulance that is staffed with a City employed Firefighter Paramedic or Civilian Paramedic. The fee to be paid shall be the difference between the current ADHS approved ALS/BLS base rate in effect at the time service is rendered, not to exceed 35% of all transports not handled by Ambulances staffed with a City Firefighter or Civilian Paramedic. Such fee shall increase in direct proportion to increases in Arizona Department of Health Services regulated fees for ALS ambulance transport.

*annual review and adjustment based on call volume.

26. Exhibit E to the Agreement shall be added as follows:

EXHIBIT E

PATIENT TRANSFER PROCEDURES

It is the policy of the City to provide quality and efficient medical services to all injured or ill patients. The objective of this procedure is intended as a guide to the fire officer, ALS provider, and/or firefighter to act with the patient's well-being in mind.

In order to facilitate the most efficient transfer of patient care from Fire Department to Contractor for patient transportation and/or treatment, the following transfer procedures have been adopted.

Upon Ambulance arrive at the scene of a medical emergency where patient care is being provided by Fire Department personnel, the Ambulance crew shall report to the Command Officer of the scene for possible assignments to assist in any additional care. These subsequent arriving personnel must avoid duplicating any patient assessment or treatment already completed and shall work under the direction of the Officer in Command of the incident.

Fire Department paramedic personnel shall remain in charge of patient care until it is specifically relinquished to ambulance personnel.

The patient's condition will determine the need for the Fire Department paramedic to accompany the patient in the ambulance and to the hospital in accordance with the Paramedic Follow-up (Ride-in) Guidelines attached hereto as **Exhibit F**. Other than an incident which is governed by the Paramedic Follow-up (Ride-in) Guidelines, Contractor shall be responsible to assure patient care during transport, and, therefore shall make the final determination as to who may accompany the ambulance.

The base station hospital will maintain control of the patient and will be the final authority regarding patient care once contact with the base station physician has been made. After hospital destination choice has been determined by either: 1) patient choice or 2) base station medical control, the hospital destination will not be changed without consulting the base station physician or the Fire Department medic on scene. The Fire Department will be notified by Contractor of any changes to hospital destination.

When verbal and/or written reports are required, the following information will be conveyed on the patient condition:

- patient chief complaint,
- all pertinent negative/positive physician findings and patient's current condition,
- all patient treatment done up to the time of transfer,
- name and location of base station physician consulted and orders received (if applicable), and;
- patient destination

Fire Department shall provide a completed Fire Department EMS incident report signed by the Fire Department Paramedic within a reasonable time after the transfer of patient care to the Contractor of the receiving hospital.

All loading of patients into the Ambulance will be the responsibility of ambulance company personnel however, when requested by Contractor, City personnel shall assist in loading patients into the Ambulance. The Contractor shall assure that all ambulance personnel are physically capable of loading most patients, which does not include extremely large or very obese patients, into the ambulance without assistance. If an ambulance employee is physically unable to complete this task the Contractor will remove the employee from emergency

response duties in the City of Tempe.

When requested by the Contractor, and after approval of the fire officer on scene, the Fire Department will provide additional personnel to assist during transport.

When the Ambulance has arrived on the scene of an EMS incident, prior to the arrival of a Fire Department unit, the officer in charge of the subsequently arriving Fire Department unit will seek out the Ambulance attendant in charge for a report on patient care that has already been provided. Following this report, the Fire Department officer may assume Command of the incident/patient.

It shall be the responsibility of all agencies providing patient care to cooperate and assist in treatment and transportation requirements.

Any modification to this Exhibit must be reviewed and approved by DHS prior to implementation.

27. Exhibit F to the Agreement shall be amended as follows:

EXHIBIT F

PARAMEDIC FOLLOW-UP (RIDE-IN) GUIDELINES

PURPOSE

The purpose of this document is to provide guidance in recognizing patient care situations that may require follow-up with a patient by an ALS Provider.

GUIDELINES

This document was developed after careful consideration of the following:

1. The patient's chief complaint and condition.
 2. Patient situations that may require the presence of two ALS personnel during transport to a receiving facility.
 3. Ensuring the availability of qualified providers and sufficient apparatus to the residents, businesses and visitors of the region.
 4. Location of receiving facilities.
 5. Ambulance staffing requirements.
- Each Agency shall establish a quality management (QM) Committee. This QM recognizes that it is ultimately the decision of the ALS members caring for our patients that will determine whether or not it is necessary to accompany the patient (and ambulance paramedic) to a receiving facility. The Committee also recognizes that the decision to accompany a patient should be guided by the patient's presentation including assessment of the patient's mental status, vital signs (including SpO2), lung sounds, skin condition, cardiac rhythm, medical history and medications.
 - An ALS provider is required to follow-up with the patient to the receiving facility in the following situations:
 - A controlled substance used by ALS providers may not be transferred to a different agency or air ambulance providers.
 - Each Agency shall establish their own EMS QM Committee which will regularly monitor compliance with this policy.
 - If an ALS member chooses not to follow-up with the patient in any of the following situations, the member's rationale for that decision must be supported in his or her documentation.
 - Recognizing that it is impossible to produce a comprehensive list of all possible patient situations, the following are provided as examples of situations that may involve an unstable patient:
 - Acute Stroke

- Altered mental status (altered for patient)
- Cardiac arrest requiring transport
- Continuous IV medication infusion established
- Eclampsia/preeclampsia
- Electrical therapy used (e.g. synchronized cardioversion, defibrillation, or transcutaneous pacing)
- Imminent childbirth
- Medication given without improvement or relief of symptoms
- Restraints used. (A patient that is in police custody will require a handcuff key inside the ambulance during transport. The paramedic should have immediate access to keys needed to release handcuffs or other restraining devices.)
- Request of ambulance paramedic
- Seizures
 - Adult – active seizure or status epilepticus
 - Pediatric – first-time seizure, active seizure, unstable febrile seizure, or status epilepticus
- STEMI
- Trauma – all immediate (by injury) patients
- Vaginal bleeding in pregnant patient with fetus viable age (24 weeks)

Additionally, City paramedics may elect to ride-in with patients at their discretion with consideration to:

- Patient condition or presentation
- Mechanism of injury
- Safety concerns
- Continuity of care issues
- Supervisory or educational situations

These Paramedic Follow-Up (Ride-In) Guidelines are agreed upon and approved by the parties' authorized representatives below:

Contractor _____ City of Tempe Fire Department

Name:  _____ Name: _____

Title: SVP & GENERAL COUNSEL _____ Title: _____

Date: 6.20.13 _____ Date: _____

28. Exhibit G to the Agreement shall be amended as follows:

EXHIBIT G

MOVE-UP POLICY

Goal:

It is the goal of PMT Ambulance and Tempe Fire Department's Emergency Transportation System to ensure rapid 911 ambulance response capabilities to all areas of Tempe at all times. Call volume and geography present different challenges. This plan attempts to address both. To better maintain response capabilities throughout the City, PMT has divided the City into three response zones with south, central, and north.

All Tempe PMT units will work the Tempe A-B-C Schedule with 24 hour shifts from 08:00 to 08:00 with crew change at their primary stations.

Response Times:

Tempe response times to remain in compliance are as follows:

10-8 out of chute time 1:30 minutes

On scene code 3 9:00 minutes

On scene code 2 15:00 minutes

Station Locations

M271 1450 E. Apache Blvd (Tempe Fire Station 1)

P-272 3031 S. Hardy Dr.

P-273 1832 E. Southern Ave. Suite AOS

P-274 7520 S. Rural Rd. Suite A-8

P-275 2240 S. Scottsdale Rd. Suite 5

M276 655 S. Ash (Tempe Fire Station 276)

Zones:

North Zone: The area of Tempe north of the Rio Salado. This zone includes:

P-275 2240 S. Scottsdale Rd. Suite 5

Central Zone: The area of Tempe south of the Rio Salado and north of Guadalupe Road. This zone includes:

M271 1450 E. Apache Blvd (Tempe Fire Station 1)

P-272 3031 S. Hardy Dr.

P-273 1832 E. Southern Ave. Suite AOS

M276 655 S. Ash (Tempe Fire Station 276)

South Zone: All of Tempe south of Guadalupe Road. This zone includes:

P-274 7520 S. Rural Rd. Suite A-8

Move-ups for compliance and coverage in Tempe:

- Level 1
Station 273*
*Other central units can cover from their quarters.

- Level 2
Station 274 South and one unit Central.

- Level 3
One unit South and two units Central.

- Level 4 – 6
No move-ups required.

Level one back-up coverage in Tempe

1. P284 may be brought into the City for back-up EMS coverage, provided Chandler is Level 2 or higher.
2. P-601 may be brought into the City for back-up EMS coverage, provided Scottsdale is Level 3 or higher.
3. Non-MCT PMT units may also be brought into the City for back-up EMS coverage. (If a non-MCT unit is used in Tempe, Tempe Ambulance Contract Administrator is to be notified via telephone. (480) 797-3582.

Exception Reports

Exception reports are to be generated on every call that:

- Has an out of chute time greater than two minutes.
- Has a Code two response time greater than 15:00 minutes.
- Has a Code three response time greater than nine minutes.

Guadalupe

The Town of Guadalupe is adjacent to Tempe on Tempe's central western border. EMS calls in Guadalupe are dispatched by the Phoenix Fire Department Regional Dispatch Center (PFDRDC) the same as Tempe. PMT ambulances will be dispatched into Guadalupe for emergency transportation by PFDRDC in the same manner as if Guadalupe was a part of Tempe.

IN WITNESS WHEREOF, the parties hereto have executed this Modification of Contract #TO8-053-01 this _____th day of _____, 2013.

CITY OF TEMPE

Mayor

ATTEST:

Brigitta Kuiper
City Clerk

APPROVED AS TO FORM:

Judith R. Baumann
City Attorney

PROFESSIONAL MEDICAL TRANSPORT, INC.


Senior Vice President and General Counsel