

AGREEMENT FOR 9-1-1 AMBULANCE RESPONSE AND EMERGENCY MEDICAL SERVICES

THIS AGREEMENT ("Agreement") is made and entered into this 15 day of November 2005, by and between GOLD CROSS EMS, Inc., a Georgia Corporation (the "Contractor"), and AUGUSTA, GEORGIA, AUGUSTA-RICHMOND COUNTY GEORGIA, a political subdivision of the State of Georgia (the "City").

WHEREAS, Contractor is the owner and operator of certain emergency medical care vehicles and equipment designed to respond to requests for and provide emergency medical care and transportation and has in its employ trained personnel whose duties are related to the use of such vehicles and equipment and to the provision of emergency medical services;

WHEREAS, City desires that Contractor provide ambulance response to 9-1-1 Calls for ambulance transportation and emergency medical service within the Service Area upon the terms and conditions set forth in this Agreement; and

WHEREAS, Contractor desires to provide ambulance response to 9-1-1 calls for emergency medical services and medical care in conjunction therewith within the Service Area upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premise, the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I

DEFINITIONS

The following terms when used in this Agreement shall have the meanings as follows:

- 1.1. **Act** means the Georgia Emergency Medical Services Act (O.C.G.A. §31-11-1 et seq.) and the regulations promulgated there under by the Georgia Department of Human Resources (Ga. Comp. R. & Regs. §290-5-30-.01 et seq.).
- 1.2. **Advanced Life Support (ALS) Ambulance** means an ambulance staffed by a Paramedic or Cardiac Technician who is available to treat a patient(s) on the scene and during transportation to the hospital, and is properly equipped to perform the procedures outlined in the Public Health Code.
- 1.3. **Ambulance** means a motor vehicle registered by the Department that is specially constructed and equipped and is intended to be used for emergency transportation of patients.
- 1.4. **Ambulance Service** means the providing of emergency care and transportation on the public streets and highways of this state for a wounded, injured, sick, invalid, or incapacitated human being, to or from a place where medical or hospital care is furnished.

- 1.5. **Contract Administrator** means the person assigned by the City of Augusta with daily oversight of the EMS Contract and shall be the City of Augusta Fire Chief or designee.
- 1.6. **Department** means the Georgia Department of Human Resources.
- 1.7. **EMA Director** means the Director of the Augusta Richmond County Emergency Management Agency.
- 1.8. **Emergency** means a 9-1-1 Call designated as Priority One or Priority Two (generally with circumstances, which may be of a life-threatening or limb-threatening nature and which apparently require immediate response).
- 1.9. **Emergency Medical Services** or "EMS" means medical care rendered by EMS Personnel at the scene of an emergency and during transport of a patient from the scene of an emergency to an appropriate hospital.
- 1.10. **EMSAB** means the Emergency Medical Service Advisory Board to be appointed by the City Administrator.
- 1.11. **EMS Personnel** means any licensed emergency medical technician, certified cardiac technician, certified paramedic, or first responder.
- 1.12. **EMS System** means the comprehensive coordinated arrangement of resources and functions to respond to medical emergencies and other medical needs in conjunction with providing EMS in the Service Area.
- 1.13. **First Responder** means an individual who has successfully completed an approved first responder course, with a minimum of 40 hours training.
- 1.14. **License or Licensed** means that a person or an entity has complied with all requirements of the Act, the Department, and all other regulatory bodies necessary to perform its respective EMS functions.
- 1.15. **Medical Director** means the licensed physician designated as the "Ambulance Service Medical Director" or "Medical Advisor" (as defined by the Rules of the Department) to provide medical direction and control for Contractor's operations in Augusta, Georgia.
- 1.16. **Medical Program Director** means the licensed physician (or his/her designee) employed by the City as the Fire Department Medical Director.
- 1.17. **Medical Protocol** means a written statement of standard procedure, promulgated by the Department or the Medical Director as the medically appropriate standard of out-of-hospital care for a given clinical condition.
- 1.18. **Mutual Aid Agreement** means a written agreement between two or more providers of Emergency Medical Services in the same or contiguous counties whereby the parties agree to provide assistance to one another under certain circumstances.
- 1.19. **9-1-1 Call(s)** means all requests for Emergency Medical Services received by the PSAP, including requests categorized as Non-Emergencies (Priority Three) for purposes of triage.

- 1.20. **Non-Emergency** means a 9-1-1 Call designated as Priority Three for purposes of triage.
- 1.21. **O.C.G.A.** means Official Code of Georgia Annotated.
- 1.22. **Patient** means an individual who is ill, sick, injured, wounded, helpless or otherwise incapacitated, and who is in need of, or is at risk of needing medical care or assessment during transportation to or from a health care facility, and who is reclining or should be transported in a reclining position.
- 1.23. **Patient Charges** means those amounts charged to Patients by Contractor for services provided hereunder.
- 1.24. **PSAP** means the 9-1-1 Public Safety Answering Point as defined by the Telecommunications Act.
- 1.25. **Priority** means the call priority number (i.e., Priority One, Two or Three) assigned to all requests for an Ambulance received by the Contractor's Dispatch Center, pursuant to telephone algorithms and protocols.
- 1.26. **Response Time** means the elapsed time between Time-Dispatched and Time-On-Scene, as recorded by the dispatching Contractor's Dispatch Center.
- 1.27. **Response Time Exception** means a Response Time that exceeds the applicable Response Time Standard.
- 1.28. **Response Time Exemption** means a Response Time Exception that, for reasons set forth herein, is excluded from the calculation of compliance with the applicable Response Time Standard.
- 1.29. **Response Time Standard** means the applicable response time performance requirement set forth herein for response to 9-1-1 calls for emergency medical services by priority and urban and rural area.
- 1.30. **Rural** means those areas generally south of Willis Foreman Road and Brown Road, in Augusta Richmond County, Georgia, as shown on Exhibit "A", a map captioned "EMS Response Zones January 2006 Contract", which is attached hereto and incorporated herein by reference.
- 1.31. **Service Area** means that area which is contained within the boundaries of Richmond County, Georgia, excluding Fort Gordon.
- 1.32. **SLA** means the Service Level Agreement between the parties, as it may be amended from time to time by the Contract Administrator and the Contractor.
- 1.33. **State** means the state of Georgia and its regulatory agencies.
- 1.34. **Subsidy** means those funds provided to Contractor by the City to fulfill its obligation to provide care for needy inhabitants as described herein.
- 1.35. **Time-Call-Dispatched** means the time the Contractor has obtained the minimum information necessary to respond (i.e. the location and chief complaint), as recorded by the Contractor's Dispatch Center.

- 1.36. **Time-On-Scene** means the time an Ambulance or Contractor's personnel licensed to render ALS services arrives at the scene of an incident giving rise to the request for an ambulance.
- 1.37. **Urban** means those areas generally located north of Willis Foreman and Brown Roads, in Augusta Richmond County, Georgia as shown on Exhibit "A", a map captioned "EMS Response Zones January 2006 Contract", which is attached hereto and incorporated herein by reference.

ARTICLE II

TERM AND SCOPE OF AGREEMENT

- 2.1 **TERM; OPTIONS TO RENEW.** The term of this Agreement commences on December 31, 2005 at 11:59 p.m. and ends at 11:59 p.m. on December 31, 2006; with an option by the City to extend the contract up to two additional years in one year increments. City will notify Contractor of its exercise of its option to renew for 2007 on or before 11:59 p.m. on June 30, 2006. City will notify Contractor of its exercise of its option to renew for 2008 on or before 11:59 p.m. on June 30, 2007. Said renewal terms, if exercised, will commence on December 31, 2006 at 11:59 p.m. and December 31, 2007, respectively.
- 2.2 **SCOPE OF AGREEMENT/SERVICE EXCLUSIONS.** During the term of this Agreement, Contractor shall furnish quality Emergency Medical Services and appropriate patient care throughout the Service Area in response to 9-1-1 Calls in compliance with applicable statutes, rules, and regulations and in accordance with medical direction and control. Such services may be performed on-scene and/or en route to an appropriate treatment facility. This Agreement does not control the provision of non-emergency Ambulance Service by Contractor or other Ambulance Service providers in City.
- 2.3 **PROVISION OF SERVICES.** Contractor shall manage all day-to-day operations, including dispatch, field operations, billing, collections, purchasing and other operational functions. Contractor shall negotiate all Mutual Aid Agreements for the Service Area, maintain all facilities and equipment; hire/terminate and provide or arrange for in-service training of all EMS Personnel; propose and provide justification for rate changes, with final approval by City; manage all billing and collection functions; provide monthly financial reports to City required herein; solicit in good faith the recommendations of City, the public and the hospitals operating in the Greater Augusta Metropolitan Area for improvements in the EMS System in the Service Area; cooperate with and respond to City on matters related to Patient care; and generally manage all aspects of the EMS System's operations. Contractor's services shall include, but not be limited to, the following:
- a Employing and managing all EMS Personnel;
 - b Insuring that each Ambulance crew meets State requirements for licensors and certification;
 - c Providing employee in-service training sufficient to meet State recertification requirements;
 - d Providing sufficient Ambulances, equipment, supplies and maintenance to perform under this Agreement, with additional ambulances added and dropped throughout the day in accordance with anticipated call volume. Ambulances may be posted at various locations around the City when not on call.
 - e Furnishing all fuel, lubricants, repairs, initial supply inventory and all supplies;
 - f Operating the EMS System to meet all clinical and Response Time Standards;
 - g Maintaining good working relationships with public safety agencies in the Service Area;

- h Providing the public with information concerning EMS;
- i Conducting all billing and collection activities and procedures; however, Contractor shall not delay or deny any treatment or transport due to any patient's inability to pay;
- j Providing sufficient dispatch, equipment, supplies and maintenance to perform under this Agreement, which shall include the transfer of Medical 9-1-1 calls to the contractor's dispatch center for Emergency Medical Screening by the contractor's call taking personnel and assignment to a responding ALS Ambulance by the contractor's dispatch personnel;
- k Interfacing with appropriate State and local 9-1-1 dispatching agencies;
- l Ensuring professional conduct and appearance of all office and field personnel;
- m Securing mutually beneficial support agreements with neighboring ambulance services, with notice to City;
- n In. Maintaining a Georgia Ambulance license, all state and local vehicle permits required by law, and all Licenses and certifications required by law for its EMS Personnel; and
- o Providing a defined Quality Assurance process to the City.

2.4 **ALL-ALS, FULL-SERVICE SYSTEM.** All vehicles initially responding to Priority One and Priority Two 9-1-1 Calls pursuant to this Agreement shall be staffed and equipped to provide ALS care. The paramedic shall be the primary care giver for patients and shall accompany any patient requiring ALS intervention in the patient compartment of the Ambulance during patient transport.

2.5 **DISASTER ASSISTANCE.** During a declared disaster, locally or in a neighboring jurisdiction, the nominal course of business under this Agreement shall be interrupted from the moment the Contractor has been notified of the disaster situation by the EMA Director or designee. Immediately upon such notification, Contractor shall commit such resources as are necessary and appropriate, given the nature of the disaster, and shall assist in accordance with disaster plans and protocols applicable in the locality where the disaster has occurred. The disaster-related provisions of this Agreement are:

- a During such periods, Contractor shall be released from response time performance requirements, including late run penalties, until notified by the EMA Director or designee that disaster assistance is terminated. At the scene of such disasters, Contractor's personnel shall perform in accordance with local disaster protocols established by that community.
- b When disaster assistance has been terminated, Contractor shall resume normal operations as rapidly as is practical considering exhaustion of personnel, need for restocking, and other relevant considerations.
- c During the course of the disaster, Contractor shall use best efforts to provide emergency coverage within the Service Area and shall suspend Non-Emergency transport work covered by this Agreement as necessary, informing persons requesting such Non-Emergency service of the reason for the temporary suspension.

d In the event that the City Administrator determines that additional resources are necessary to respond to the Disaster, provision of such services by Contractor shall be pursuant to a separate agreement between Contractor and City.

2.6 **MUTUAL AID.** Contractor shall secure Mutual Aid Agreements with other Ambulance Services in or near the Service Area, subject to the City's approval, which shall not be unreasonably withheld. In the course of rendering such Mutual Aid services, the Contractor shall not be exempt from response time compliance and late-run penalties imposed by this Agreement. Copies of all Mutual Aid Agreements shall be filed with the Contract Administrator.

2.7 **CLINICAL STANDARDS.** Minimum standards regulating medical protocols; employee recruitment, screening and orientation; qualifications of ambulance personnel; in-service training and quality improvement; research; specific clinical performance parameters; materials management and equipment QA; and employee safety and training shall be as set forth herein, and, in addition to applicable state and local laws and regulations, shall constitute contractually binding performance requirements under this Agreement.

2.8 **PSAP OPERATIONS.** On all on calls transferred to the Contractor's Dispatch Center from the City of Augusta PSAP, the Contractor shall use appropriate Emergency Medical Dispatch (EMD) protocols. Once the Contractor's Dispatch Center determines a need for First Response by the Augusta Fire Department, they will contact the Augusta 9-1-1 Center for dispatch of the First Response. Designated one button transfers will be established between the Contractor's Dispatch Center and the Augusta 9-1-1 Center by the Contractor. The Contractor will be required to furnish, at the Contractor's expense, radio communication capability for each 9-1-1 Ambulance to facilitate radio communication to the City's First Responder's and other Public Safety Responders using the current 800 MHz radio system of the City.

2.9 **Response Time Standards.** Contractor shall employ sufficient resources to achieve the following Response Times:

Level	Urban	Rural
Priority 1	less than 8:00 minutes – 90% of calls	less than 10:00 minutes - 90% of calls
Priority 2	Less than 10:00 minutes – 90 % of calls	less than 12:00 minutes – 90% of calls
Priority 3	20 minutes or less – 89% of calls	20 minutes or less – 80% of calls

2.10 **Response Time Measurement, Compliance Reporting And Late Run Penalty Assessment.**

a **Reporting Requirements.** Within fifteen (15) business days after the close of each month the Contractor shall provide the Contract Administrator an initial response time performance report relative to every request for 9-1-1 ambulance service originating within each priority and zone classification (urban,, and rural), within the Service Area. Separate reports shall be submitted for Urban, , and Rural areas. Monthly reports shall include a listing by zone classification (i.e., urban, , and rural) of Response Time Exceptions, including responses for which the Contract Administrator may grant Response Time Exemptions, as provided herein. The format of such report shall be as approved by the Contract Administrator.

- b **Request for Response Time Exemption.** Not later than fifteen (15) business days after the end of each calendar month, the Contractor shall submit a list identifying Response Time Exceptions for which it requests a Response Time Exemption. Within thirty (30) days those exceptions shall be reviewed by the Contract Administrator, who with the Medical Program Director, shall determine whether an Exemption will be granted. A final response time report shall then be provided by the Contract Administrator to the City Administrator.

The Contractor's request shall include sufficient documentation of the circumstances of each incident to justify an Exemption. Based upon information presented by the Contractor, and after consultation with a Contractor representative and the Medical Program Director or his designee, the Contract Administrator shall approve or deny each Exemption request prior to the issuance of a final response time report. The Contract Administrator shall not unreasonably withhold approval of such requests. In the event of an unresolved dispute between the parties regarding one or more requests for Exemption, the Contractor may at its option appeal to the City Administrator, whose decision shall be final.

Response Time Exemptions shall be granted for:

- 1 Requests occurring during a period of unusually severe weather conditions such that response time compliance is either impossible or could be achieved only at a greater risk to EMS personnel and the public than would result from delayed response. The Contractor shall make such requests to the Contract Administrator within fifteen (15) days after the event.
 - 2 Requests during a declared disaster confirmed by the Contract Administrator, locally or in a neighboring jurisdiction, in which the Contractor is rendering assistance. During such periods, the Contractor shall use best efforts to simultaneously maintain coverage within the Service Area while providing disaster assistance as needed. Upon resolution of the disaster event, the Contractor shall apply to the Contract Administrator for retrospective relief from late-run penalties accrued during the period of disaster assistance and for a reasonable period of restocking and recovery thereafter; and the Contract Administrator shall not unreasonably withhold approval of such request.
 - 3 Delayed responses due to a mass casualty incident (MCI), where the dispatch of more than two ambulances to one scene causes a delayed response to other requests. The Exemption shall apply from the time the third ambulance is dispatched through the time two of the ambulances responding to the MCI are back in service (have cleared the call).
 - 4 Calls that do not result in patient transport by the Contractor. This may be the result of no patient on scene or patient elects private transport to a medical facility. NOTE: see 2.10 e 1 on page 9.
- c **Requests for Routine Medical Transportation.** 9-1-1 Calls that are requests for routine medical transportation (e.g. to a doctor's office rather than an emergency room). Contractor shall not be required to respond to such calls with an ALS Ambulance and/or may refer the call to Contractor's non-emergency operation or to an alternate transportation service.
- d **No Other Exemptions.** No other causes of late response within Contractor's reasonable control (i.e., equipment failure, at fault vehicular accident) shall serve to justify Exemption from Response Time

Standards or late-run penalties unless specifically authorized by the Contract Administrator or the Medical Program Director.

- e **Method of Measurement.** For purposes of this determining Contractor's compliance with Response Time Standards, the following shall apply:
 - 1 Requests not resulting in patient contact, unless the call was cancelled after expiration of the applicable Response Time Standard, shall not be counted;
 - 2 For purposes of compliance, Time-On-Scene shall be the time an ambulance crew notifies the Contractor's Dispatch Center that it has arrived at the incident location. Responses to locations lacking access by way of a street or road maintained for public or private use shall be measured as the interval between Time-Call-Dispatched and the time the responding crew advises the Contractor's Dispatch Center they are leaving the maintained street or road to access the patient. In situations when the ambulance has responded to a location other than the scene (i.e., staging area), arrival "at scene" shall be the time the ambulance arrives at the designated staging location. Non-compliance with this rule is considered falsification of data.
 - 3 In cases where multiple vehicles are dispatched to a single incident, the Contractor's first arriving paramedic shall "stop the clock," and response times of later-arriving units shall be excluded for response time statistics and late-run penalties;
- f **Statistical Significance.** A minimum 100 calls per month for each priority type shall be required to support a determination of non-compliance.
- g **Incorrect Information.** In the event a calling party gives the Contractor's Dispatch Center an incorrect address, and the stated address is repeated back to the calling party by the dispatcher, and is confirmed by the caller as the correct address, response time shall be measured from the time the Contractor's Dispatch Center receives or otherwise discovers the correct address until the Contractor's ambulance arrives at the scene.
- h **Late Run Liquidated Damages.** Within thirty 30 days of the final response report for each month, the Contractor shall pay a penalty of Five Hundred Dollars (\$500) for each Response Time Standard that it fails to meet in a given month (taking into account the provision of 100 or more non-exempt responses). In the event of such non-compliance, the Contractor shall also pay the City late-run penalties for Contractor's longest responses, using the number of responses equal to the percentage of non-compliance (e.g., compliance of 88% means 2% of calls are non-compliant). For each whole minute a subject Response Time exceeds the applicable Response Time Standard, Contractor shall pay the following penalties:

Priority One	\$ 12 per minute.
Priority Two	\$6 per minute.
Priority Three	\$3 per minute.

However, the maximum penalty for Priority One and Two responses shall be \$180 per call, and maximum penalty for Priority Three 9-1-1 responses shall be \$150 per call.

2.11 **WORK FORCE AND PERSONNEL PROVISIONS.** The Contractor shall maintain minimum standards of work force and personnel commitments equal to or superior to the commitments set forth herein, subject to the following provision:

- a **Character and Competence of Personnel.** All persons employed by Contractor in the performance of work under this Agreement shall be competent and holders of appropriate permits in their respective trades or professions. The City may demand the removal of any person employed by Contractor who chronically misconducts his or herself, or is chronically incompetent or negligent in the due and proper performance of his or her duties; and such person shall not be reassigned by Contractor to provide services under this Agreement without the written consent of the Contract Administrator; provided, however, that the Contract Administrator shall not be arbitrary or capricious in exercising such rights under this provision, and shall be required in writing the specific reasons for exercising such rights relative to any given employee and, prior to removal, shall also give that employee an opportunity to defend himself or herself in the presence of the City Administrator, and if the issue is clinically related, the Medical Program Director.
- b **Professional Conduct/Courteous Service.** The City expects and requires professional and courteous conduct at all times from Contractor's EMS personnel, administrative personnel, middle management and top executives. Contractor shall address and correct any departure from this standard of conduct.
- c **Reasonable Work Schedules/Working Conditions.** While this Agreement is a "performance contract," and while Contractor is not only allowed but encouraged to employ its own methods and techniques for producing the required performance reliably and efficiently, Contractor is expressly required to utilize reasonable work schedules, shift assignments, and to provide adequate working conditions so as not to compromise patient care.
- d **Non-Discrimination.** Contractor agrees as follows:
 - 1 Contractor, during the performance of this Agreement, agrees to comply with all applicable provisions of federal, state, and local laws and regulations pertaining to prohibited discrimination.
 - 2 Contractor will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, disability or age. Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, national origin, sex or age (to the extent required by law). Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
 - 3 Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, disability, sex or age (to the extent required by law).

- e **Risk Management and Safety Program.** The Contractor shall utilize a risk management/safety program throughout the term of this Agreement. This program shall meet appropriate OSHA requirements and may include: physical ability testing, regularly scheduled safety reviews, emergency vehicle operations training, lifting and equipment safety training, training in hazardous materials, training on infection control and blood borne pathogens, and general personal safety training in the pre-hospital environment.

2.12 MONTHLY REPORTS.

- a Within fifteen (15) business days after the close of each month, the Contractor shall provide the Contract Administrator with written monthly reports containing the following information: (i) Unit Utilization and Transports; (ii) Call Volume by Priority; (iii) Transport Volume by Priority; and (iv) an initial response time performance report including every request for ambulance service originating within each zone classification (urban, suburban, and rural), within the Service Area. This report shall include the listing by zone classification of response time exceptions, including responses for which Contractor requests a Response Time Exemption, as provided herein.
- b Within thirty (30) days after the close of each month, the Contractor shall provide the Contract Administrator with a written monthly report containing the following information: Cardiac Arrest Statistics; Procedural Statistics; Continuing Education offered; Number of Patient Care Investigations/Inquiry Category,

2.13 **QUARTERLY CONTRACT COMPLIANCE.** Within ten (10) business days of the end of each month for the first two months of Contract implementation, and within ten (10) business days of the end of each year's quarter then following, the Contractor shall provide a summary on the performance obligations established in this Agreement to the Contract Administrator.

2.14 **QUARTERLY FINANCIAL STATEMENTS.** Within twenty business days of the end of each quarter year, Contractor shall provide the City Administrator with a financial report of its EMS operation (the services provided under this Agreement) on a form approved by the City Administrator showing net revenue, expenses, and collection percentage.

2.15 **QUARTERLY EQUIPMENT REPORT.** Within fifteen (15) business days after the end of each year's quarter, the Contractor shall provide the Contract Administrator with a list of the Vehicle Identification Numbers and corresponding mileage on each front line ambulance and back up ambulance used in the performance of Contractor's duties under this Agreement.

2.16 **SYSTEM STATUS MANAGEMENT PLAN ("SSM").** The City recognizes that to enhance performance, continual SSM Plan adjustments will be made at the Contractor's sole discretion. However, the Contractor shall inform the Contract Administrator of any changes, including any changes in post locations, and coverage levels, immediately upon implementation of the changes.

2.17 **INCIDENT REPORTS.** All incidents or complaints concerning the Contractor arising out of this Agreement shall be submitted to the Contract Administrator or the Medical Program Director and Contractor shall provide City any additional information concerning such incident or complaint as reasonably requested by the Contract Administrator or the Medical Program Director. The City shall have the right to inspect and/or copy all Patient Care Reports and all Trip Reports subject to applicable law regarding disclosure.

- 2.18 **MISCELLANEOUS.** The Contractor shall assist the City in preparing miscellaneous reports required or requested by the Medical Program Director, or any state or federal agency.
- 2.19 **INSPECTIONS.** City representatives may, at any time, and without notification, directly observe the Contractor's operation of the Contractor's Dispatch Center, fleet maintenance facility, any ambulance post location, and may ride as "third person" on any of the Contractor's ambulances at any time. In exercising this right to inspection and observation, the City's representatives shall conduct themselves in a professional and courteous manner, shall not interfere in any way with the Contractor's employees in the performance of their duties, shall at all times be respectful of the Contractor's employer/employee relationships, and shall be subject to such reasonable risk-management requirements as may be specified by the Contractor, including but not limited to applicable OSHA requirements and the execution of a waiver of liability. A previously scheduled "third rider" (student or new hire) shall not be displaced by any such observer.
- 2.20 **EMERGENCY REQUESTS TAKE PRIORITY.** Whenever Emergency requests for Ambulances are of such a volume that there are not sufficient Ambulances or personnel to respond to Non-Emergency 9-1-1 Calls in a timely fashion, Contractor shall notify the individual or organization requesting such Non-Emergency service, explain the reason for the temporary delay, and furnish a realistic estimate of when service will be available. Contractor shall make every reasonable effort to reduce and eliminate delays for Non-Emergency services. In such event, Contractor shall employ available resources to respond to Priority One, Two, and Three calls in that order.
- 2.21 **KEY PERSONNEL.** Contractor shall fill the key management positions identified in Exhibit "B" attached hereto throughout the term of the Agreement with personnel with equal or superior qualifications to those of the individuals listed in a response to Exhibit "B" which shall be filed with Owner on or before the commencement of the term of this contract. This information will be promptly updated whenever changes in key personnel occur.
- 2.22 **STANDARDS FOR VEHICLES AND EQUIPMENT MAINTENANCE.**
- a Ambulances performing services under this Agreement shall meet or exceed the vehicle specifications outlined in the Georgia Ambulance Rules & Regulations, Chapter 290-5-30.04. Ambulances with mileage in excess of 250,000 miles shall not remain in the front line fleet and reserve or backup ambulances with mileage in excess of 350,000 shall not be utilized except in exigent circumstances.
 - b Each Ambulance shall be equipped with all required equipment and supplies for operations as required by the Contract Administrator, the Act and the approved Medical Protocols.
 - c Contractor shall comply with or exceed the maintenance standards outlined in Section 203 of the Standards for Accreditation of Ambulance Services as published by the Commission on the Accreditation of Ambulance Services, which is incorporated herein by reference. All costs of maintenance and repairs, including parts, supplies, labor, subcontracted services and costs of extended warranties shall be at Contractor's expense.
 - d All mechanical, safety, and special equipment shall be subject to inspection at any reasonable time by representatives of City.

e No Ambulance that has been substantially damaged shall be again placed in service until it has been adequately repaired.

2.23 **OTHER PROVIDERS OF 9-1-1 EMERGENCY ABULANCE SERVICES.** With the exception of the provision for backup services or for First Responders, or the termination of the Agreement as provided for herein, or as required by action of the Department, the City shall not enter into any agreement with any other contractor for ground response to 9-1-1 requests for Ambulance response and Emergency Medical Services within the Service Area during the term of the Agreement and any renewal thereof. Nothing herein shall be construed as prohibiting other contractors from providing non-emergency Ambulance Services within the Service Area.

ARTICLE III

PAYMENTS AND FEES

3.1 **COMPENSATION.** As compensation for services rendered under this Agreement, Contractor shall receive only the following:

- a Subsidy as provided in Section 3.2 hereof; and
- b Patient Charges as provided in Section 3.3 hereof;

Notwithstanding the foregoing, Contractor may be compensated for services (other than responding to 9-1-1 Calls) that are provided to the Sheriff, Coroner's Office, and other county Departments under separate agreements, including disaster response.

3.2 **SUBSIDY.** City agrees to pay Contractor the following Subsidy:

For 2006 (commencing December 31, 2005 at 11:59 p.m. as set forth in Item 2.1): \$1,330,000.00

Payment of the annual subsidy amount shall be made by City to Contractor in equal monthly increments, being due on the first day of each calendar month, but not past due until the 15th day of the calendar month, with the first payment in the amount of \$ 110,833.33 due and payable on January 1, 2006.

3.3 **PATIENT CHARGES.** Contractor may charge Patients who use its Emergency Medical Services fees not in excess of those described on Exhibit "C" attached hereto, subject to increases as provided for in Section 3.5 hereof. The City shall have no liability for the payment of any unpaid Patient Charges, it being the intention of the parties that this is covered in the Subsidy.

3.4 **USER FEES.** All retail patients, including beneficiaries of Medicare and Medicaid, patients covered by insurance and patients who have no insurance benefits will be charged equal amounts for equivalent services, subject to contractual allowances. Should Contractor institute a subscription program, all members will be "charged" at the retail rate, regardless of the amounts collected or collectable. Fees collected from managed care organizations utilizing an at risk or capitated fee structure shall not be considered when calculating the Average Patient Charge (APC).

3.5 **COMPENSATION ADJUSTMENT.** Should this Agreement renew for an additional term, Contractor shall be allowed to make adjustments to its Patient Charges beginning on the first anniversary of the Agreement. Contractor may not increase Patient Charges by more than 5% in any year as compared to the prior year during the term of this Agreement without the prior consent of the Contract Administrator and City Administrator, which shall not unreasonably be withheld.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

As an inducement to City to enter into this Agreement, Contractor represents and warrants to City as follows:

- 4.1 **DUE ORGANIZATION AND FORMATION.** Contractor is a duly organized corporation in good standing under the laws of the State of Georgia and is authorized to do business in the Service Area.
- 4.2 **CAPACITY.** Contractor has full power, authority and legal right to execute and deliver this Agreement and to perform its duties hereunder, including delivery of the services contemplated hereby.
- 4.3 **AUTHORITY AND ENFORCEABILITY.** The execution, delivery and performance by Contractor of this Agreement have been duly authorized by all necessary corporate action and do not and will not require any registration with, consent or approval of, notice to, or any action by, any other person or entity. The provisions of this Agreement constitute legal, valid and binding obligations of Contractor.
- 4.4 **COMPLIANCE WITH OTHER INSTRUMENTS.** The execution and delivery of this Agreement and compliance with its terms, will not result in a breach of any of the terms or conditions of, nor constitute a default (with due notice or lapse of time or both) under any indenture, agreement, order, judgment or instrument under which Contractor is a party or by which Contractor or its property may be bound or affected; nor result in an occurrence of an event for which any holder or holders of indebtedness may declare the same due and payable; nor violate any provision of applicable law.
- 4.5 **FINANCIAL INFORMATION.** All financial information concerning Contractor or its assets provided to City by Contractor or its accountants, attorneys, or other representatives, whether written or oral, was when given and shall be at the time of the execution of this Agreement, true, accurate and complete, without any material misstatement or omission of fact, to the best of Contractor's knowledge.
- 4.6 **LITIGATION, JUDGMENTS, AND ORDERS.** To the best of Contractor's knowledge, there are no actions, suits or proceedings pending (whether or not purportedly on behalf of Contractor) or, to the knowledge of Contractor, threatened against or affecting Contractor, at law or in equity, before or by any court or regulatory agency, that would materially affect Contractor's ability to perform under this Agreement. Contractor is not in violation or default with respect to any applicable laws and/or regulations, order, judgment, writ, injunction, demand or decree of any court as would materially and adversely affect the business, properties or condition (financial or otherwise) of Contractor.
- 4.7 **LICENSES, PATENTS, TRADE NAMES AND OTHER RIGHTS.** Contractor possesses all patents, Licenses, franchise agreements, appointments, authorizations, trademarks, trade names, trade secrets, copyrights and all rights with respect thereto, which are required to conduct its business as now conducted, or as contemplated by this Agreement, without known conflict with the rights of others which would materially and adversely affect such business. Contractor's employees have all Licenses necessary to perform their respective EMS functions.
- 4.8 **ADVERSE CONTRACTS AND INSTRUMENTS.** Contractor is not a party to, bound by, subject to, in violation of or in default under any contract, instrument, charter, by-law or other restriction that would materially affect Contractor's ability to perform under this Agreement.

- 4.9 **TAX RETURNS AND PAYMENTS.** Contractor has filed all tax returns and reports required to be filed by it and has paid, or adequately provided for the payment of, all taxes, assessments and other governmental charges imposed upon it or its assets, income or franchises, other than any such charges which are currently payable without penalty or interest.
- 4.10 **DISCLOSURE.** To the best of Contractor's knowledge, neither this Agreement, nor any other document, proposal, certificate or statement furnished to City by or on behalf of Contractor, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading. There is no fact known to Contractor which materially and adversely affects, or which in the future may (so far as can now reasonably be foreseen) materially and adversely affect, the business, properties, operations or condition, financial or otherwise, of Contractor which has not been disclosed in writing to City.

ARTICLE V

ADDITIONAL COVENANTS

During the term of this Agreement, Contractor shall comply with each and every one of the following covenants.

- 5.1 **COLLECTION OF PATIENT CHARGES.** Contractor shall use its reasonable best efforts to collect Patient Charges by utilizing all reasonable means allowed by law; provided, however, that Contractor shall not be required to pursue collections in those instances where it is not economically reasonable to do so.
- 5.2 **RIGHT OF INSPECTION.** Contractor shall permit City or its representatives, upon reasonable notice, to inspect the facilities and equipment being used to operate the EMS System and, during normal business hours, to audit and examine Contractor's books and records with respect to the EMS System.
- 5.3 **NOTICE OF DEFAULT.** Upon its discovery of the occurrence of any default (or the existence of any fact or circumstance which can be reasonably expected to result in a default), or other noncompliance with any provision, term or condition of this Agreement, Contractor shall immediately give notice thereof to City.
- 5.4 **MAINTENANCE OF EXISTENCE, CONDUCT OF BUSINESS.** Contractor shall: preserve and maintain its business as presently conducted (or as contemplated hereby) and all of its Licenses, rights, privileges and franchises necessary or desirable in the normal conduct of said business; conduct its business in an orderly, efficient and regular manner; keep true and correct books of record and accounts adequate to the needs of its business; keep its assets useful or necessary in its business in good working order and condition, and from time to time make all needed repairs, renewals and replacements thereto or thereof, so that the efficiency of its assets shall be usefully preserved; and comply with all applicable laws and regulations of any person or entity having jurisdiction over Contractor's operations and the terms of any indenture, contract or other instrument to which it may be a party or under which it may be bound, except where contested in good faith and by proper proceedings. Contractor shall be permitted to sell or other-wise dispose of all or any portion of its businesses in markets other than the Service Area provided that such transactions, or any multiple transactions in the aggregate, do not constitute a sale of substantially all of the assets of the Contractor or the assets used under the terms of this Agreement and

do not have a material adverse impact on the financial condition of the Contractor or the ability of the Contractor to perform under this Agreement. This paragraph does not prohibit a sale or transfer of assets to a parent corporation, or subsidiary of Contractor or of a parent corporation, as long as such sale or transfer does not impair Contractor's ability to perform under this Agreement or such transfer or sale is pursuant to an assignment permitted by this Agreement.

- 5.5 **COMPLIANCE WITH LAW.** Contractor shall conduct its business to comply with all laws and regulations in all jurisdictions in which it may at any time be doing business or which may otherwise be applicable.
- 5.6 **INSURANCE REQUIREMENTS.** Contractor shall furnish City proof of coverage for the insurance requirements stipulated below, provided that Contractor may meet all or part of such requirements through self-insurance, to the extent permitted by law, upon proof of the same to City. All policies shall be written on an occurrence basis. No vehicle shall be operated by Contractor unless there is coverage in effect as provided for by the following:
- a General liability in an amount not less than one million dollars (\$1,000,000) per occurrence limit, two million (\$2,000,000) for the General Aggregate Limit (other than Products/Completed Operations), and one million (\$1,000,000) limit for products/completed operations per occurrence/aggregate.
 - b Vehicle liability insurance with a combined limit of liability, per accident, of one million (\$1,000,000) coverage for Non-Owned and Hired liability, on all covered vehicles.
 - c Professional liability insurance in an amount of not less than one million (\$1,000,000) for the per occurrence limit and two million (\$2,000,000) for the general aggregate limit.
 - d Excess liability limits of one million (\$1,000,000) general aggregate over the underlying limits outlined above,
 - e Workers' compensation and employer's liability insurance as required by and in conformance with the laws of the state of Georgia.
- 5.7 **COMPLIANCE WITH ABUSE REGULATIONS.** Contractor shall comply with the Department's regulations concerning the prompt reporting of any suspected abuse of a child or elderly person.
- 5.8 **PERMITS.** Contractor holds a State ambulance License and all State and local vehicle permits necessary to provide EMS hereunder Contractor shall make all necessary payments for such License and permits and furnish City with proof that it has obtained such Licenses or permits. Contractor shall be responsible for verifying that the State and local certifications and Licenses of its EMS personnel are in order and current at all times.
- 5.9 **COMPLIANCE WITH REGULATIONS.** Contractor shall comply with the Act, all current and future rules and regulations promulgated by the Department, and any other statute, rule or regulation governing the operation of the EMS System.
- 5.10 **RELIANCE ON REPRESENTATIONS, WARRANTIES AND COVENANTS.** Each and every representation, warranty and covenant contained herein, and all such representations, warranties and

covenants in the aggregate, have been and will continue to be relied upon by City and are material to its decision to enter into and perform its obligations under this Agreement.

- 5.11 **PERFORMANCE SECURITY.** Contractor will be required to furnish performance security in the amount of \$1,500,000 for each year of the contract, including each renewal term. The guaranty of performance may be in the form of a cashier's check, certified check made payable to the City, performance bond, irrevocable letter of credit issued by a bank or savings & loan association, or other forms of performance security acceptable to the City that are substantially equivalent to a performance bond in the amount of \$1,500,000. The security will be provided to the City within thirty (30) days of the execution of this contract. Failure to meet the criteria to be used for the requirements of bond or other form of security is a Class A Default.

ARTICLE VI

DEFAULT

- 6.1 **DEFAULTS DEFINED.** There shall be two classes of defaults, as defined below, regarding the Contractor's performance under this Agreement.

a Class A defaults are limited to the following:

- 1 Willful attempts by Contractor to intimidate or otherwise punish employees who desire to interview with or to sip contingent employment agreements with competing bidders during a subsequent bid cycle;
- 2 Willful attempts by Contractor to intimidate or otherwise deter employees from truthful and full disclosure of all facts or impressions regarding the delivery of EMS or the EMS System, to questions posed by the Medical Program Director or other persons overseeing the system;
- 3 Failure to comply with minimum employee wage/salary requirements;
- 4 Chronic and persistent failure of Contractor's employees to conduct themselves in a professional and courteous manner, and to present a professional appearance;
- 5 Deliberate and unauthorized scaling down of operation to the detriment of performance during a "lame duck" period;
- 6 Failure by Contractor to cooperate with and assist the City in its takeover of Contractor's operations after a Class A default has been declared by the City, as provided for in paragraph 6.2, even if it is later determined that such default never occurred or that the cause of such default was beyond Contractor's reasonable control;
- 7 Failure on the part of the Contractor to substantially fulfill the "lame duck" provisions of this Agreement as set forth herein, including but not limited to the requirement that the Contractor shall fully satisfy its remaining financial obligations to its employees and suppliers upon termination of this Agreement;

- 8 Failure to purchase and maintain in force insurance meeting the requirements set forth in the Agreement;
- 9 Chronic failure to maintain or replace equipment in accordance with good maintenance practices;
- 10 Failure to maintain or replace equipment in a fashion that endangers public health and safety;
- 11 Failure of Contractor to conduct its 9-1-1 response operation in substantial compliance with the requirements of the applicable Federal, State, and City laws, rules and regulations (minor infractions of such requirements shall not constitute a major breach but willful and repeated breaches shall constitute a material breach);
- 12 The persistent or repeated occurrence of a Class B default;
- 13 Supplying to Augusta during the bidding and contracting process, false or misleading information, or information so incomplete as to effectively mislead; and
- 14 Willful falsification of data supplied to Augusta or to the Medical Program Director during the course of operations, including by way of example but not by way of exclusion, run data, patient report data, financial data, or willful downgrading of presumptive run code designations to enhance Contractor's apparent performance, or falsification or deliberate omission of any other data required under the Agreement;

b **Class B defaults include:** Any failure by the Contractor to perform its obligations under the Agreement, which may include Class A defaults, as determined by EMSAB.

6.2 REMEDIES FOR CLASS A DEFAULTS.

a **Declaration of Class A Default and Takeover of Service.** In the event the EMSAB has reasonable grounds to believe that a Class A default of the Agreement by the Contractor may have occurred, the Contractor shall be given written notice of same. Such notice shall afford the Contractor a reasonable opportunity to respond and (1) contest the existence of a Class A default; (2) to cure any such default; or, (3) at the EMSAB's discretion, provide a written plan to cure such default. The length of the response period shall be dependent upon the extent to which public health and safety is endangered, as determined by the EMSAB. If the Contractor fails to cure the default with the EMSAB's notice, the City may terminate the Agreement or takeover Contractor's 9-1-1 operations in the Service Area; provided that prior to so doing, the Contractor shall be afforded a hearing before the Augusta-Richmond County Commission unless the City concludes that public health and safety concerns require an immediate takeover. In the event of a takeover, the Contractor shall cooperate completely and immediately with the City to effect a prompt and orderly takeover by the City of Contractor's 9-1-1 operations in the Service Area, including, but not limited to, the leasing of equipment to the City pursuant to a contingent lease agreement satisfactory to City. No takeover shall last more than twelve consecutive months and all equipment and vehicles leased from Contractor shall be returned to Contractor in good working order, excepting normal wear and tear, upon termination of the takeover period, subject to the provisions of paragraph 7.1. City shall be relieved from paying any Subsidy during the takeover period. Further, this Agreement shall terminate upon the expiration of the takeover period, except for such provisions as might survive the termination of the Agreement.

- b **Dispute after Takeover.** Such takeover shall be effected within 72 hours after the City gives Contractor notice that it intends to invoke the takeover provisions in this Agreement. Contractor shall not be prohibited from disputing any such finding of major default through litigation, provided, however, that such litigation shall not have the effect of delaying, in any way, the immediate takeover of operations by the City, nor shall such dispute by Contractor delay the City's access to Contractor's equipment and inventory of supplies. Any legal dispute concerning a finding of Class A default shall be initiated by Contractor only after the emergency takeover has been completed, and shall not under any circumstances be allowed to delay the process of takeover by the City. Contractor's cooperation with, and full support of, such emergency takeover process shall not be construed as acceptance by Contractor of the finding of major default, and shall not in any way jeopardize Contractor's right to recovery should a court later determine that the declaration of major default was made in error.
- c **Unusual Circumstances.** The provisions of this Section are specifically accepted and agreed to by Contractor as reasonable and necessary in light of the unusual responsibilities for public health and safety associated with this Agreement. Failure on the part of Contractor to cooperate fully with the City to effect a safe and orderly takeover of operations shall itself constitute a Class A default under the terms of the Agreement, even if it is later determined that the original declaration of Class A default was made in error.
- d **Failure to Meet Response Time Standards.** Notwithstanding any other provision of this Article VI, failure to meet a specific response time standard may be treated as a Class A default only after Contractor has failed to meet the Standard for three consecutive calendar months.

6.3 REMEDIES FOR CLASS B DEFAULTS.

- a **Declaration of Class B Defaults.** A Class B default may be declared whenever the EMSAB has reasonable grounds to believe that the Contractor has failed to materially perform its obligations under the Agreement (other than Response Time Standards). The Contractor shall receive a "Written Notice of Class B Default" explaining the facts and conclusions upon which the allegations of default are based.
- b **Request for Hearing for Class B Defaults.** Requests for a hearing on declared Class B defaults shall be filed with the Contract Administrator within ten (10) business days following notice of the EMSAB's decision and shall state the grounds for the appeal. Upon the filing of a Request for Hearing, EMSAB shall provide a notice of the hearing to the applicant.
- c **Penalties for Class B Defaults.** Any penalty shall be determined by the EMSAB on a case by case basis, not to exceed \$250 per occurrence, provided that such maximum penalty shall double for the second, and triple for the third or subsequent similar violation of the same contract obligation within any twelve (12) month period.
- d **Penalties For Failure To Meet Response Time Standards.** Financial Penalties for failure to meet Response Time Standards are set forth in Article II.

ARTICLE VII

MISCELLANEOUS PROVISIONS

7.1 **TERMINATION.** On the date of termination of this Agreement, the City shall have an option to purchase all or any portion of the Ambulances or other machinery and equipment being used by Contractor to operate the EMS System on the date of termination. Such option shall be at a purchase price equal to the fair market value of the Ambulances and equipment to be purchased. Fair market value shall be determined by an appraiser experienced in appraising such Ambulances, machinery and equipment as may be agreed to by Contractor and City. If Contractor and City cannot agree on an appraiser, each shall appoint an appraiser and the average of their two appraisals shall be the fair market value. If one appraiser is used, the parties shall each pay one-half of the fees and expenses of such appraiser and if two appraisers are used, each party shall pay the fees and expenses of the appraiser it appointed. City may give contractor written notice of its election to exercise this option at any time up to thirty (30) days prior to the date of termination. The City may, after the fair market value of the property to be purchased is determined, elect to waive its exercise of the option, 'in which event the City shall pay the fees and expenses of both appraisers if two appraisers are used or the one appraiser if one is used. The property shall be transferred to the City free of all liens and encumbrances on the effective date of the termination, at which time the purchase price shall be paid in cash.

If termination is because of Contractor's default, then the City shall have an option to purchase all or any portion of the Ambulances or other machinery and equipment being used by Contractor to operate the EMS System at the time that the notice of termination is delivered to the Contractor. Such option shall be at a purchase price equal to the "stipulated value", which value shall be the straight-line depreciated value of the machinery or equipment, based upon the original cost of the item, with depreciation beginning upon the item was actually placed in service, and assuming the item shall be 90 percent depreciated by the end of its stipulated period of the "safe useful life expectancy" as stated in the Contractor's Equipment Replacement Policy. The value shall be calculated as of the date of takeover of operations by the City and shall be paid in full within 120 days after notification to Contractor that the City has elected to exercise its option to purchase such Ambulances or other machinery and equipment.

7.2 **"LAME DUCK" PROVISIONS.** Should Contractor fail to win the bid in a subsequent bid cycle, the City shall obviously depend upon Contractor to continue provision of all services required under this Agreement until the winning bidder takes over operations. Under these circumstances, Contractor would, for a period of several months, serve as a "lame duck" contractor. To ensure continued performance fully consistent with the requirement of this Agreement throughout any such "lame duck" period, the following provisions shall apply:

- a Throughout such "lame duck" period, Contractor shall continue all operations and support services at substantially the same levels of effort and performance as were in effect prior to the award of the subsequent contract to a competing bidder;
- b Contractor shall make no changes in methods of operation which could reasonably be considered to be aimed at cutting Contractor's service and operating costs to maximize profits during the final stages of this Agreement;
- c The City recognizes that, if a competing organization is awarded the contract in a subsequent bid cycle, Contractor may reasonably begin to prepare for transition of service to the new contractor

during the "lame duck" period, and the City shall not unreasonably withhold its approval of the outgoing Contractor's requests to begin an orderly transition process, including reasonable plans to relocate staff, scale down certain inventory items, etc., so long as such transition activities do not impair Contractor's performance during the "lame duck" period, and so long as such transition activities are prior-approved by Contract Administrator; and

- d During the process of bid competition conducted by the City, the Contractor shall permit its non-management personnel reasonable opportunity to discuss with competing organizations issues related to employment with such organizations in the event the Contractor is not the successful bidder. The Contractor may, however, require that its non-management personnel refrain from providing information to a competing organization regarding the Contractor's current operations, and the Contractor may also prohibit its management-level personnel from communicating with representatives of competing organizations during the bid competition. However, once the City has made its decision regarding a contract award, and in the event the Contractor is not the winner, the Contractor shall allow free discussion between any City based employee and the winning bidder, without restriction, and without adverse consequences to any City based employee.

- 7.3 **INDEPENDENT CONTRACTOR.** Contractor shall perform this Agreement as an independent contractor and nothing herein contained shall be construed to be inconsistent with that relationship or status. Nothing in this Agreement shall in any way be construed to appoint or constitute Contractor as the agent, employee or representative of City. The manner and method of completing the work undertaken by Contractor shall be determined in its sole discretion.
- 7.4 **GOVERNING LAW.** This Agreement shall be subject to and governed according to the laws of the State of Georgia, irrespective of the fact that either party is or may become a resident of another state.
- 7.5 **REMEDIES NOT WAIVED.** Contractor agrees that the work specified shall be completed without further compensation except as provided in this Agreement. The acceptance of work and the payment for it shall not be held to prevent maintaining an action for failure to perform such work in accordance with the Agreement. Payment shall not be a waiver by City of any claims for breach or default.
- 7.6 **BINDING EFFECT.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors, assigns or other legal representatives.
- 7.7 **ASSIGNMENT.** No right or obligation hereunder may in any way whatsoever be assigned or delegated to a third party without the express prior written consent of the other party hereto, such consent not to be unreasonably withheld, and any attempted assignment without such consent shall be considered null and void. However, Contractor may assign its obligations to provide Emergency Medical Services hereunder to a wholly owned subsidiary of Contractor or to a parent or affiliate corporation or a wholly owned subsidiary of the same; provided, however, that Contractor shall remain primarily liable after such assignment for all of the obligations of Contractor hereunder, and provided further that Contractor shall not dispose of any interest in such assignee without the prior written approval of the City. The City and Contractor each binds itself, successors, assigns, and legal representatives of such party in respect to all covenants, agreements, and obligations contained herein.
- 7.8 **VENUE.** All claims, disputes and other matters in question between the Contractor and the City arising out of or relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. The Contractor, by executing this Agreement, specifically consents to

jurisdiction and venue in Richmond County and waives any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.

7.9 **SEVERABILITY.** If any portion or portions of this Agreement shall be for any reason invalid or unenforceable, the remaining portion(s) shall be valid and enforceable and carried into effect unless to do so would clearly violate the present legal and valid intention of the parties hereto.

7.10 **NOTICES.** Any notice required or permitted to be given pursuant to any provisions of this Agreement shall be given in writing, and either delivered in person, by electronic transmission, deposited in the United States mail, postage pre-paid, registered or certified mail, return receipt requested, properly addressed, or by a nationally recognized overnight courier service, to the following addresses:

Augusta, Georgia
Attention: Administrator
801 Municipal Bldg.
530 Greene Street
Augusta, Georgia 30911
Fax Number (706) 821-2819

Gold Cross EMS, Inc.
Attention: Regional General Manager
P.O. Box 14848
Augusta, Georgia 309191
Fax Number (706) 792-9250

The notification addresses listed above can be changed by either party with written notice to the other party.

7.11 **ENTIRE AGREEMENT/OTHER AGREEMENTS.** This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any previous agreement or understanding, whether oral or otherwise. No modification of this Agreement shall be valid unless in writing and signed by each of the parties hereto. This Agreement shall not supercede or affect other agreements between the City and Contractor for compensation to Contractor for services other than responding to 9-1-1 Calls, except as specifically provided in such agreements.

7.12 **MODIFICATIONS AND WAIVERS.** Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge or termination is sought.

7.13 **CAPTIONS.** Captions to the Articles and Sections of this Agreement are for convenience of reference only and in no way define, limit, describe or affect the scope or intent of any part of this Agreement.

7.14 **LIMITATION ON LIABILITY.** Under no circumstance shall Contractor be liable to City for any special, incidental, consequential, indirect or exemplary losses or damages pertaining in any way to the provision of services under this Agreement.

7.15 **FORCE MAJEURE.** Neither party shall be responsible for any loss or damage resulting from any delay or failure in performing any provision of this Agreement if the delay or failure resulted from:

- a Compliance with any law, rule, ruling, order, regulation, requirement or instruction of any government or any department or agency thereof,
- b Acts of God; and

c Third party acts which interfere with Contractor's ability to perform hereunder.

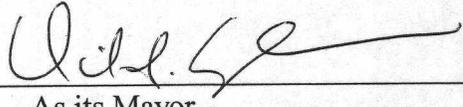
Any delay resulting from any of such causes shall extend performance accordingly or excuse performance in whole or in part, as may be necessary.

- 7.16 **COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.
- 7.17 **EXECUTION BY FACSIMILE, DELIVERY OF ORIGINAL SIGNED AGREEMENT.** This Agreement may be executed by facsimile, in counterparts. Each party to this Agreement agrees to deliver two original, inked and signed Agreements within two days of faxing the executed last page hereof.
- 7.18 **NO ESTIMATED BUSINESS VOLUME.** City makes no representations concerning the number of emergency and non-emergency calls or transports, quantities or length of long distance transfer service, or frequency of special event coverage, which will be associated with this Agreement.
- 7.19 **INDEMNIFICATION BY CITY.** To the extent allowable by law, City hereby agrees to defend, indemnify and hold harmless Contractor and its officers, employees, and agents, from and against any and all losses (including death), third party claims, damages, liabilities, costs and expenses (including but not limited to all actions, proceedings or investigations in respect thereof and any costs of judgments, settlements, court costs, attorney's fees or expenses, regardless of the outcome of any such action, proceeding, or investigation), caused by, relating to, based upon, or arising out of any act or omission by City, its Commissioners, officers, employees, contractors, subcontractors, assigns or agents, or otherwise in connection with the City's acceptance, performance, or nonperformance of its obligations under this Agreement. Nothing contained in this Agreement shall be construed to be a waiver of the City's sovereign immunity or any individual's qualified good faith immunity.
- 7.20 **INDEMNIFICATION BY CONTRACTOR.** To the extent allowable by law, Contractor hereby agrees to defend, indemnify and hold harmless City, its Commissioners, officers, employees, and agents, from and against any and all losses (including death), third party claims, damages, liabilities, costs and expenses (including but not limited to all actions, proceedings or investigations in respect thereof and any costs of judgments, settlements, court costs, attorney's fees or expenses, regardless of the outcome of any such action, proceeding, or investigation), caused by, relating to, based upon or arising out of any act or omission by Contractor, its directors, officers, employees, subcontractors, successors, assigns or agents of Contractor, or otherwise in connection with Contractor's acceptance, or the performance or nonperformance, of its obligations under this Agreement and Contractor's operation of the EMS System.
- 7.21 **INDEMNIFICATION OF CONTRACTOR.** In the event of an emergency takeover, to the extent allowable by law, the City shall indemnify, hold harmless, and defend Contractor against any and all claims arising out of the City's use, care, custody, and control of the vehicles, equipment and stations and negligent use of the vehicles and equipment. Subject to the foregoing, the City shall have the right to authorize the use of the vehicles and equipment by another company. Should City require a substitute provider to obtain insurance on the vehicles and equipment, or should the City choose to obtain insurance on the vehicles and equipment, Contractor shall be a "Named Additional Insured" on the policy, along with appropriate endorsements and cancellation notice rights.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal by their authorized representatives on the day and year first above written.

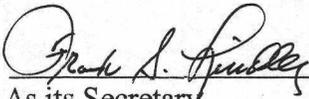
AUGUSTA, GEORGIA

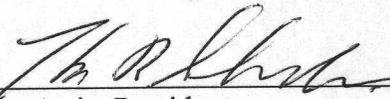
Attest: 
Clerk

By: 
As its Mayor

[SEAL]

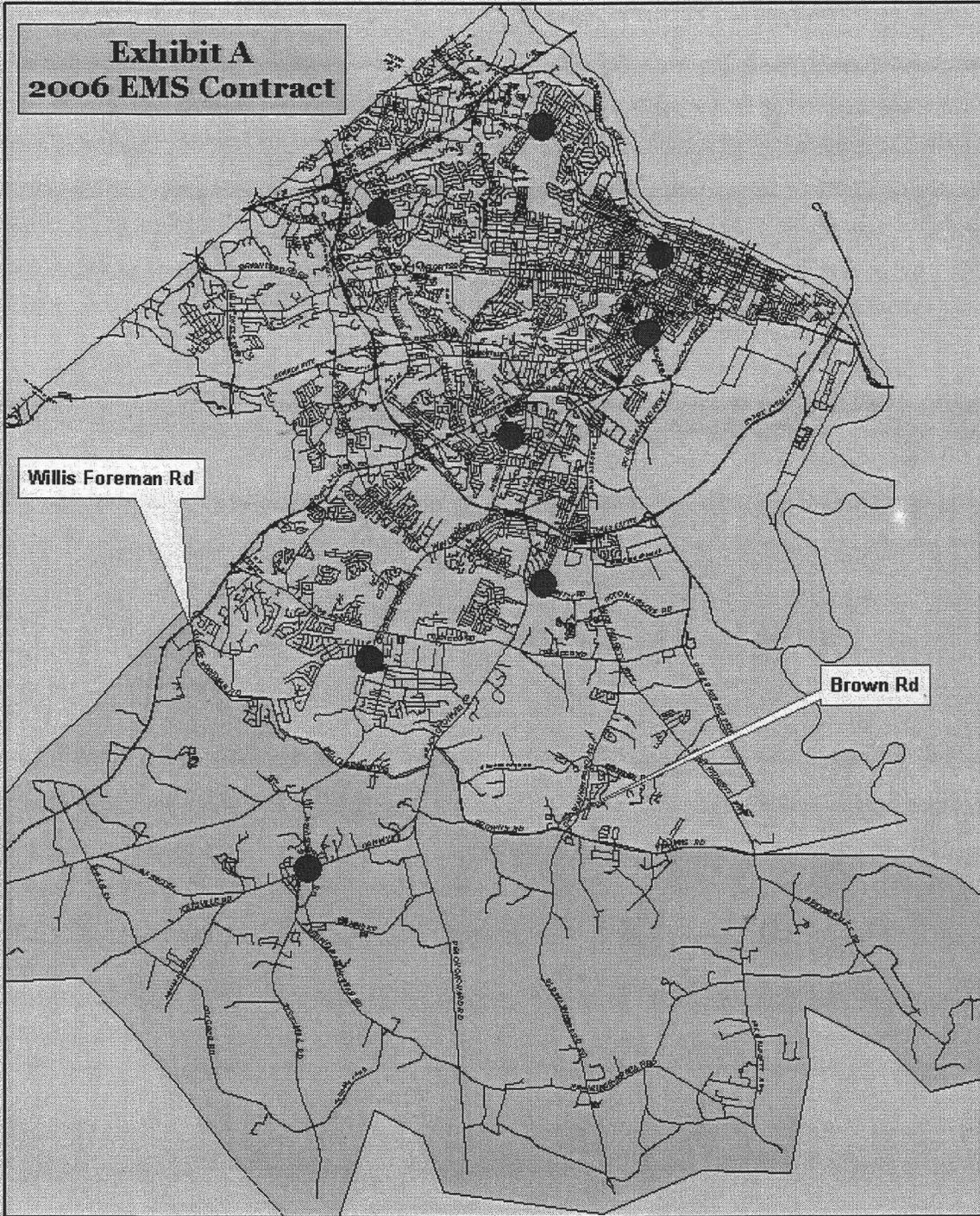
CONTRACTOR:

Attest: 
As its Secretary

By: 
As its President

[CORPORATE SEAL]

**Exhibit A
2006 EMS Contract**



Legend:
● Response Zone
○ Station

**EMS Response Zones
January 2006 Contract**

Legend:
● Response Zone
○ Station

0 50 100 150

Scale: 1 inch = 1/2 mile
Checked by: [illegible]



Exhibit "B"

CONTRACTORS KEY PERSONNEL

1. General Manager
2. Quality Assurance Officer
3. E.M.S. Medical Director
4. Field Supervisors

Exhibit "C"

PATIENT TRANSPORT CHARGES

AMBULANCE:

ALS BASE RATE	\$545.00
BLS BASE RATE	\$332.00
MILEAGE: RATE	\$9.00 PER MILE

Gold Cross EMS rates are ALL INCLUSIVE. The only variation to this ALL INCLUSIVE format is the requirement by MEDICAID to charge for oxygen at their prescribed rate of \$39.00. Of course, ANY MEDICAID payment is at their allowable rate not what is charged by a provider.

STRETCHER VAN:

BASE RATE	\$165.00 (ONE WAY)
MILEAGE RATE	\$5.00 PER MILE

WHEELCHAIR VAN:

BASE RATE	\$44.00 (ONE WAY)
MILEAGE RATE	\$5.00 PER MILE