Franchise Agreement for Emergency Ambulance Services
Washington County, Oregon

January, 2010
Franchise Agreement for Emergency Ambulance Services – 2010

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Note: Section headings and Table of Contents are inserted for convenience only and shall not be used in any way to construe the terms of this Agreement.
Franchise Agreement for
Emergency Ambulance Services – 2010
Emergency Medical Services
Washington County
Oregon

STATEMENT OF AGREEMENT:

THIS AGREEMENT is made and entered into by and between Washington County, a political subdivision of the State of Oregon, hereinafter referred to as “County,” and Metro West Ambulance, Inc., hereinafter referred to as “Metro West Ambulance.”

WITNESSETH:

WHEREAS, Oregon law requires counties to develop a plan relating to the need for the coordination of ambulance services and to establish ambulance service areas.

WHEREAS, Washington County adopted an ambulance service plan on October 6, 2009, by Minute Order No. 09-266 and the Oregon, Emergency Medical Services and Trauma Systems Section has approved that plan.

WHEREAS, said ambulance service plan affirms the County’s established ambulance service area (ASA) for the County and sets forth processes for granting ambulance service areas, issuing exclusive franchises, regulating rates for ambulance services, and regulating the quality of ambulance services.

WHEREAS, Washington County has granted Metro West Ambulance the Ambulance Service Area franchise and therefore the exclusive authority and license to operate in accordance with the terms and conditions set forth in this Agreement.

WHEREAS, Metro West Ambulance is willing to provide said services according to the terms and conditions herein stated.

WHEREAS, it would be in the public interest for the County to enter into this Agreement.

WHEREAS, the parties on September 3, 1997 entered an agreement for emergency ambulance services which shall be superseded by this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:
I. GENERAL RESPONSIBILITIES

A. SERVICES PROVIDED
Metro West Ambulance is authorized to, and shall furnish emergency ambulance service, including the equipment and materials as hereinafter set forth within the Ambulance Service Area granted herein.

B. REQUIREMENTS
References to the “governing law” herein shall be understood as references to the following: Oregon Revised Statutes (ORS), in particular ORS Chapter 682; Oregon Administrative Rules (OAR), in particular the Department of Human Services, EMS rules found in OAR Chapter 333, Divisions 250, 255, 260, 265; the Washington County Code, Chapter 8.32, the Ambulance Services Ordinance; the Washington County EMS Administrative Rules; the Washington County Ambulance Service Area Plan; and other applicable county ordinances and local rules including without limitation, local medical control procedures and protocols adopted by the County in consultation with Metro West Ambulance.

Nothing in this provision shall limit or restrict the authority of the Physician Supervisor as provided by state law. However, Metro West Ambulance is obligated to operate under the medical supervision of Washington County’s designated Medical Director as stipulated in Section V., L. of this agreement. Metro West Ambulance is subject to, and agrees to abide by, the requirements set forth by the governing laws and any other applicable resolution or regulation with respect to the services, staff, vehicles, equipment, and supplies which are the subject of this Agreement. In the event of requirement variations within the governing laws or regulations, the more stringent requirement shall be met. All said governing laws and regulations are subject to change and shall apply as amended.

C. GENERAL RESPONSIBILITIES OF METRO WEST AMBULANCE
Metro West Ambulance shall, in accordance with the terms and conditions of the above-referenced laws and the “Agreement Documents”, satisfy the following General Responsibilities. Failure to meet these general responsibilities does not constitute a major default unless specifically identified as such within this agreement.

1. Establish and maintain appropriate and effective professional working relationships with all public health, public safety, and emergency management provider organizations and personnel.

2. Professional working relationships shall be cooperative and collaborative in nature.

3. Ensure courteous and professional conduct of all Metro West Ambulance personnel related to this agreement at all times.

4. Maintain neat, clean, and professional appearance of personnel, equipment and facilities.
5. Continued operation and management of Metro West Ambulance’s dispatch center.

6. Operate a System Status Management (SSM) Plan and secure new or replacement post locations as provided for in Section V., C.

7. Establish mutual aid agreements with neighboring ambulance services, subject to County approval as provided for in V., C., 6.

8. Maintain state and local vehicle permits, licenses and personnel certifications.

9. Provide and maintain contact mechanisms which are redundant and timely for key personnel which shall include at a minimum e-mail and cellular access. Key personnel are as defined in Section V., J., 5. of this agreement.

10. Actively participate in county, regional and state committees and professional associations.

11. Participate in industry events such as conferences, health fairs and research.

12. Provide special training and support to Metro West Ambulance’s personnel found in need of special assistance in specific skill or knowledge areas, and provide additional clinical leadership by maintaining knowledge of developments in equipment and procedures throughout the industry and regularly reporting such developments to the County for possible adoption.

13. Assist the County in providing in-service training to fire service personnel as provided for in V., K.

14. Metro West Ambulance agrees to replace disposable supplies used by fire responders to the extent required by Administrative Rule 400-340.

15. Provide or contract for all maintenance of vehicles, on-board equipment, and facilities used in performance of the work herein.

16. Furnish all fuel, lubricants, repairs, initial supply inventory and all supplies (except those supplies replaced by hospitals).

D. **CONDITIONS OF THE RFP AND METRO WEST AMBULANCE’S PROPOSAL**

Except as to those terms and conditions expressly provided for herein, which terms and conditions shall prevail, all terms and conditions stated in the following documents shall form an integral part of this Agreement as though they were fully set forth herein:

*Washington County Emergency Ambulance Services Franchise Agreement*

*Page 3 of 37*
1. Washington County Request for Proposal (RFP), January 2, 1996, including all addenda.


In the event of any conflict between the terms and conditions set forth in the two (2) above-listed documents which cannot be resolved by the express terms of this Agreement, the RFP shall set the minimum terms and conditions. Where the Metro West Ambulance proposal exceeds the minimum terms and conditions, the Metro West Ambulance proposal shall prevail. This Agreement, together with the above-listed documents, shall be referred to as the “Agreement Documents.”

E. SERVICE AREA
The service area established by EMS Administrative Rule 100-200, is Washington County, Oregon, with the following clarifications:

1. That portion of the City of Tualatin within Clackamas County, which is subject to the intergovernmental agreement between Washington County and Clackamas County (Minute Order #01-0241, June 26, 2001), is included so long as the intergovernmental agreement is in effect.

2. That portion of the City of Wilsonville within Washington County, which is subject to the intergovernmental agreement between Washington County and Clackamas County (Minute Order #01-0241, June 26, 2001), is excluded so long as the intergovernmental agreement is in effect.

3. That portion of the City of Lake Oswego within Washington County which is subject to the intergovernmental agreement between Washington County and Clackamas County (Minute Order #94-422, September 20, 1994) is excluded so long as the intergovernmental agreement is in effect.

4. That portion of the City of Rivergrove within Washington County which is subject to the intergovernmental agreement between Washington County and Clackamas County (Minute Order #94-422, September 20, 1994) is excluded so long as the intergovernmental agreement is in effect.

5. That area of Washington County south of Bell Road and Highway 99W (FMZ 6783 and 6784a) which is subject to the Mutual Aid Agreement between Metro West Ambulance and Newberg Ambulance executed on August 9, 1988 is excluded so long as that mutual aid agreement is in effect.
II. STANDARD PROVISIONS

A. TERM OF AGREEMENT AND RENEWAL PROVISIONS

This Agreement began September 3, 1997 with an initial five year term. Metro West Ambulance has since earned two, two year extensions. The County further extended the agreement 16 months to December 31, 2009 to accommodate implementation of this perpetuating long term agreement.

Beginning January 1, 2010 the term of this agreement shall be a 6 year renewable contract which consists of four (4), 18 month periods. At the end of each 18 month period Metro West Ambulance’s performance will be evaluated. If their performance meets or exceeds standard, an additional 18 month period will be added to the contract, thus renewing the 6 year term.

In the event that the Metro West Ambulance does not perform at or above the standard, the franchise agreement then becomes a four and one half year term contract. Should a second failure to meet standard occur, bringing the term to three years, this shall be considered a condition of major default and will initiate the default and revocation process.

Should the term become four and one half years, reestablishment of a 6 year term may occur at the approval of the EMS Office under the following conditions: After completion of 5 consecutive 18 month periods above standard performance, the 5th 18 month period may be added back to the term reestablishing a 6 year contract term. Above standard performance is defined as follows: response time performance at 90% in all 4 equity zones, overall UHU shall be 0.4000 or below and any standards involved in the loss of the 18 month period shall have no incidents of noncompliance.

The base terms for the perpetuating agreement have been set forth in Section 500-200 of the Washington County EMS Administrative Rules.

Nothing in the awarding of the original franchise, the granting of extensions, the granting of a license, or the execution of this Agreement, shall in any way be construed as establishing a property interest or any other entitlement other than to permit Metro West Ambulance to enforce the terms of this Agreement.

18 Month Period Assessment: Assessment and determination of granting or denying an additional 18 Month Period, will be based on the 18 Month Periodic Assessment sheet attached as Appendix D*. The County’s expectation is that Metro West Ambulance will meet or exceed each of the standards set forth in the 18 Month Periodic Assessment on an ongoing basis.

* = 18 Month Periodic Assessment /Appendix D Parameters Phase-In

Phase-In Provision: The parameters in the 18 Month Periodic Assessment tool are primarily carryovers from the previous franchise agreement which carried different terms and infrastructure. Under the new terms and infrastructure some of the
standards and parameters may have limited or different applications and value in monitoring and assessing the performance of Metro West Ambulance. It is mutually understood and accepted by Metro West Ambulance and Washington County that with time and experience that there will be need to assess and revise some of the standards and parameters, along with their application. The standards, parameters and application of Appendix D will be collaboratively assessed and revised at the end of the 1st, 2nd and 4th 18 Month Periods as appropriate.

**Granting an Additional 18 Month Period:** It is the expectation that Metro West Ambulance will meet or exceed each of the standards set forth in the 18 Month Periodic Assessment on an ongoing basis. It is, however, acknowledged by the County that on occasion there may be incidental lapses in compliance of a standard within the 18 month period under consideration. A single isolated lapse of a standard does not mandate a failure to meet the standard for that period.

Based on the identification, disclosure, corrective action taken, duration, explanation and the specific standard lapsed, the County reserves the right, at its sole and independent discretion, to deem a lapsed standard to be "within standard" for that 18 Month Periodic Assessment.

Lapses identified and/or actively being resolved during the last 2 months of a period, may be evaluated beyond the current assessment period, but by no more than 2 months. The intent is to accommodate a complete and appropriate assessment, prior to determination of compliance by the County.

Performance standards monitored on a monthly basis, such as response times, are excluded from the above incidental lapses and extended assessment period provisions.

**Denying an Additional 18 Month Period:** Single standard lapses which remain unaddressed or unresolved for greater than 45 days, any combination of three lapses in a given period or being found in contractual default are grounds for denying an additional 18 month period.

Notification of denial of an additional 18 month period shall be made in writing and shall include the basis for the denial. Upon notice, Metro West Ambulance shall have 15 business days in which to appeal the denial. Such an appeal must be in writing and provide factual and evidential support for the appeal. The appeal shall be heard by the Washington County EMS Operations Committee, the Washington County EMS Medical Director and Washington County Public Health Program Administrator. Each shall have one vote and their decision shall be final.

While denial of an additional 18 month period and contractual default utilize many of the same measures, they are two independent actions. A contractual default will result in the loss of an additional 18 month period. However, loss of an 18 month period does not serve as an independent basis for contractual default.
B. **INSURANCE**
Contractor shall provide insurance coverage and limits as described below. All insurance carried by Contractor must be primary to and non-contributory with any insurance, including any self-insurance or retentions carried by the County.

**Workers’ Compensation Insurance:** Contractor shall comply with ORS 656.017, which requires subject employers to provide Oregon Workers’ Compensation coverage for all their subject workers. No workers’ compensation insurance has been or will be obtained by the County for Contractor or Contractor’s employees and subcontractors. Contractor shall provide and maintain workers’ compensation coverage for its employees, officers, agents or partners as required by applicable workers’ compensation laws including employers’ liability with limits not less than $500,000/ $500,000/ $500,000.

**Commercial General Liability Insurance:** Contractor shall at all times carry a Commercial General Liability insurance policy for at least $1,000,000 combined single limit per occurrence and at least $2,000,000 in the aggregate per project, for Bodily Injury, Property Damage, and Personal Injury. This insurance shall include contractual liability coverage for the indemnity provided under this contract.

**Automobile Liability Insurance:** Contractor shall at all times carry Automobile Liability Insurance in the amount of $1,000,000 combined single limit per accident for Bodily Injury and Property Damage which includes coverage for Washington County, its agents, officers, elected officials and employees.

**Professional Liability/Errors and Omissions Insurance:** Contractor shall at all times carry a Professional Liability/Errors and Omissions type insurance policy with limits of not less than $1,000,000 each occurrence (or each claim if coverage is afforded on a claims made basis) and $3,000,000 in the annual aggregate. If this policy is a “claims made” type policy, the policy type and company shall be approved by Washington County prior to commencement of the Work.

**Phase-In Provision:** Metro West Ambulance currently has in place $1,000,000/$2,000,000 of liability/errors and omissions coverage. By the end of the first 18 month period of this Agreement, Metro West Ambulance shall have increased its aggregate limit to $3,000,000.

Metro West Ambulance shall purchase the liability insurance on an occurrence basis unless otherwise specified (see aggregate limits in General and Professional Liability above). Metro West Ambulance is solely liable for all workers’ compensation coverage. Metro West Ambulance shall provide the County with evidence showing coverage for its workers under the Worker’s Compensation Act and registration with the State Unemployment Compensation Commission. A current Certificate of Insurance in accordance with the above insurance requirements shall be maintained on file with the County for the duration of this Agreement. In the event of cancellation of any required insurance or a change in insurers, the County shall receive 30 days advance notice of such action.
insurer shall have no recourse against the County for unpaid premiums and/or deductibles. Metro West Ambulance shall add riders or procure additional insurance if federal or state laws create a risk not currently covered and submit a copy of any such rider or policy providing additional coverage.

Termination of insurance coverage, without alternate, comparable, County approved coverage, shall, at the option of the County, constitute a major default and the Safety Net Provisions shall, at the option of the County, be activated. The following documentation shall be submitted to County:

- Properly executed Certificates of Insurance clearly evidencing all coverage, limits, and endorsements required above.
- Signed copies of the specified endorsements for each policy.
- Upon the County’s written request, certified copies of insurance policies shall be submitted within 30 days.

If Metro West Ambulance, for any reason, fails to maintain insurance coverage, as required pursuant to this Agreement, the same shall be deemed a major breach of contract, which is dangerous to public health and safety. The County, at its sole option, may terminate this Agreement and obtain damages from Metro West Ambulance resulting from said breach. Alternatively, the County may purchase such required insurance coverage, and with 30 days’ notice to Metro West Ambulance, the County may recover from the performance security any premium costs advanced by the County for such insurance. These remedies shall be in addition to any other remedies available to the County.

C. ACTIONS BY A THIRD PARTY AGAINST COUNTY
Metro West Ambulance shall hold harmless, indemnify, and defend the County, (including its officers, agents and employees) against any and all claims whatsoever arising from providing, or failing to provide emergency ambulance service, under this Agreement regardless of any negligence of the County. This shall not apply to claims arising from malfeasance in office or willful or wanton neglect of duty. To the extent provided by law, the indemnitor shall have the right to assert any and all defenses available to the County, including those in the Oregon Tort Claims Act. However, the County may waive the requirement that Metro West Ambulance indemnify the County for its own negligence if the County finds insurance coverage for this risk is unavailable.

D. ACTIONS BY A THIRD PARTY AGAINST METRO WEST AMBULANCE
Metro West Ambulance shall not assert, and expressly waives any claim, that it is an agent of the County or otherwise entitled to assert any Oregon tort Claims Act defense on its own behalf.

E. CONSIDERATION TO METRO WEST AMBULANCE
In consideration of the services, equipment, and materials furnished under this Agreement, Metro West Ambulance shall receive the following as full compensation:
In consideration of the services, equipment, materials, and supplies to be furnished by Metro West Ambulance, the County hereby designates Metro West Ambulance as the exclusive provider of emergency ground ambulance service within the geographical areas defined by this Agreement. Metro West Ambulance and the County agree that said designation began on September 3, 1997, and shall continue throughout the term of this Agreement, unless otherwise mutually agreed upon or this Agreement is otherwise terminated. The parties further agree that by such designation and through the other provisions for Metro West Ambulance compensation incorporated herein, the County has fulfilled any and all obligations it may have presently or at any time during the term of this Agreement to compensate, reimburse, or otherwise pay Metro West Ambulance for services provided to medically-indigent patients. This Agreement is a “master-term agreement for requirements.” The County is acting, in effect, as a group-purchasing agent for the residents of the contract service area. Pursuant to the “master-term agreement,” residents (and visitors) are allowed to request services individually, with each such request being a separate “purchase order,” and with individual customers each being responsible for payment relative to services received. To the extent, if any, necessary to enforce the terms of this Agreement, the County shall be a third party beneficiary of the contract between Metro West Ambulance and each individual patient.

F. RIGHTS AND REMEDIES NOT WAIVED
Metro West Ambulance agrees and guarantees that the work herein specified shall be completed without further or additional compensation than that provided for in this Agreement; and that the acceptance of work herein and the payment thereof shall not be held to prevent maintenance of an action for failure to perform such work in accordance with this Agreement. In no event shall any payment by the County hereunder constitute or be construed to be a waiver by the County of any breach of covenants or conditions, or any default which may then exist on the part of Metro West Ambulance, and the making of such payment while any such breach or default exists, shall in no way impair or prejudice any right or remedy available to the County with respect to such breach or default.

G. AMENDMENTS; INTERPRETATION; VENUE; NOTICES
This Agreement as defined in I (D) constitutes the entire agreement between the County and Metro West Ambulance with respect to the subject matter hereof and supersedes any and all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever, unless specifically included or incorporated herein. Any amendments or changes to this Agreement requested either by Metro West Ambulance or the County may only be affected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement
shall not be modified or amended or any rights of a party to it waived except by such writing. The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of Oregon. If either the County or Metro West Ambulance initiates litigation against the other to secure its rights pursuant to this agreement, the actual and reasonable costs of litigation, including attorney’s fees, incurred by the prevailing party, including an appeal, shall be paid or reimbursed by the party which fails to prevail. Venue for actions shall be in the Circuit Court of Washington County or the Federal District Court of Oregon. Any notice of change, termination, or other communication having a material effect on this contract shall be served in one of the following manners: a) In-person delivery; or b) deposited in the U.S. Mail under certified or registered handling, postage prepaid, addressed to the parties as follows:

**Metro West Ambulance:**
J. D. Fuiten, President
Metro West Ambulance
P.O. Box 1635
Hillsboro, OR 97123

**Washington County:**
EMS Program Supervisor
Washington County EMS Office
155 N. First Avenue, MS #23
Hillsboro, OR 97124

**With courtesy copy to:**
County Counsel
155 N. First Avenue, MS #24
Hillsboro, OR 97124

Except as provided in this agreement, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.

**H. FORCE MAJEURE**
If any party hereto is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement, that party shall give to the other parties hereto prompt written notice of the Force Majeure with reasonable full particulars concerning it. Thereupon, the obligations of the party giving the notice, so far as they are affected by the Force Majeure, shall be suspended during, but no longer than the continuance of the Force Majeure, except for a reasonable time thereafter required to resume performance. During any period in which any party hereto is excused from performance by reason of the occurrence of an event of Force Majeure, the party so excused shall promptly, diligently, and in good faith take all reasonable action required in order for it to be able to commence or resume performance of its obligations under the Agreement. Without limiting the generality of the foregoing, the party so excused from performance shall, during any such period of Force Majeure, take all actions reasonably necessary to terminate any temporary restraining orders,
preliminary or permanent injunctions to enable it to so commence or resume performance of its obligations under the Agreement. The party whose performance is excused due to the occurrence of an event of Force Majeure shall, during such period, keep the other parties notified of all such actions required in order for it to be able to commence or resume performance of its obligations under the Agreement. “Force Majeure” is defined as an act of God, act of public enemy, war, and other causes not reasonably within the control of any parties hereto. Notwithstanding the foregoing, the parties recognize that the provision of emergency ambulance services is particularly critical during occurrences which may constitute a “force majeure.” Further, the parties shall use their best efforts to continue uninterrupted and undiminished service notwithstanding a “force majeure.”

I. **INDEPENDENT CONTRACTOR**
In performance of the services herein provided for, Metro West Ambulance shall be, and is, an independent contractor, and is not an agent or employee of County. Metro West Ambulance shall be solely responsible for, and save the County harmless from all matters relating to the payments of its employees, including compliance with Social Security, withholding and all other regulations governing such matters.

J. **INVALIDITY**
In the event a court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

K. **NONDISCRIMINATION**
No person shall be denied or subjected to discrimination in the receipt of services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age or marital status. Material violation of this provision shall be considered a breach of this Agreement other than a major default. In the event that Metro West Ambulance becomes a recipient of federal funding, directly or indirectly, for any program or activity subject matter of the Agreement, this Agreement will be considered subject to the requirement of Title VI of the Civil Rights Act or 1964, 42 USC Secs. 2000 et seq., and any other federal laws and regulations regarding nondiscrimination in federally assisted programs. Metro West Ambulance agrees to comply with these federal laws and regulations prohibiting discrimination in the performance of its obligations under this Agreement, if applicable.

L. **SECTION HEADINGS AND TABLE OF CONTENTS**
Section headings and Table of Contents are inserted for convenience only and shall not be used in any way to construe the terms of this Agreement.

M. **COOPERATION**
Metro West Ambulance’s obligations of cooperation with the County and other County departments hereunder shall survive termination of this Agreement and shall remain in force and effect until fulfilled.
N. **PUBLIC CONTRACTING LAW**
Public Contracts, ORS 279B.220 through 279B.235 and 279C.500 through 279B.870 as applicable are incorporated herein by reference.

O. **OREGON DEBT LIMITATION**
This Agreement is expressly subject to the Debt Limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.

P. **TIME**
Time is of the essence of each and every obligation under this Agreement.

Q. **THIRD-PARTY BENEFICIARY**
This contract is solely for the benefit of, and may be enforced only by the parties. Nothing herein is intended or shall be construed as granting any other person or entity the status of a third-party beneficiary except as expressly provided herein.
III. MISCELLANEOUS PROVISIONS

A. DEDICATED RESOURCES AND WORK/SERVICES OUTSIDE OF WASHINGTON COUNTY

Except as otherwise provided herein, all factors of production employed by Metro West Ambulance in the performance of this Agreement shall be devoted exclusively to the work of this Agreement and to no other work. These “factors of production” include all equipment, supplies, facilities, locally assigned personnel, and all other production factors utilized by Metro West Ambulance in the performance of this work except where prohibited by law. Metro West Ambulance may request an exception to this section and the County may issue written permission to use a factor of production for other work than that described in this Agreement.

Metro West Ambulance is not prohibited from doing outside work in Washington County which is unrelated to advanced life support or medical transportation, so long as such work does not detract from Metro West Ambulance’s responsibilities under this Agreement. Metro West Ambulance may provide ambulance services in other counties provided such work does not detract from Metro West Ambulance’s performance under this Agreement. Metro West Ambulance is not prohibited from doing outside work, which is related to advanced life support or medical transportation (e.g., long distance transfer work, non-emergency work, inter-hospital transfers, wheelchair transportation, special event coverage, Veterans’ Administration contract work, etc.) within Metro West Ambulance’s primary area of responsibility, provided Metro West Ambulance’s methods of producing such services are designed to enhance Metro West Ambulance’s peak-load capacity, disaster readiness, and overall efficiency, and do not detract from Metro West Ambulance’s primary emergency service responsibilities. Metro West Ambulance shall disclose to the County any plans for providing such outside services for contracts projected to produce 500 or more transports per year. Disclosure must be made prior to finalizing any such agreements. Disclosure shall include an assessment and mitigation plans for any potential impacts to this Agreement.

B. CONTRACT COMMITMENTS

Metro West Ambulance shall not enter into service contracts as part of providing emergency services under this Agreement which extend beyond the date of the termination of this Agreement, except as may be specifically approved, in writing, by the County. Approval shall not unreasonably be withheld.

C. VEHICLE MARKING, ADVERTISING, PUBLIC RELATIONS, MARKETING

The County shall have right of prior approval of the form and content of all forms of public information and advertising, direct or indirect, utilized by Metro West Ambulance in conjunction with services and operations related to this Agreement, including the exterior of Metro West Ambulance’s ambulance vehicles. The County understands that Metro West Ambulance is a private for profit business, and that as such, Metro West Ambulance has a legitimate interest in improving and promoting its own image as a competent contract provider of high performance advanced life support ambulance service. Therefore, the County shall not unreasonably withhold its approval of advertising
or public relations programs and materials developed by Metro West Ambulance to promote its reputation.

D. NON-TRANSFERABLE AGREEMENT
Neither the ASA, license, nor any service, requirement, rights or privileges, under this Agreement, or any portion thereof, shall be sold, assigned, sub-contracted, or transferred without the expressed, written permission of County. Even in cases where sub-contracting is approved, Metro West Ambulance shall retain control over, and full responsibility for, the program content, level of service and compliance with this Agreement.

A sub-contractor shall meet all Agreement requirements for the subcontracted service component. Subcontracting for response to emergency calls will be viewed with disfavor. If in excess of 45 percent (45%) of the ownership of Metro West Ambulance is changed, this shall be considered a form of assignment and must be approved by the County. The County shall not unreasonably withhold its approval. Any assignment, as defined herein, without consent shall be a major default and the Safety Net Provisions of this Agreement, at the option of the County, shall apply.

E. AUDITS AND INSPECTIONS
At any time during normal business hours, and as often as deemed reasonably necessary, County representatives may observe Metro West Ambulance’s operations, and may make audits of all contracts, invoices, materials, payrolls, inventory records, records of personnel, daily logs, conditions of employment, and other data related to all matters covered by this Agreement. Metro West Ambulance shall make available for the County’s examination all of Metro West Ambulance’s records with respect to all matters covered by this Agreement, and provide copies to the County of such records as requested by the County. County representatives may, at any time, and without notification, directly observe Metro West Ambulance’s operation at their Communication Center, maintenance facility, any ambulance post location. A County representative may ride as a “third person” on any of Metro West Ambulance’s units at any time. In exercising this right to inspection and observation, County representatives shall conduct themselves in a professional and courteous manner. County Representatives shall not interfere with Metro West Ambulance’s employees in the performance of their duties, and shall at all times be respectful of Metro West Ambulance’s employer/employee relationships.

The County’s right to observe and inspect operations or records in Metro West Ambulance’s business office shall, however, be restricted to normal business hours. Reasonable notification (24 hours) shall be given Metro West Ambulance in advance of any such visit. The County audits and inspections shall not subject the County to any responsibility for Metro West Ambulance’s acts or omissions and shall not be deemed approval of such acts or omissions unless expressly provided by the County in writing.

F. CONFIDENTIALITY
Metro West Ambulance may designate certain information required to be submitted to the County as “trade secrets” or otherwise non-disclosable. The
County shall not disclose such information to the extent permitted by law. The County shall not disclose any such documents without giving Metro West Ambulance at least five (5) business days’ notice. Nothing herein obligates the County to contest an order of disclosure from a review authority.
IV. **SPECIFIC PROVISIONS (FINANCIAL)**

A. **USER FEES**

Metro West Ambulance shall charge only those fees approved by the County. The basic service fees a patient may be billed are an ALS or BLS flat rate and mileage, as appropriate for the treatment and transportation services rendered. ALS, BLS and mileage shall be as defined in the current Medicare Ambulance Fee schedule at the time of service.

1. **Acceptance of Assignment**
   Metro West Ambulance shall accept assignment on claims for all individuals in cases where there is evidence of financial hardship.

   In the event a subscription membership program is approved by the County, Metro West Ambulance may accept assignment under such program.

   Assignment is defined as receipt of benefit or program payment as payment in-full.

2. **Standby Charges**
   Metro West Ambulance shall not charge for non-dedicated standby coverage when units are part of the system status plan.

B. **RATE ADJUSTMENT**

The fee-for-service and any ambulance subscription program fees shall be set by this Agreement. On April 1 of each year and annually thereafter, Metro West Ambulance may petition the Board of County Commissioners for a change in ALS and BLS ambulance service and mileage rates and any ambulance subscription program fees.

March 1st of each year the County shall establish the inflator using the CPI-U for the Portland-Salem area as reported by the U.S. Department of Labor, Bureau of Labor Statistics for:

- All items
- Fuels and Utilities
- Motor Fuels
- Medical Care

Twenty-five percent (25%) of each indicator will be added together to determine the percent increase. This will be the allowable automatic increase. If approved by the Board of County Commissioners, fee increases shall become effective July 1st of each year and shall remain in effect until changed by the Board.

The County may, on its own initiative, modify any rate increase.

Metro West Ambulance may petition the County for fee increases in excess of the inflator, under exceptional circumstances. Metro West Ambulance shall be solely responsible for justifying these circumstances.
If Metro West Ambulance petitions a fee increase in excess of the allowable, the County shall establish a Fee Regulation Committee to consider the increase. The Fee Regulation Committee shall consist of five (5) members appointed by the Board. One member shall be an accountant and another a person involved in health care familiar with ambulance fee reimbursement practices, if possible. No Committee member shall have any business or financial relationship, direct or indirect, with Metro West Ambulance. The only exception is someone with medical privileges at hospitals serviced by Metro West Ambulance.

In the event of extraordinary circumstances beyond Metro West Ambulance’s control which cause substantial unforeseen increases in Metro West Ambulance’s costs (not including increased personnel and labor costs), Metro West Ambulance may, at any time, request the County to permit adjustments to the rates specified. Metro West Ambulance shall provide a full explanation of, and justification for, the proposed adjustments. Thereafter, the Board, at its discretion, may hold a public hearing on the request. If the Board holds such a hearing, it shall receive any evidence and testimony from Metro West Ambulance.

If changes imposed by the County pursuant to administrative rules or protocols increase Metro West Ambulance’s operational costs, but Metro West Ambulance is effectively precluded by federal or state laws and regulations from increasing its fees or collections, or if Federal or State laws or regulations restrict the amount Metro West Ambulance can collect, notwithstanding fee increases approved by County, Metro West Ambulance may seek reasonable reductions in service, equipment or other modifications to this Agreement to reduce its costs. The County shall not unreasonably withhold such modifications, provided that patient safety is not compromised. In reviewing such a request, the County may consider Metro West Ambulance’s efforts to increase efficiency and reduce costs, its rate of return and other factors the County deems relevant.

C. **ON-SCENE COLLECTIONS**

No EMT employed to provide treatment services shall participate in efforts to collect ambulance fees for service which involve phone or person-to-person contact with any patient or the patient’s immediate family to include parents and siblings to whom he/she has provided service. Insurance and/or ambulance membership program information may be requested by, and/or be provided to, the EMT at time service is rendered.

D. **FINANCIAL INFORMATION**

Metro West Ambulance shall provide, within 120 days of the end of the fiscal year, reviewed financial reports. If the County requests audited financial statements, they will be provided without charge to the County.

Metro West Ambulance shall also provide pro-forma income, working capital statements and balance sheets as requested by the County. Financial data shall be maintained in a manner which allows for revenue reports by geographic area, level of service and payer type.
E. **PENALTIES AND LIQUIDATED DAMAGES**

1. **Penalties:**
   Washington County may enforce the required standards relating to emergency ambulance service provided in the County Code and EMS Administrative Rules. This shall be done in accordance with the enforcement provisions set forth in Washington County Code (WCC) Code Chapter 8.32.420, 8.32.430, 8.32.440 and 8.32.450 and the Administrative Rules adopted there under, including but not limited to, the civil penalty schedules. (See Appendix A)

2. **Liquidated Damages:**
   Washington County, in its discretion in lieu of enforcement in accordance with WCC Chapter 8.32 and the Administrative Rules, shall recover the amounts set forth in Appendix B as liquidated damages and not a penalty. Metro West Ambulance and the County concur that such amounts constitute a reasonable attempt to estimate fair compensation for the foreseeable but not readily ascertainable damages likely to arise from Metro West Ambulance’s failure to meet the standards set forth therein. Metro West Ambulance and the County concur that this is an independent contractual provision, provided only that the County may not recover both a civil penalty and liquidated damages for the same failure to comply.

3. **Waiver:**
   The levying of a penalty or liquidated damages or any waiver or failure to require compliance by Washington County as it relates to this Agreement shall not be deemed a waiver of that or any other term(s) of this Agreement.

F. **ANNUAL FEE**

Metro West Ambulance shall pay an annual fee due in semi-annual payments. The annual fee ($424,656.00 for FY 2009/2010) shall be increased annually for the term of this Agreement by an amount equal to the General West Coast CPI, All Urban Consumers (CPI-U-West Coast). The CPI increase may be replaced by an amount above the CPI by action of the Board. Metro West Ambulance shall be notified of any increase by March 1st of each year. If the annual fee is not paid within 30 days of the date of invoicing, a nine percent (9%) late fee shall be charged. If the fee is not paid within 90 days of invoicing, a 25 percent (25%) late fee shall be charged. Interest on any past-due amount, including late fees, shall accrue at nine percent (9%) per annum commencing the 10th day of the record full month. If the fee is not paid within 90 days of the date of the invoice, that shall constitute a major default and the Safety Net Provisions shall, at the option of the County, apply.
V. PERFORMANCE REQUIREMENTS

A. COVERAGE REQUIREMENTS

Emergency ambulance service is defined as 24 hours per day paramedic staffed ambulance service, as set forth in Administrative Rule 400-270, A, for all calls triaged as requiring an emergency response. Emergency response is determined utilizing the emergency medical dispatch (EMD) card system adopted by the County. This includes calls received by non-emergency or inter-facility ambulance providers and triaged as emergency responses utilizing the EMD card system.

1. Dispatch Time Requirements
   Requests for emergency ambulance services shall be dispatched within 60 seconds as set forth in Administrative Rule 500-500, B.

2. Response Time Requirements
   Requests for emergency ambulance services shall meet the established 8, 11 and 30 minute county and sub-zone (equity area) response requirements as set forth in Administrative Rule 500-500, A & C.

3. Unit Hour Utilization Requirements
   The intent of monitoring unit hour utilization (UHU) is to allow for staff rest and recovery as a mechanism for promoting and insuring quality of care, safety and service. Unit hour utilization is not to exceed an average of 0.4500, measured daily and averaged over the term of a month.

4. Performance Reports
   The County shall report monthly Metro West Ambulance’s performance in meeting the standards set forth in this Agreement and the reporting requirements set forth in Administrative Rule 500-500 D.

5. Exemption Requests
   Metro West Ambulance may request exemptions for specific calls from the compliance process based on circumstances which are unusual and beyond their control. Examples and standards for granting exemptions are set forth in Administrative Rule 500-500 E.

6. Non-Emergency and Inter-Facility Services
   Metro West Ambulance may conduct Non-Emergency and Inter-Facility business within Washington County provided it does not negatively impact their ability to meet the requirements of this Agreement. Parameters for assessing this are set forth in Administrative Rule 500-500 F.

B. STAFFING REQUIREMENT

This Agreement mandates consistent, high quality medical performance. Ambulance units used to meet coverage requirements shall be staffed as...
required by Administrative Rules 400-210 and 400-270. Any failure to meet the minimum staffing requirement shall be subject to a penalty or fine as established by the County.

All Metro West Ambulance personnel assigned to staff emergency ambulances utilized to meet the requirements of this franchise agreement shall:

1. Openly wear identification displaying, at a minimum, certification level and first name,

2. Shall successfully complete an emergency vehicle operators course approved by the County, training shall be repeated every two (2) years,

3. Actively participate in Metro West Ambulance’s Senior/Junior Paramedic Program, as approved by and on file with the County, (The intent of the Senior/Junior Paramedic Program is to provide the standards and the mechanism for developing mature paramedics. The program provides for clinical competency and operational/system familiarity. The standards for the program will be mutually agreed upon by Metro West Ambulance and Washington County EMS. Metro West Ambulance acknowledges that ambulances shall be staffed with a minimum of one (1) Senior Paramedic at all times. Exceptions to this rule may be granted on a case by case base, in advance, by the County.)

4. Each new emergency ambulance employee will complete a job orientation that will consist of at a minimum the following:
   a. A forty-hour (40) didactic orientation program,
   b. A third person ride-a-long assessment,
      i. new hires who interned at Metro West Ambulance may meet this requirement in 3-4 shifts based on performance and call volume
      ii. outside hires shall complete a minimum of 5 shifts
   c. Two months paired with a Field Training Officer,
   d. An outline of the didactic program shall be provided to the County,

5. As required, employees and those of subcontractors if any, shall be appropriately certified at both the State and local levels,

6. Metro West Ambulance shall maintain and make available employee continuing education records,

7. Metro West Ambulance shall maintain and make available reports showing frequency and type of medical incidents as requested by County.
C. **SYSTEM STATUS MANAGEMENT (SSM) PLAN**

Metro West Ambulance shall utilize a SSM plan to strategically manage and deploy ambulance resources in Washington County. A current copy of the SSM plan shall be maintained on file at the Washington County EMS Office (WCEO). Changes to the plan must be filed with the WCEO prior to implementation.

Metro West Ambulance’s SSM plan shall meet or exceed the following requirements:

1. The plan shall provide for 24/7 emergency ambulance service as set forth in the Dispatch Center Protocols. The minimum coverage level for the County established in “Minimum Ambulance Coverage” of the protocols is four (4) ambulances. Minimum coverage is the level of coverage in the County, below which an emergency ambulance may not be removed from service for a non-emergency call (i.e. pre-scheduled, inter-facility, non-EMD card category).

2. Metro West Ambulance shall be responsible for a properly staffed and equipped ambulance responding to 100 percent (100%) of all calls, triaged according to the EMD cards as requiring an emergency medical response, treating and transporting the patient as needed.

3. In the event of a Mass Casualty Incident (MCI) resources shall be deployed according to the current MCI Plan.

4. Metro West Ambulance’s SSM plan shall include a data driven deployment plan which indicates the number of units available, based on time-of-day and day-of-week, along with their correlated post locations. The deployment plan should reflect unit availability sufficient to meet the response time standards.

5. Metro West Ambulance shall not exceed a monthly unit hour utilization (UHU) rate of 0.4500, (i.e. the ratio of patients transported to unit hour produced during the month.)

6. Metro West Ambulance’s SSM plan shall indicate the level and source(s) of mutual aid to be relied upon in meeting coverage requirements. “Mutual aid” means a response provided by an entity other than Metro West Ambulance. “Mutual aid” agreements shall be approved by the County.

D. **WORKING CONDITIONS**

Metro West Ambulance shall at all times comply with all local, state and federal labor and safety laws (i.e., ADA, BOLI, OSHA, W/C, FLSA, and OFLA/FMLA). Paramedics shall not work more than 16 consecutive hours without at least a 5 hour off-duty rest period prior to starting a new shift. Non-traditional shift patterns to maximize system status management plans are encouraged as long as adequate off-duty rest time is provided between shifts. Part-time employment and employees are permitted. However, appropriate processes must be in place to monitor that adequate time off occurs between employers.

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Metro West Ambulance shall have, at a minimum, an active pre-employment and “for cause” drug and alcohol testing program for all personnel delivering ambulance or dispatch services.

Metro West Ambulance shall provide an employee assistance program. This program shall be at no cost to the employee. The use of the program shall be confidential and shall allow for, at a minimum, two annual visits during working hours for the employee.

E. DISPATCH CENTER
Metro West Ambulance shall maintain and operate a dispatch center which is staffed and equipped to effectively implement, monitor and manage Metro West Ambulance’s SSM plan. All dispatching of emergency ambulances shall be processed and managed utilizing an EMD card system adopted in Administrative Rule. All calls received directly by Metro West Ambulance requesting medical assistance or transport shall be triaged using the EMD cards. The dispatch center shall dispatch an ambulance and immediately relay the dispatch information to the Washington County Consolidated Communications Agency (WCCCA) if so directed by the EMD cards. Non-emergency and Inter-Facility calls as defined by Washington County Code 8.32.030 (W) and (CC) are not included in this agreement and are subject to free market competition. A call received directly by Metro West Ambulance’s Dispatch Center may not be serviced as a non-emergency call unless so triaged using Washington County’s EMD cards. Dispatch center personnel shall be EMD trained and perform call review and other functions required by administrative Rule. EMD training shall consist of meeting the standards and requirements of Oregon Department of Public Safety Standards and Training (DPSST) for EMD certification and as established by Administrative Rule. Metro West Ambulance shall record all telephone lines into their dispatch center, which could receive a request for service or transfer a request for service to another ambulance provider or 9-1-1 center. Metro West Ambulance shall record all company radio frequencies used to dispatch and coordinate ambulance service. All recordings shall be made available to the County upon request. All recordings shall be retained for a minimum of one year.

Metro West Ambulance shall cooperate and communicate with 9-1-1 centers to assure a smooth delivery of dispatch services. Metro West Ambulance shall pay for, implement and maintain an interface between its dispatch center and WCCCA for the transfer of data points in a form recognizable to WCCCA’s computer system. Metro West Ambulance agrees to work with the County in the identification of additional dispatch information that would be of use to WCCCA to improve the emergency medical system. Metro West Ambulance will maintain an automatic vehicle locator in all ambulances used in the performance of this agreement.

F. VEHICLE REQUIREMENTS
All ambulances shall be in good condition, and shall meet or exceed the current Federal KKK standards at the time of the vehicles’ original manufacture. In the event such standards conflict with State of Oregon standards, the State’s
standards shall prevail. All such ambulances shall also meet or exceed the current equipment standards established by the State of Oregon. A standardized vehicle floor plan shall be submitted to the County for approval. Metro West Ambulance shall provide a fleet of ambulances adequate to meet the coverage standard provisions set forth in item A. of this section. Metro West Ambulance shall replace any ambulance in its fleet when it reaches 250,000 miles on the chassis. Exceptions may be granted by the County based upon a written request supported by an increased vehicle preventative maintenance program acceptable to the County. Metro West Ambulance shall adhere to the preventative maintenance program and reporting system described in Metro West Ambulance’s proposal, or to a program and system which Metro West Ambulance proposes and the County approves as being equivalent to or better than said program and system. Ambulances responding to 9-1-1 calls shall be licensed by the State of Oregon and be equipped and supplied as required by County and State Administrative Rules for paramedic ground ambulances. Annually, Metro West Ambulance shall submit a list of vehicles to be used in fulfilling this Agreement listing the type, age, and mileage as well as ownership, lien holders or any other obligations related to listed vehicles. Chronological maintenance records for each ambulance shall be maintained. Any ambulance replacing or added to the fleet during the term of this Agreement shall meet or exceed these standards. All ambulances to be utilized in fulfilling this Agreement shall be identified with a County logo and lettering approved by the County.

An inventory of the following non-disposable equipment shall be maintained at the indicated percentage level at all times for the peak load number of units Metro West Ambulance proposes in its SSM plan:

**One Hundred Twenty Percent (120%)**
- Monitor/defibrillator with pacing capabilities.
- Portable suction
- Traction/splints devices
- Clamshell/scoop stretcher
- Folding stretchers
- Gurney/wheeled cot
- Short backboard/K.E.D. Type Device

**One Hundred Fifty Percent (150%)**
- Long backboard (may be modified for pediatric use)

G. **DISASTER RESPONSE**

Metro West Ambulance shall maintain an effective plan for the immediate recall of personnel for the staffing of additional units in a disaster situation or times of peak overload. The plan shall be exercised three times per calendar year. One exercise shall be conducted outside of normal business hours. Cumulative exercise results shall be compiled and an internal assessment conducted with each exercise. These findings shall be filed with the WCEO.

During a man-made or natural disaster, (i.e., ice, snow, wind, flooding, earthquake or multiple patient scene or mass casualty incident), a declared emergency by an appropriate governmental agency, or any other situation as
determined by the County, Metro West Ambulance’s normal mode of operation shall be enhanced or otherwise modified in order to provide services which are appropriate for the nature of the situation and which are collaborative with local disaster plans and protocols. If, despite the best efforts of Metro West Ambulance, the disaster/situation necessarily impairs Metro West Ambulance’s ability to conform to the requirements of this agreement, as determined in good faith and reasonably by the County, Metro West Ambulance shall not be subject to penalty or declared in breach. During the course of the disaster/situation, emergency (Code 3) responses associated with this agreement shall take priority over non-emergency (Code 2) services.

In the event of a man-made or natural disaster, (i.e., ice, snow, wind, flooding, earthquake or mass casualty incident) a declared emergency by an appropriate governmental agency, or any other situation as determined by the County, Metro West Ambulance shall not bill the County for additional costs unless a federal or state source of funds are available, or the County determines that billing is appropriate under the circumstances. Metro West Ambulance shall not include in its cost statement any charges for services rendered by volunteer employees. The cost statement associated with rendering aid under disaster conditions shall be based entirely upon the actual costs incurred by Metro West Ambulance in the course of rendering such disaster assistance, and shall not include costs of maintaining production capacity that would have normally been borne by Metro West Ambulance had the disaster not occurred.

H. COMMUNICATIONS EQUIPMENT
If Metro West Ambulance maintains its own communications system separate from the County 800MHz system, Metro West Ambulance shall provide communications equipment for all ambulances used under this agreement. The number of radios shall outfit every ambulance in the fleet (used to meet the terms of this agreement) and include a sufficient number of replacements to accommodate breakdowns and maintenance. Metro West Ambulance shall provide alphanumeric pagers with CAD interface to all ambulance employees, and hospital emergency department supervisors who agree to use them, to facilitate easy access and quicker patient turn-around times. The County will provide sixteen (16) 800MHz mobile and portable radios, and one (1) base station radio for use by Metro West Ambulance. Additional radios, repair and replacement of existing radios are the responsibility of Metro West Ambulance. Metro West Ambulance shall be required to pay ambulance user fees for the 800 MHz radio system backbone. These fees are in addition to the Franchise Fee.

I. DATA COLLECTION AND PERFORMANCE REPORTS
For each patient contacted, Metro West Ambulance’s ambulance personnel shall complete an approved patient care report form. Except as otherwise required by the terms of this Agreement, Metro West Ambulance shall have a period of time which shall be reasonable under the circumstances, to furnish the data and reports required hereunder.
J. **PERSONNEL PLAN**

Metro West Ambulance shall maintain a personnel plan which addresses the following areas in a manner which provides for a professional and stable workforce, and a collaborative work environment.

1. **Wages and Benefits**
   Compensation package shall be competitive within the local market place and include the following: health plan, retirement plan. 
   *(retirement programs for dispatch center and field personnel shall be so structured that, in the event of a change of Metro West Ambulance by takeover or the end of term of this agreement, each employee’s vested benefits will remain intact whether or not that employee continues to work for a provider of ambulance service in Washington County)*, paid leave time and a uniform provision.

2. **Employee Handbook**
   Handbook shall describe personnel policies and procedures. A copy of the current handbook shall be on file with the County at all times.

3. **Rights and Responsibilities of Field and Dispatch Personnel**
   Professional rights and responsibilities, along with expectations and performance, shall be consistent with current industry standards and practices:
   - Field personnel and dispatcher certification or accreditation as required by Chapter 333 of the Oregon Administrative Rules;
   - Utilization of the County EMS Medical Director as set forth in Washington County Administrative Rule 400-400;
   - Operation of the dispatch center under the medical direction of the County EMS Medical Director.

4. **Character and Competence of Employees**
   Management of professional conduct and performance shall be active with regards to personal behavior along with clinical and operational functions.

   Quality Improvement programming shall directly address misconduct, incompetence and negligence and shall incorporate provisions for education and remediation. While termination is allowed for within the QI process, it is to be an action of last resort. Under this provision the WCEO and the EMS Medical Director retain the right, with cause, to identify and refer deficient personnel into Metro West Ambulance’s QI program. Personnel suspended or placed on probation for patient care or any issue which place patients at risk, shall not be returned to regular line duty without written consent from the EMS Medical Director and/or the WCEO. Termination notification parameters to the State EMS Office, as set forth in OAR 333-250-0043(4), shall be the same for notification to the WCEO.

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5. Key Personnel

Metro West Ambulance understands that the County has, in part, awarded this agreement and authority to operate based upon the qualifications of Metro West Ambulance’s organization, and upon the qualifications of key personnel identified in Metro West Ambulance’s proposal. Metro West Ambulance shall furnish the personnel identified in this proposal, and throughout the term of the agreement shall continue to furnish those same personnel or replacement personnel with equal or superior qualifications. Metro West Ambulance may modify job descriptions as it deems necessary. A management representative shall attend County emergency medical services related meetings as reasonably requested by the WCEO. In the event key personnel are terminated or resign they shall be replaced with personnel having equal or superior qualifications. If the parties to this Agreement cannot agree that replacement personnel are comparable the matter shall be submitted to a third party agreed upon by the parties for resolution. Persons listed as key personnel shall discharge the duties assigned to them under this Agreement. The following shall be considered key personnel: President, Vice Presidents, Ambulance Operations Manager, Office Manager, Maintenance Supervisor, Dispatch Manager and Supervisor, Ambulance/Operations Supervisors and QI/Training Manager or personnel of comparable positions.

K. FIRE SERVICE COORDINATION

Metro West Ambulance shall offer to Washington County Fire Departments continuing education opportunities in collaboration with the WCEO. A fee may be charged by Metro West Ambulance to cover the cost of outside instructors.

Metro West Ambulance shall have an active financial, logistical and operational role in the provision of EMT-Basic courses for Washington County fire agencies as long as demand justifies such a program. An “active role” will be mutually agreed upon by Metro West Ambulance and the WCEO.

Metro West Ambulance shall accommodate the resupply of disposable items used in the direct care of patients by first responder fire departments (per WA Co EMS Administrative Rule 400-340).

For all fire department equipment left with a patient, Metro West Ambulance shall provide a management contact and a telephone number to record the equipment information, and return all equipment within seven (7) days.

Fire department staff who accompany Metro West Ambulance to the hospital shall be returned to their station or identified location by Metro West Ambulance as set forth in protocol.

Metro West Ambulance shall respond to hazardous materials and fire and police standbys without additional compensation. These standby units will be available for emergency response from the standby location.
L. MEDICAL CONTROL

Metro West Ambulance acknowledges that the State of Oregon, along with Washington County, have the authority to develop standards, plans, policies, rules, medical standards and protocols that establish the standards of emergency service and care within the County. Metro West Ambulance, its employees and any subcontractors, are subject to these standards.

EMTs employed by Metro West Ambulance shall have as their physician supervisor, for the purposes of providing services under this Agreement, the EMS Medical Director designated by Washington County. The EMS Medical Director shall meet and fulfill all the requirements established for Physician Supervisors by the Oregon Medical Board (OMB) as set forth in the OMB’s Administrative Rules, OAR Chapter 847 Division 035. Metro West Ambulance shall not establish any relationship with any other medical professional for the purposes of medical direction or oversight, regarding services provided under this Agreement, without the permission of the County. Patient care shall be provided consistent with standards approved by rule and the County’s EMS Medical Director. A patient care form approved by the Medical Director/WCEO shall be completed and distributed as required by the County.

Annually, an audit shall be submitted to the County listing instances of superior performance, performance problems identified through Metro West Ambulance’s quality improvement process, and medical procedures used and not used by Paramedics in the field.

All system related quality improvement issues shall be referred to the County for review and resolution. Metro West Ambulance shall actively participate in, cooperate with and support the emergency medical services system’s quality improvement process. This shall include, but not be limited to, gathering data, submitting requested materials, providing committee members and leadership as requested, making system improvement suggestions to the County and maintaining a feedback loop, with the County, of actions taken upon its request.

Metro West Ambulance shall provide the County with all data points on the Oregon Pre-hospital Data Base and Electronic Patient Care Report Form by an electronic means which allows the County to receive and manipulate the data. Metro West Ambulance shall bear the cost of establishing this system. The County reserves the right to modify the medical control system or establish a system of independent medical control for oversight of clinical performance. Metro West Ambulance acknowledges that it, and its employees and subcontractors will operate under qualified independent medical direction or under such modification to the medical control system as the County may establish.

Metro West Ambulance shall retain all training, quality assurance, quality improvement and other related records, regarding the performance of EMTs and Paramedics providing medical care under the supervision of the County EMS Medical Director. These records shall be maintained for 10 years.
M. **STANDBY AND SPECIAL EVENTS COVERAGE**
Metro West Ambulance may provide dedicated standby or special events coverage with units other than those included in Metro West Ambulance’s SSM plan.

N. **HELICOPTER AIR AMBULANCE SERVICES**
The County reserves the right to allow helicopter air ambulance services, for emergency and non-emergency calls, to be operated in the County by a provider other than Metro West Ambulance. This includes flights and transportation within Metro West Ambulance’s service areas. Metro West Ambulance shall comply with any authorized decision regarding transport by air ambulance.

O. **EMS SYSTEM DEVELOPMENT**
Metro West Ambulance shall regularly participate in all areas of EMS system development.

P. **SUBSCRIPTION MEMBERSHIP PROGRAMS**
Metro West Ambulance may develop a membership program, only with County approval, which shall not be unreasonably withheld. The County will review any proposed subscription membership plan to determine if charges and benefits are appropriately balanced, and user fee standards are met.
VI. **WITHDRAWAL AND END-TERM PROVISIONS**

A. **WITHDRAWAL PROCEDURE**

Either party may choose to withdraw from this agreement with or without cause. Withdrawal by choice must be done in writing, meeting the following requirements:

1. Within the first 30 days of an 18 month evaluation period, written notice shall be made that consideration is being given to withdrawal at the end of the evaluation period and the reasons for that consideration. Justification and discussion may be offered, but are not required.

2. During the sixth month of the evaluation period, written notice of intent to withdraw at the end of the evaluation period shall be made.

3. Beyond the ninth month of the evaluation period, to rescind one’s intent to withdraw requires the support of the other party.

B. **END TERM REQUIREMENTS**

In the event that Washington County chooses to withdraw from this Agreement and seek another ambulance provider, Metro West Ambulance shall:

1. Continue to provide services during any “lame duck” period, (lame duck period is defined as the period of time between notice of consideration of withdrawal and the end of this agreement);

2. Cooperate fully with County and its new emergency ambulance provider in affecting a safe and orderly transition;

3. Cease doing emergency ambulance business in the ASA after the end of the lame duck period and assert no claim of right to emergency ambulance business in the ASA, nor assert any claim of compensation owed relative to the loss of such business.

During any lame duck period, Metro West Ambulance shall continue all operations essentially at the same level of effort and level of performance as were in effect prior to the award of the subsequent proposal to a competing bidder. Metro West Ambulance shall specifically be prohibited from making any changes in methods of operation which could reasonably be considered to be aimed at cutting operating costs to maximize profits during the final stages of the contract. However, the County recognizes that, if a competing proposer is awarded the contract in a subsequent proposal cycle, Metro West Ambulance may reasonably begin to prepare for transitioning Metro West Ambulance to its post agreement business plan during the lame duck period. The County shall not unreasonably withhold its approval of Metro West Ambulance’s requests to begin an orderly transition process (within six (6) months), including reasonable plans to relocate staff, scale down certain inventory items, etc., so long as such transition activities do not impair Metro West Ambulance’s performance during the lame duck period.
Should the County choose to open a formal selection and procurement processes, Metro West Ambulance shall not penalize or bring personal hardship to bear on any of its employees who may apply for work with a competing bidder, and shall specifically allow, without penalty, its employees to sign contingent employment agreements with competing bidders at the employee’s discretion. It is the County’s intention under this and future procurement that adequately performing supervisory personnel, driver, paramedic personnel, and dispatch center personnel serving in the ambulance service system shall have reasonable expectation of long-term employment in this system, even though ambulance service providers may change from time-to-time.
VII. SAFETY NET PROVISIONS

A. MAJOR DEFAULT

Major defaults shall be limited to:

1. Failure of Metro West Ambulance to operate the ambulance service in substantial compliance with applicable Federal, State and County laws, rules and regulations or as may be amended.

2. Supplying false or misleading information or information so incomplete as to mislead.

3. Willfully falsifying data supplied to the County during the term of this Agreement.

4. Failure to provide an employee handbook and benefit package which promote and allow for a positive work environment and stable work force.

5. Failure to meet the performance standards as set forth in Code, Rule or this Agreement.

6. Failure to maintain equipment in accordance with the maintenance practices proposed and accepted or to replace equipment in accordance with the proposed and accepted equipment replacement policy except as extended use is approved by the County.

7. Failure of Metro West Ambulance to furnish key personnel of the quality and experience proposed.

8. Suspension or revocation of ambulance license issued by the State of Oregon or Washington County.

9. Filing of Chapter 7 or Chapter 11 bankruptcy (Title 11, U.S.C.), voluntary or involuntary bankruptcy, general assignment for the benefit of creditors, and appointment of a trustee.

10. Failure to meet response time requirements as determined by Administrative Rule. If the County changes response areas or response time requirements (not to include expanding response areas to meet the Urban Growth Boundary as established by Metro,) an adequate period of time shall be given, at the discretion of the County, for Metro West Ambulance to modify their system status management and/or deployment plan. During this period of time major default and liquidated damage assessments will be suspended.

11. A second occurrence of failure to respond to a 911 call to which an ambulance is dispatched in any one day, to be measured from 12:00 AM to 11:59 PM. A failure to respond shall not be counted against this standard, if due to an event determined, in the discretion of the
County, to be beyond the control of Metro West Ambulance, and Metro West Ambulance has not reduced the number of ambulances below the number called for in Metro West Ambulance’s SSM plan, has activated all appropriate mutual aid agreements and has, in the sole discretion of the County, taken all reasonable steps to increase available resources, such as staffing and equipping reserve units and calling staff in to work. Unless the second occurrence of failure to respond is determined, in the discretion of the County to be beyond the control of Metro West Ambulance, a second occurrence in any one day, as defined above, shall, at the option of the County, activate the Safety Net Provisions of the Franchise Agreement. A failure to respond shall be defined as the inability to respond with a State licensed paramedic ambulance within ten (10) minutes on a code 3 call or twenty (20) minutes on a code 1 call.

12. Failure to take corrective action in response to repeated assessment of penalties under this Agreement or Administrative Rules.

13. At the option of the County, termination of insurance coverage, without alternate, comparable, County approved coverage.

14. Failure to maintain the performance security or the availability of equipment to the County as provided in this Agreement.

15. Four occurrences of failure to meet staffing requirements in any one-month shall be a major default for which the Safety Net provisions of this Agreement, at the option of the County, shall apply.

16. Any failure to comply with a term of this Agreement which is expressly identified in the Agreement Documents as grounds for finding a major default or implementing the take-over provisions.

B. PROCEDURE FOR FINDING OF A DEFAULT
   The procedure for finding a default, other than a proceeding to impose civil penalties described in Section IV., E., 1. shall be initiated by written notice from the County to Metro West Ambulance outlining the County’s specific legal and factual basis for recommending a finding of a default. The notice shall indicate whether the County deems the breach to be a major default. The notice shall provide no less than 15 business days in which Metro West Ambulance may submit written evidence to the County that the default has been or will be cured or rebutting the legal and factual basis of the County’s recommendations. The County shall evaluate the information and issue a written recommendation, which may include a recommendation that the basis for declaring a default has been cured or rebutted. A rebuttal sustained by the County is expunged from the record, while a cured default remains a fact of record.

C. APPEAL OF FINDINGS
   Metro West Ambulance may appeal an adverse determination to the Board by filing a written notice of appeal within 15 business days of declaration of default by the County. The notice shall set forth the factual and legal objections to the
declaration. The appeal shall be heard by the Board within 15 business days of receiving written notice from Metro West Ambulance. Metro West Ambulance shall be provided reasonable opportunity to present evidence and argument as to why default should not be found and, in the case of a major default, the franchise should not be taken over. The Board shall issue a written order. If the Board concludes that there has been default, it may provide further opportunity to cure or may order immediate action. Nothing in this provision in any way restricts the authority of the Board to consider in executive session any matters authorized by ORS 192 or waives any defense to disclosure. Notwithstanding any other provision, the County may immediately exercise any of the remedies for default, including takeover, if the Board determines that Metro West Ambulance has ceased to provide services in any portion of the County or is providing such a minimal level of service that there is a medical emergency dangerous to public health or safety. Such determination shall be in writing and is effective upon delivery to Metro West Ambulance. Within five (5) business days of such declaration, the County shall provide Metro West Ambulance with the notice of default otherwise provided for, and the default shall proceed.

D. DECLARATION OF DEFAULT

Upon a declaration of default, County may sue for damages or take any other action allowed by law and, in the event of a major default, exercise takeover provisions, including, without limitation, termination of this Agreement. These remedies are independent, cumulative and not exclusive. The County shall not however be entitled to sue for damages, other than liquidated damages, if it exercises the “take-over” option. The parties acknowledge that the provision of uninterrupted, high quality ambulance service is a critical function necessary to preserve the safety and welfare of the public. In the event of a major default, the County may elect to terminate this Agreement, take over the franchise and provide the emergency ambulance service described herein. In the event of a takeover, the County shall be entitled to operate ambulance service directly or through an alternative provider. To effectuate transfer, the County shall be entitled to immediate and uncontested access to the entire performance security funds provided for in item F., 3 of this section and the equipment provided for in item F., 2 of this section the County shall use the funds and equipment for the reasonable and necessary provision of ambulance services in Washington County, including take-over costs and the costs of securing an alternate interim or permanent provider. The County shall place the funds in a trust, agency or similar account. In addition to the security, the County shall be entitled to receive as liquidated damages, and not as a penalty, the sum of $5,000 per day until the substitute provider commences, but in no event for more than 150 days. An entity authorized in the interim or emergency basis to provide services shall not be considered a substitute provider. The County shall make diligent, good faith efforts to promptly secure acceptable substitute providers so as to minimize use of the security and the imposed liquidated damages. Metro West Ambulance acknowledges that it had an opportunity to contest this amount, and concurs with the County that it constitutes a reasonable and genuine attempt to estimate damages and costs which are not readily ascertainable or otherwise recoverable.
E. **TAKEOVER COOPERATION**

Metro West Ambulance shall cooperate completely and immediately with the County to affect any takeover by the County upon finding of major default or upon a determination of a need for immediate take over, as provided in this Agreement, and exercise by the County of its option to take over emergency ambulance service. Such takeover shall be affected immediately or within not more than 72 hours, after such finding by the County of need for immediate take over or finding of major default as determined by the Board unless the County specifies additional time. Metro West Ambulance 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 emergency ambulance service by the County. Metro West Ambulance waives any claim for preliminary injunctive or other equitable relief that would interfere with an immediate takeover. These provisions are specifically stipulated and agreed to by both parties as being reasonable and necessary to the protection of the public. Any legal dispute concerning the finding that a major breach has occurred shall not, under any circumstances, delay the process of the emergency takeover or the County’s access to performance security funds, or to equipment to be made available by Metro West Ambulance under the performance security provisions of this Agreement.

F. **PERFORMANCE SECURITY PROVISIONS**

1. **Absence of Liens**

   Metro West Ambulance warrants that the ambulances, together with the equipment and supplies regularly contained therein, are now and shall remain free and clear of all liens, encumbrances, claims, or interests of any nature, except those in favor of the County, for the duration of this Agreement.

2. **Fail Safe: Operational-Takeover**

   In the event of a major default, Washington County has at its option, the right to seize all Metro West Ambulance’s operational assets and resources used in the provision of services under this agreement. Operational takeover may be partial or whole. Operational assets shall be returned to Metro West Ambulance upon commencement of services by a substitute provider as set forth in item D, Declaration of Default, in this section. Both parties acknowledge that the intent of this provision is, uninterrupted ambulance service to preserve the safety and welfare of the public.

   The following specified items are representative of the intent of this provision and by no means should be viewed as all inclusive or limiting:

   a. All ambulances, operational support vehicles, equipment and supplies used to meet the terms of this Agreement and as specified in Oregon and Washington County Administrative Rules. All additional equipment inventory and all stocked supplies in place to support the terms of this Agreement.
b. All computer hardware, software and office equipment necessary for Medicare and other insurance billings.

c. All communications systems, including all phones, radios, repeaters, antennas, pagers, computers and other associated hardware and software used to meet the terms of this Agreement. This shall include Metro West Ambulance’s private VHF radio system only in the event that Washington County’s 800 MHz system is no longer available.

d. All facilities used to meet the terms of this Agreement to include the corporate/business offices, maintenance shop, dispatch center and any operational bases used by Metro West Ambulance. This includes all of the equipment, furnishings, supplies and inventory at such facilities.

e. A minimum of five thousand (5,000) gallons of fuel for the ambulances.

3. Performance Security
Metro West Ambulance shall maintain for the duration of this Agreement, a performance security in the amount of $1,000,000 by one or combination of the methods in a. and b. below and acceptable to the County:

**Phase-In Provision:** Metro West Ambulance currently has in place a $400,000 Letter of Credit. Within 60 days of implementation of this Agreement, Metro West Ambulance shall have in place $600,000 of the required $1,000,000 performance security. By the end of each of the first 4, 18 month periods of this agreement, Metro West Ambulance shall increase the performance security by $100,000. At the end of the first 6 year term, the required $1,000,000 performance security shall be in place. Failure to meet any of the incremental increases shall be deemed a condition of default with Liquidated Damages of $1,000 per week, levied on the first day of that week. If any of the incremental increases are not met within 60 days of their due date, this will be deemed a condition of major default.

a. Letter of Credit
An irrevocable letter of credit issued pursuant to this provision in a form and from a bank or other financial institution acceptable to the County. The terms of the irrevocable letter of credit shall certify that the issuer shall automatically, and without delay, convey the performance security funds to the County pursuant to the provisions for determining a major default and certifying further that Metro West Ambulance shall not seek recovery of such issued funds from the County.
b. Cash, Bond or Government Backed Demand Instruments
   Place unencumbered, unrestricted cash, bond or government backed demand instruments approved by the County, in escrow with accumulated interest payable to Metro West Ambulance. The terms of the escrow agreement shall be acceptable to the County and at a minimum, shall provide that, upon certification, Metro West Ambulance shall make payment to the County on demand, regardless of any objections.

c. Replacement Security
   Any performance security furnished by Metro West Ambulance in fulfillment of the requirements of this Agreement for performance security that includes an agreement with a person or entity other than the County or Metro West Ambulance shall provide that the third party shall not cancel the agreement for any reason except upon 30-days advance written notice to County of the intention to cancel said agreement. Not later than 20 days following the commencement of the 30-day notice period, Metro West Ambulance shall provide to the County a replacement agreement acceptable to the County.

d. Inflation Adjustment
   The County will assess the need to increase the dollar amount of the performance security every third period (54 months) of the Agreement. The assessment shall be based on funding and supporting the assumption of operational responsibilities by the County. The parameters for the dollar amount of the adjustment will be the ambulance specific CPI, increased call volume, or rate adjustments allowed to Metro West Ambulance. The implementation date and strategy, as appropriate, of the increase will be mutually agreed upon by Metro West Ambulance and the County.
VIII. SIGNATURES OF AGREEMENT:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year below written, to take effect January 1, 2010 at 1201 AM.

_______________________________________________ Date: _________________  
Tom Brian, Chair  
Washington County Board of County Commissioners:

_______________________________________________ Date: _________________  
J. D. Fuiten, President  
Metro West Ambulance Service, Inc.

Approved as to Form:

_________________________________________________  
Dan R. Olson  
County Counsel for Washington County  
By: Brad Anderson  
Senior Assistant County Counsel for Washington County
## APPENDIX A

### Washington County Emergency Ambulance Service Franchise Agreement

**Penalty Schedule**

*Unless specified, each occurrence means a 24 hour period beginning at 0001 hrs.*

<table>
<thead>
<tr>
<th>VIOLATION</th>
<th>PENALTY:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to maintain required &quot;on file with the County&quot; documents current</td>
<td>$100 per occurrence</td>
</tr>
<tr>
<td>Failure to meet the identification level of certification standard</td>
<td>$100 per occurrence</td>
</tr>
<tr>
<td>Failure to retain or produce any required record upon request</td>
<td>$100 per occurrence</td>
</tr>
<tr>
<td>Failure to submit quarterly staff retention reports.</td>
<td>$100 per occurrence</td>
</tr>
<tr>
<td>Failure to exercise recall plan over a 30 week period</td>
<td>$100 per occurrence</td>
</tr>
<tr>
<td>Failure to have an ambulance available and assigned to a call within 60</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>seconds of receipt more than 11 times in a calendar month</td>
<td></td>
</tr>
<tr>
<td>Failure to have an operational supervisor available to address an issue</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>within 10 minutes of request by a hospital, public safety agency or the</td>
<td></td>
</tr>
<tr>
<td>WCEO</td>
<td></td>
</tr>
<tr>
<td>Failure to have dispatch personnel EMD trained within six (6) months of</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>hire</td>
<td></td>
</tr>
<tr>
<td>Failure to meet the employee training standard.</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to meet the equipment standards</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to meet the monthly UHU ratio standard</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to meet the new employee training standard.</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to meet the staff certification standards.</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to notify the County of changes in the posting plan prior to</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>implementation</td>
<td></td>
</tr>
<tr>
<td>Failure to notify the County of changes in the SSM plan prior to</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>implementation</td>
<td></td>
</tr>
<tr>
<td>Failure to provide call verification receipt to 911 center</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to provide data or reports by due date stated in request</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to provide patient information to receiving facility</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to record and retain all dispatch center communications</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>Failure to respond to at least 99% of emergency calls in a calendar</td>
<td>$250 per occurrence</td>
</tr>
<tr>
<td>month - resulting in response by another agency.</td>
<td></td>
</tr>
<tr>
<td>Failure to appropriately triage and transfer call to 911 center</td>
<td>$500 per occurrence</td>
</tr>
<tr>
<td>Failure to have a Supervisor available to respond to an incident upon</td>
<td>$500 per occurrence</td>
</tr>
<tr>
<td>request</td>
<td></td>
</tr>
</tbody>
</table>
## APPENDIX B

<table>
<thead>
<tr>
<th>VIOLATION</th>
<th>DAMAGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to meet the 88% equity zone response time requirement in each zone in any given month</td>
<td>$1,000 per occurrence</td>
</tr>
<tr>
<td>Failure to meet the 90% countywide response time requirement in any given month</td>
<td>$1,000 per occurrence</td>
</tr>
<tr>
<td>Failure to meet any of the scheduled incremental increases in the Performance Security</td>
<td>$1,000 per week</td>
</tr>
<tr>
<td>Failure to meet any of the scheduled incremental increases in the Professional Liability / Errors and Omissions Insurance</td>
<td>$1,000 per week</td>
</tr>
<tr>
<td>“Failure to Respond” per definition and time requirements in County EMS Rule</td>
<td>$2,500 per occurrence</td>
</tr>
<tr>
<td>Failure to provide 24 hour minimum coverage of 4 ambulances on-duty within the system</td>
<td>$2,500 per occurrence</td>
</tr>
<tr>
<td>Failure to develop and implement building lease within 100 days of implementation of the Agreement</td>
<td>$2,500 per occurrence and $100 per day until implemented</td>
</tr>
<tr>
<td>Failure to meet the requirements of the Agreement resulting in the implementation of the takeover provision</td>
<td>$5,000 per day up to 150 days</td>
</tr>
</tbody>
</table>

Unless specified, each occurrence means a 24 hour period beginning at 0001 hrs.
APPENDIX  C

METRO WEST AMBULANCE BUILDING LEASE

Metro West Ambulance shall have 100 days from the implementation of this Agreement to arrange for a building lease agreement, or equivalent mechanism, subject to the approval of Washington County. Provided that the leasing agreement meets the stated intent and is consistent with the following provisions, such approval shall not be unreasonably withheld by the County:

1. The lease agreement shall be between Fuiten West Limited Partnership Limited (owner of the facility) and Washington County.
2. The structure of the lease shall be executable upon contractual default by Metro West Ambulance, of their Washington County Emergency Ambulance Service Franchise Agreement.
3. Lease shall include all functional portions of the facility which support ongoing provision of ambulance services.
4. Contents of the facility are not included in this lease agreement and shall be managed as addressed within the Franchise Agreement.
5. Utilities which service the facilities shall be continued for the duration of the occupation by Washington County. The cost of utilities may be passed on to the County.
6. All facility insurance in place shall be continued at the same level for the duration of the occupation by Washington County. This shall be done at no cost to Washington County.
7. All and any obligation or liens (financial or otherwise) attached to the facilities shall be the responsibility of Metro West Ambulance or Fuiten West Limited Partnership Limited.
8. Leases to the County shall follow applicable Washington County leasing procedures and shall include a non-appropriation clause.

The failure of Metro West Ambulance to meet the 100 day development provision of this building lease shall be deemed a condition of default. This default shall carry liquidated damages of $2,500 and $100 per day till submitted.

Note:
Metro West Ambulance and Fuiten West Limited Partnership Limited have requested that the building lease be held as confidential. A current copy of the lease shall be kept on file at the Emergency Medical Services Office.

This document shall be held confidential to the extent allowed by this Agreement, and all applicable state and local statutes (law) and administrative rules.
It is the expectation that Metro West Ambulance will meet or exceed each of the standards set forth in the 18 Month Periodic Assessment on an ongoing basis. It is, however, acknowledged by the County that on occasion there may be incidental lapses in compliance of a standard within the 18 month period under consideration. A single isolated lapse of a standard does not mandate a failure to meet the standard for that period... Single standard lapses which remain unaddressed or unresolved for greater than 45 days, or any combination of three lapses in a given period are grounds for denying an additional 18 Month Period.

- excerpted from Section II., A., Term of Agreement and Renewal Provisions

<table>
<thead>
<tr>
<th>Criteria:</th>
<th>Meets Standard:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Requirement: 90% Overall County Response Time</td>
<td>90% Overall County Response Time</td>
</tr>
<tr>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
</tr>
<tr>
<td>2. Requirement: 88% in North Equity Zone Response Time</td>
<td>88% in North Equity Zone Response Time</td>
</tr>
<tr>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
</tr>
<tr>
<td>3. Requirement: 88% in Central Equity Zone Response Time</td>
<td>88% in Central Equity Zone Response Time</td>
</tr>
<tr>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
</tr>
<tr>
<td>4. Requirement: 88% in South Equity Zone Response Time</td>
<td>88% in South Equity Zone Response Time</td>
</tr>
<tr>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
</tr>
<tr>
<td>5. Requirement: 88% in West Equity Zone Response Time</td>
<td>88% in West Equity Zone Response Time</td>
</tr>
<tr>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
<td>Reference: Washington County EMS Administrative Rule 500-500(c)</td>
</tr>
<tr>
<td>6. Requirement: Monthly Unit Hour Utilization Rate at 0.4500 or less</td>
<td>Monthly Unit Hour Utilization Rate at 0.4500 or less</td>
</tr>
<tr>
<td>Reference: Washington County Franchise Agreement Section V., A., 3.</td>
<td>Reference: Washington County Franchise Agreement Section V., A., 3.</td>
</tr>
<tr>
<td>7. Requirement: Ambulance Dispatched within 60 Seconds of Receipt</td>
<td>Ambulance Dispatched within 60 Seconds of Receipt</td>
</tr>
<tr>
<td>Reference: Washington County EMS Administrative Rule 500-500(B)</td>
<td>Reference: Washington County EMS Administrative Rule 500-500(B)</td>
</tr>
<tr>
<td>8. Requirement: No more than 1% of Responses Handled by Another Agency</td>
<td>No more than 1% of Responses Handled by Another Agency</td>
</tr>
<tr>
<td>Requirement</td>
<td>Requirement Details</td>
</tr>
<tr>
<td>-------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>9</td>
<td>Meet Equipment Standards set forth in Administrative Rule</td>
</tr>
<tr>
<td>10</td>
<td>Maintain State Licensure of All Franchise Ambulances</td>
</tr>
<tr>
<td>11</td>
<td>Maintain County Licensure of All Franchise Ambulances</td>
</tr>
<tr>
<td>12</td>
<td>Staff Ambulances According to Administrative Rule</td>
</tr>
<tr>
<td>13</td>
<td>Meet Employee Training Standard set forth in Administrative Rule</td>
</tr>
<tr>
<td>14</td>
<td>Completion of Coursework and Ride-A-Long Components of New Employee Orientation Program Prior to Staffing an Ambulance</td>
</tr>
<tr>
<td>15</td>
<td>Completion of 2 Month (minimum) Field Training Officer Assessment Prior to Staffing an Ambulance as a Junior Paramedic Outside the FTEP Program</td>
</tr>
<tr>
<td>16</td>
<td>Provide Patient Information to Receiving Facilities as set forth in Administrative Rule</td>
</tr>
<tr>
<td>17</td>
<td>Actively Monitor the Triage (over and under) of Requests For Service for Appropriate and Timely Transfer to 911</td>
</tr>
<tr>
<td>18</td>
<td>Maintain Functional CAD to CAD Bridge with Receipt Verification</td>
</tr>
<tr>
<td>19</td>
<td>Completion of EMD Training for Dispatch Personnel Within Six (6) Months of Hire</td>
</tr>
<tr>
<td>Requirement</td>
<td>Description</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>20</td>
<td>Failure to Respond an Ambulance as set forth in Administrative Rule</td>
</tr>
<tr>
<td>21</td>
<td>Record and Retain All Dispatch Related Telephone and Radio Communications</td>
</tr>
<tr>
<td>22</td>
<td>Maintain Adequate and Appropriate Records of Responses, Patient Care and</td>
</tr>
<tr>
<td></td>
<td>Maintenance for the Retention Period set forth in the Administrative Rules</td>
</tr>
<tr>
<td>23</td>
<td>Submit Quarterly Staff Retention Reports as Mutually Agreed Upon</td>
</tr>
<tr>
<td>24</td>
<td>Notify County of Changes in System Status Management Plan, to include Post</td>
</tr>
<tr>
<td></td>
<td>Locations, Posting Order and Staffing Plan Prior to Implementation</td>
</tr>
<tr>
<td>25</td>
<td>Provide Data or Reports as Requested by Due Date Stated in the Request</td>
</tr>
</tbody>
</table>

* = 18 Month Periodic Assessment /Appendix D Parameters Phase-In
Phase-In Provision: The parameters in the 18 Month Periodic Assessment tool are carryovers from the previous franchise agreement which carried different terms and infrastructure. Under the new terms and infrastructure some of the standards and parameters may have limited or different applications and value in monitoring and assessing the performance of Metro West Ambulance. It is mutual understood and accepted by Metro West Ambulance and Washington County that with time and experience that there will be need to assess and revise some of the standards and parameters, along with their application. The standards, parameters and application of Appendix D will be collaboratively assessed and revised at the end of the 1st, 2nd and 4th 18 Month Periods as appropriate.

Assessment Conducted By: ___________________________ Date: ___________________________
<table>
<thead>
<tr>
<th></th>
<th>Requirement</th>
<th>Reference</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Monthly Performance Assessment</td>
<td>Exceeds Standard</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>90% Overall County Response Time</td>
<td>Washington County EMS Administrative Rule 500-500(c)</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>88% in North Equity Zone Response Time</td>
<td>Washington County EMS Administrative Rule 500-500(c)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>88% in Central Equity Zone Response Time</td>
<td>Washington County EMS Administrative Rule 500-500(c)</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>88% in South Equity Zone Response Time</td>
<td>Washington County EMS Administrative Rule 500-500(c)</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>88% in West Equity Zone Response Time</td>
<td>Washington County EMS Administrative Rule 500-500(c)</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Monthly Unit Hour Utilization Rate at 0.4500 or less</td>
<td>Washington County Franchise Agreement: Section V., A., 3.</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Ambulance Dispatched within 60 Seconds of Receipt</td>
<td>Washington County EMS Administrative Rule 500-500(b)</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>No More than 1% of Responses Handled by Another Agency</td>
<td>Washington County Franchise Agreement: Penalty Schedule, Appendix A</td>
<td></td>
</tr>
</tbody>
</table>
CONTRACT AMENDMENT NO. 1

This amendment is made and entered into by and between, Metro West Ambulance, Inc. ("Contractor") and Washington County, a political subdivision of the State of Oregon ("County").

This amendment modifies that certain contract between the parties, the original contract number being BCC 09-1138.

The contract is amended as follows:


A. TERM OF AGREEMENT AND RENEWAL PROVISIONS

This Agreement began September 3, 1997 with an initial five year term. Metro West Ambulance has since earned two, two year extensions. The County further extended the agreement 16 months to December 31, 2009 to accommodate implementation of this perpetuating long term agreement.

Beginning January 1, 2010 the term of this agreement shall be a 6 year renewable contract which consists of four (4), 18 month periods. At the end of each 18 month period Metro West Ambulance’s performance will be evaluated. If their performance meets or exceeds standard, an additional 18 month period will be added to the contract, thus renewing the 6 year term.

In the event that the Metro West Ambulance does not perform at or above the standard, the franchise agreement then becomes a four and one half year term contract. Should a second failure to meet standard occur, bringing the term to three years, this shall be considered a condition of major default and will initiate the default and revocation process.

Should the term become four and one half years, reestablishment of a 6 year term may occur at the approval of the EMS Office under the following conditions: After completion of 5 consecutive 18 month periods above standard performance, the 5th 18 month period may be added back to the term reestablishing a 6 year contract term. Above standard performance is defined as follows: response time performance at 90% in all 4 equity zones, overall UHU shall be 0.4500 or below and any standards involved in the loss of the 18 month period shall have no incidents of noncompliance.

The base terms for the perpetuating agreement have been set forth in Section 500-200 of the Washington County EMS Administrative Rules.

Nothing in the awarding of the original franchise, the granting of extensions, the granting of a license, or the execution of this Agreement, shall in any way be construed as establishing a property interest or any other entitlement other than to permit Metro West Ambulance to enforce the terms of this Agreement.

Revised 4/9/07
18 Month Period Assessment: Assessment and determination of granting or denying an additional 18 Month Period, will be based on the 18 Month Periodic Assessment sheet attached as Appendix D*. The County’s expectation is that Metro West Ambulance will meet or exceed each of the standards set forth in the 18 Month Periodic Assessment on an ongoing basis.

* = 18 Month Periodic Assessment / Appendix D Parameters Phase-In

Phase-In Provision: The parameters in the 18 Month Periodic Assessment tool are primarily carryovers from the previous franchise agreement which carried different terms and infrastructure. Under the new terms and infrastructure some of the standards and parameters may have limited or different applications and value in monitoring and assessing the performance of Metro West Ambulance. It is mutually understood and accepted by Metro West Ambulance and Washington County that with time and experience that there will be need to assess and revise some of the standards and parameters, along with their application. The standards, parameters and application of Appendix D will be collaboratively assessed and revised at the end of the 1st, 2nd and 4th 18 Month Periods as appropriate.

Granting an Additional 18 Month Period: It is the expectation that Metro West Ambulance will meet or exceed each of the standards set forth in the 18 Month Periodic Assessment on an ongoing basis. It is, however, acknowledged by the County that on occasion there may be incidental lapses in compliance of a standard within the 18 month period under consideration. A single isolated lapse of a standard does not mandate a failure to meet the standard for that period.

Based on the identification, disclosure, corrective action taken, duration, explanation and the specific standard lapsed, the County reserves the right, at its sole and independent discretion, to deem a lapsed standard to be "within standard" for that 18 Month Periodic Assessment.

Lapses identified and/or actively being resolved during the last 2 months of a period, may be evaluated beyond the current assessment period; but by no more than 2 months. The intent is to accommodate a complete and appropriate assessment, prior to determination of compliance by the County.

Performance standards monitored on a monthly basis, such as response times, are excluded from the above incidental lapses and extended assessment period provisions.

Denying an Additional 18 Month Period: Single standard lapses which remain unaddressed or unresolved for greater than 45 days, any combination of three lapses in a given period or being found in contractual default are grounds for denying an additional 18 month period.

Notification of denial of an additional 18 month period shall be made in writing and shall include the basis for the denial. Upon notice, Metro West Ambulance shall have 15 business days in which to appeal the denial. Such an appeal must be in writing and provide factual and evidential support for the appeal. The appeal shall be heard by the Washington County EMS Operations.

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Committee, the Washington County EMS Medical Director and Washington County Public Health Program Administrator. Each shall have one vote and their decision shall be final.

While denial of an additional 18 month period and contractual default utilize many of the same measures, they are two independent actions. A contractual default will result in the loss of an additional 18 month period. However, loss of an 18 month period does not serve as an independent basis for contractual default.

Section II, Standard Provisions, G. Amendments; Interpretation; Venue; Notices

G. AMENDMENTS; INTERPRETATION; VENUE; NOTICES
This Agreement as defined in I (D) constitutes the entire agreement between the County and Metro West Ambulance with respect to the subject matter hereof and supersedes any and all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever, unless specifically included or incorporated herein. Any amendments or changes to this Agreement requested either by Metro West Ambulance or the County may only be affected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such writing. The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of Oregon. If either the County or Metro West Ambulance initiates litigation against the other to secure its rights pursuant to this agreement, the actual and reasonable costs of litigation, including attorney’s fees, incurred by the prevailing party, including an appeal, shall be paid or reimbursed by the party which fails to prevail. Venue for actions shall be in the Circuit Court of Washington County or the Federal District Court of Oregon. Any notice of change, termination, or other communication having a material effect on this contract shall be served in one of the following manners: a) In-person delivery; or b) deposited in the U.S. Mail under certified or registered handling, postage prepaid, addressed to the parties as follows:

Metro West Ambulance:
J. D. Fuiten, President
Metro West Ambulance
5475 N.E. Dawson Creek Drive
Hillsboro, OR 97124

Washington County:
EMS Program Supervisor
Washington County EMS Office
155 N. First Avenue, MS #23
Hillsboro, OR 97124

Revised 4/9/07
With courtesy copy to:
County Counsel
155 N. First Avenue, MS #24
Hillsboro, OR  97124

Except as provided in this agreement, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.

Section IV, Specific Provisions (Financial), F. Annual Fee      Page 18

F.  ANNUAL FEE
Metro West Ambulance shall pay an annual fee due in semi-annual payments. The annual fee ($425,656.00 for FY 2009/2010) shall be increased annually for the term of this Agreement by an amount equal to the General West Coast CPI, All Urban Consumers (CPI-U-West Coast). The CPI increase may be replaced by an amount above the CPI by action of the Board. Metro West Ambulance shall be notified of any increase by March 1st of each year. If the annual fee is not paid within 30 days of the date of invoicing, a nine percent (9%) late fee shall be charged. If the fee is not paid within 90 days of invoicing, a 25 percent (25%) late fee shall be charged. Interest on any past-due amount, including late fees, shall accrue at nine percent (9%) per annum commencing the 10th day of the record full month. If the fee is not paid within 90 days of the date of the invoice, that shall constitute a major default and the Safety Net Provisions shall, at the option of the County, apply.

Effective Date of Amendment: July 1, 2010, or upon final signature, whichever is later.

All other terms and conditions of the original contract shall remain in full force and effect.

WASHINGTON COUNTY:

Signature

Date 1/25/10

Sta Lindstrom
Printed Name
Sr. Deputy County Admin.
Title

Revised 4/9/07
CONTRACTOR:  
J.D. Fuiten  
Signature  
1/18/2011  
Date  
J.D. Fuiten  
Printed Name  
president  
Title  
5475 NE Dawson Creek Drive Hillsboro OR 97124  
Address  
(503) 648-6658  
Telephone Number  

Revised 4/9/07