

## **AGREEMENT FOR HOUSING OF PERSONNEL AND EQUIPMENT**

This Agreement, between the CITY OF FULLERTON ("FULLERTON"), a municipal corporation, and CARE AMBULANCE SERVICE, INC. ("CONTRACTOR") is dated for purposes of identification only this 18 day of January, 2010.

### **BACKGROUND**

FULLERTON and CONTRACTOR entered into an Agreement dated November 20, 2003 for Emergency Medical Transportation and Related Services ("Ambulance Transport Agreement").

The Ambulance Transport Agreement requires CONTRACTOR to serve FULLERTON twenty four (24) hours per day, seven (7) per week, and to house the ambulances and ambulance crews within the boundaries of FULLERTON.

FULLERTON and CONTRACTOR find that it is within the public health, safety and general welfare and mutual convenience and interests of the parties to house the ambulances and ambulance crews assigned to FULLERTON within the fire stations of FULLERTON.

Therefore, the parties agree as follows.

### **AGREEMENT**

#### **Section 1. Housing of Ambulance Crews and Equipment**

A. FULLERTON agrees that ambulance crews operating ambulance transport services for FULLERTON and ambulances assigned exclusively to FULLERTON in accordance with the Ambulance Transport Agreement may be housed in Fire Stations 1,

and any other FULLERTON fire station that the Fullerton Fire Chief, in his sole discretion, may deem necessary.

B. The areas of the living quarters of the fire stations where CONTRACTOR's ambulance crews will be housed, including but not limited to kitchen, restroom and locker facilities, will be determined by the Fire Chief, or his designee.

C. CONTRACTOR's ambulance crews must abide by any rules and regulations that may be promulgated by the Fire Chief or his designee regarding the housing of its crews at FULLERTON Fire Stations.

D. CONTRACTOR's ambulance crews housed at FULLERTON fire stations must not use the fire stations for any purposes other than ambulance transport services for FULLERTON.

E. CONTRACTOR must not use the FULLERTON fire stations designated for housing of ambulance crews in any manner that will interfere with or infringe upon the rights of the fire department employees.

F. CONTRACTOR's ambulance crews must keep the portions of the fire stations designated for their use in good condition and repair. All damages or injury to the fire stations or its contents caused CONTRACTOR, its employees, agents or visitors must be promptly repaired by CONTRACTOR at its sole cost and expense and to the satisfaction of the FULLERTON Fire Chief.

G. CONTRACTOR must not make any alterations, changes or additions in or to the fire stations without the prior consent of the FULLERTON Fire Chief.

## **Section 2. Term and Termination**

The term of this Agreement runs concurrently with the Ambulance Transport Agreement, including renewal periods, except that this Agreement may be terminated by either party at any time upon providing the other party thirty (30) days written notice of termination.

Termination of this Agreement prior to termination of the Ambulance Transport Agreement will not extinguish CONTRACTOR's obligation to house the ambulances and ambulance crews within the boundaries of FULLERTON or any such other location that may be designated by the Fire Chief.

## **Section 3. Compensation**

CONTRACTOR will compensate FULLERTON \$1,500.00 per month per fire station utilized for housing ambulances or ambulance crews. This amount includes the costs of all general maintenance, custodial services, heating and air conditioning services and utilities (with the exception of telephone services) CONTRACTOR must provide, at its own expense, telephones and telephone service for itself, its employees or agents

CONTRACTOR's payments must be made no later than the first day of every month, except that the first payment must be made no later than ten (10) days after this Agreement commences.

## **Section 4. Designation of Agents**

FULLERTON Fire Chief, or his designee, will represent FULLERTON in all matters pertaining to this Agreement

The Co-CEO of CONTRACTOR or his designee will represent CONTRACTOR in all matters pertaining to this Agreement.

**Section 5. No Third Party Rights**

The parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or any duty, covenant, obligation or undertaking established by this Agreement, except as set forth in Section 6 below.

**Section 6. Indemnity**

CONTRACTOR agrees to indemnify, defend (at FULLERTON's option) and hold harmless FULLERTON and MetroCities Fire Authority, their officials, officers, agents, employees, representatives and FULLERTON designated volunteers from and against any and all claims, demands, defense costs, actions, litigation, liability, or consequential damages of any kind or nature arising out of or in connection with the performance of, or failure to perform under the terms of this Agreement by CONTRACTOR or its employees, officers, representatives and agents, products, suppliers and subcontractors, except only those which arise out of the sole, active negligence of FULLERTON

Neither FULLERTON nor its employees, officers or representatives will be held liable for any damage to property of CONTRACTOR, its employees, officers or agents, nor for the loss of or damage to any property by theft or otherwise, nor for any injury or damage to persons' property resulting from construction, repair, or alterations of the fire stations, or from fire, explosion, falling plaster, steam, gas, electricity, water, rain or any other source. It is CONTRACTOR's option, , to purchase, at CONTRACTOR's expense, property insurance covering any personal property or real property betterments which CONTRACTOR or CONTRACTOR's employees may have in the fire stations If

procured, such insurance must have a waiver of subrogation claims in favor of FULLERTON.

**Section 7. Insurance.**

Without limiting FULLERTON's right to indemnification, it is agreed that CONTRACTOR must secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

Medical Professional Liability

Medical Professional Liability Insurance in an amount not less than \$3,000,000. **If policy is written as a "claims made" policy, the retro date of the policy shall be prior to the start of the contract work and the Contractor shall provide and maintain the appropriate "tail" policy.** If policy carries an annual aggregate, such aggregate shall be in an amount not less than \$6,000,000.

Workers' Compensation/Employer's Liability

Workers' Compensation and Employer's Liability Insurance in a statutory amount for workers' compensation, and in an amount not less than \$1,000,000 for employer's liability. Such insurance must contain a waiver-of-subrogation clause in favor of FULLERTON, its officers, officials, employees, agents, representatives and volunteers

Commercial General Liability

Commercial General Liability Insurance in an amount not less than \$3,000,000 per occurrence, written on an occurrence form **If policy is written as a "claims made" policy, the retro date of the policy shall be prior to the start of the contract work and the Contractor shall provide and maintain the appropriate "tail" policy.** If

policy carries an annual aggregate, such aggregate shall be in an amount not less than \$6,000,000.

Business Automobile Liability

Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, written on an occurrence form. If policy carries an annual aggregate, such aggregate shall be in an amount not less than \$2,000,000.

The Commercial General and Business Automobile Liability policy shall contain or be endorsed to contain the following provisions:

FULLERTON, its elected or appointed officials, officers, employees and volunteers are to be covered as additional insureds with respect to liability arising out of products, materials, or services of the vendor; or with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the CONTRACTOR. In the event that CONTRACTOR is providing service to FULLERTON, such coverage as an additional insured shall not be limited to the period of time during which the CONTRACTOR is conducting ongoing operations for the FULLERTON but rather, shall continue after the completion of such operations. The coverage shall contain no special limitations on the scope of its protection afforded to the FULLERTON, its officers, employees and volunteers

This insurance shall be primary insurance as respects FULLERTON, its officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by FULLERTON, its officers, employees and volunteers shall be excess of this insurance and shall not contribute with it.



**Section 8. Independent Contractor**

CONTRACTOR's relationship to FULLERTON under this Agreement is in the capacity of an independent contractor and not as an officer, agent, or employee of FULLERTON. CONTRACTOR agrees that FULLERTON is not liable or responsible for any benefits, including, but not limited to, workers' compensation, disability, retirement, life, unemployment, health or any other benefits. CONTRACTOR agrees that it will not sue or file a claim, petition or application relative to any of the above against FULLERTON or any of its officers, employees, agents, representatives or sureties.

**Section 9. Possessory Interest**

CONTRACTOR recognizes and understands that this Agreement may create possessory interests subject to property taxation, and in such case, CONTRACTOR agrees to pay any property tax levied on such interest. This provision constitutes notice of the possibility of the imposition of a possessory interest tax as contemplated by Revenue & Taxation Code Section 107.6.

**Section 10. Laws Governing Construction of Terms**

This Agreement is governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement must be filed in a court of the State of California having jurisdiction of the subject matter, and venue must be in the County of Orange, State of California.

**Section 11. Assignment and Delegation**

CONTRACTOR may not delegate or assign the rights or obligations under this Agreement, either in whole or in part, without prior written consent of FULLERTON, which may be withheld with impunity by FULLERTON. Any attempted assignment or

delegation in derogation of this paragraph is void. For purposes of this section, a transfer or sale by any shareholder of greater than 10% of the stock currently issued by CONTRACTOR, or a sale or transfer of over 25% of the assets of CONTRACTOR, will be deemed an assignment.

## **Section 12. Integration Clause**

A. This writing constitutes the entire agreement between the parties with respect to CONTRACTOR housing ambulances and crews at FULLERTON's fire stations, and supersedes all oral or written representations or written agreements which may have been entered into between the parties. No modification or revision will be of any force or effect, unless the same is in writing and executed by the parties. Any section of the RFP Response not specifically incorporated into this Agreement, either by reference or by actual inclusion, must not be considered as part of this Agreement and has no force or effect.

B. If any provision of this Agreement is held invalid, such invalidity will not affect the other provisions, and to this extent, the provisions of this Agreement are intended to be and will be deemed severable.

## **Section 13. Notices**

Any notices, documents, correspondence or other communications concerning this Agreement may be provided by personal delivery, facsimile or mail and must be addressed as set forth below. Such communication will be deemed served or delivered:

a) at the time of delivery if such communication is sent by personal delivery; b) at the



time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail

IF TO CONTRACTOR:

Tel:  
Fax:  
Attn:

with a copy to  
Fullerton Fire Department  
312 E Commonwealth  
Fullerton, CA 92832  
Attn: Fire Chief

IF TO FULLERTON:

City of Fullerton

Tel:  
Fax:  
Attn:

**Section 14. Effective Date and Authority**

CONTRACTOR and CONTRACTOR's signators represent that the signators hold the positions set forth below their signatures and that the signators are authorized to execute this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to this Agreement

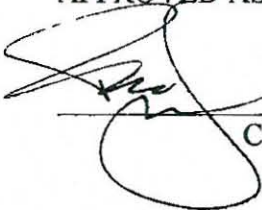
The effective date of this Agreement is the latest date of execution set forth opposite the names of the signators below. In the event CONTRACTOR fails to set forth a date of execution opposite the name(s) of CONTRACTOR's signator(s), CONTRACTOR authorizes FULLERTON, by and through its representative, to insert the date of

execution by CONTRACTOR's signator(s) as the date the Agreement, as executed by  
CONTRACTOR, is received by FULLERTON.

CITY OF FULLERTON  
A Municipal Corporation

By   
City Manager

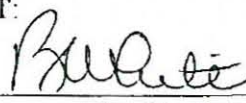
APPROVED AS TO FORM:

  
City Attorney

DATE OF EXECUTION.

1-18-10

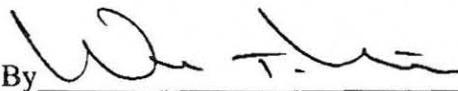
ATTEST:

  
City Clerk

CARE AMBULANCE SERVICE, INC.  
A California Corporation

DATE OF EXECUTION:

1-14-2010

By 

Printed Name WILLIAM T. WESTON

Title DIRECTOR

"CONTRACTOR"