

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Fire Department

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: May 7, 2024

CONTACT PERSON NAME AND PHONE NUMBER: Chief Jonathan P. Killings, 915-212-5665

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 2: Set the Standard for a Safe and Secure City

SUBGOAL: 2.3 Increase public safety operational efficiency

SUBJECT:

That the City Manager be authorized to sign, on behalf of the City of El Paso, an Air Medical Services and Support Agreement between Air Methods, LLC, a Missouri limited liability company and the City of El Paso for operating the Flight Program from the Base Site located in the City of El Paso, El Paso County, Texas, offering medically necessary air medical transport services for an initial term of five (5) years with three (3) successive options to extend for 1 (one) year terms beyond the initial term.

BACKGROUND / DISCUSSION:

EPFD is an institution committed to providing emergency services, including fire-fighting and medical services, primarily to residents and visitors of the City of El Paso, Texas. EPFD desires to gain access to a high-quality air medical transport service program to provide Medically Necessary patient transports. AMC is an organization with experience and expertise in the provision of air medical transport services; and EPFD and AMC have expressed a desire to cooperate in pursuing a mutually beneficial approach to operating the Flight Program from the Base Site located in El Paso, Texas, offering Medically Necessary air medical transport services.

PRIOR COUNCIL ACTION:

No

AMOUNT AND SOURCE OF FUNDING:

N/A


HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Fire Department

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign, on behalf of the City of El Paso, an Air Medical Services and Support Agreement between Air Methods, LLC, a Missouri limited liability company and the City of El Paso for operating the Flight Program from the Base Site located in the City of El Paso, El Paso County, Texas, offering medically necessary air medical transport services for an initial term of five (5) years with three (3) successive options to extend for 1 (one) year terms beyond the initial term.

APPROVED this the _____ day of _____ 2024.

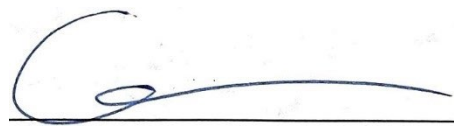
THE CITY OF EL PASO

Oscar Lesser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:



Jonathan Killings, Chief
El Paso Fire Department

AIR MEDICAL SERVICES AND SUPPORT AGREEMENT

by and between

City of EL PASO

and

AIR METHODS, LLC

Dated August 1, 2024

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GLOSSARY OF TERMS

“AMC Area Manager” means the representative AMC designates as the management contact responsible for the day-to-day administrative oversight for the Flight Program and such other duties and responsibilities as set forth in this Agreement.

“AMC Billing Entities” means (i) Mercy Air Service, Inc., a California corporation and a wholly-owned subsidiary of AMC; (ii) LifeNet, Inc., a Missouri corporation and a wholly-owned subsidiary of Mercy Air Service, Inc.; and (iii) Rocky Mountain Holdings, L.L.C., a Delaware limited liability company and a wholly-owned subsidiary of AMC.

“AMC Regional Vice President” means the AMC regional representative assigned to the Flight Program with responsibility for business operations of the Flight Program and such other duties and responsibilities as set forth in this Agreement.

“Backup Helicopter” means one or more Helicopters, as set forth in Section 5.5 that provides air medical services when a Primary Helicopter is not available.

“Base Site” means a base of operations for the Primary Helicopter.

“CAMTS” means The Commission on Accreditation of Medical Transport Systems.

“EPFD Program Director” means the EPFD appointed representative with overall responsibility for the clinical aspects of the Flight Program and such other duties and responsibilities as set forth in this Agreement.

“FAA” means the Federal Aviation Administration.

“FARs” means the Federal Aviation Regulations set forth in 14 C.F.R. Part 135.

“Flight Program” means the air medical services program contemplated by this Agreement operating and licensed under the name “El Paso Fire STAR”.

“Helicopter” means the Primary Helicopter, any Backup Helicopter, and any other helicopter operated in connection with the Flight Program as a result of this Agreement.

“IFR” means Instrument Flight Rules of the FAA.

“Medically Necessary” means the patient’s condition is such that the time needed to transport a patient by land, or the instability of transportation by land, poses a threat to the patient’s survival or seriously endangers the patient’s health, as more fully defined in the rules, regulations and manuals of Medicare.

“Primary Helicopter” means each Helicopter described in Exhibit A.

“VFR” means Visual Flight Rules of the FAA.

AIR MEDICAL SERVICES AND SUPPORT AGREEMENT

This Air Medical Services and Support Agreement (this “Agreement”) is made on the last date of signature below by and between the **City of El Paso**, on behalf of the El Paso Fire Department, having its principal place of business at 300 North Campbell, El Paso, Texas 79901 (“EPFD”), and **Air Methods, LLC**, a Delaware limited liability company having its principal place of business at 5500 South Quebec Street, Suite 300, Greenwood Village, CO 80111 (“AMC”). AMC and EPFD are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

WHEREAS, EPFD is an institution committed to providing emergency services, including fire-fighting and medical services, primarily to residents and visitors of the City of El Paso, Texas;

WHEREAS, EPFD desires to gain access to a high-quality air medical transport service program to provide Medically Necessary patient transports;

WHEREAS, AMC is an organization with experience and expertise in the provision of air medical transport services; and

WHEREAS, EPFD and AMC have expressed a desire to cooperate in pursuing a mutually beneficial approach to operating the Flight Program from the Base Site located in El Paso, Texas, offering Medically Necessary air medical transport services;

NOW THEREFORE, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1.0 PURPOSE AND SCOPE

1.1 Purpose

The purpose of this Agreement is to establish the Flight Program through cooperation between EPFD and AMC. This service will be available 24 hours per day, 365 days per year through the Base Sites.

1.2 Transport Decisions

AMC will accept Medically Necessary transport requests from any medical institution or emergency medical service agency within the community. AMC shall honor all transport requests directed to AMC on a “first come-first served” basis or utilizing standard triage principles whenever 2 transports are requested for the same period. The Parties hereby acknowledge that the Flight Program is for the benefit of the community as a whole and that neither AMC nor EPFD shall have any influence, control over or involvement in decisions regarding the referral or transport of patients from one facility to another. Referring and receiving physicians make referral and transport decisions and patients will be transported to the closest appropriate facility in accordance with the needs and best interest of the patient.

1.3 EPFD Use of Air Medical Transport Services

During the Term (defined below), except where the patient or patient’s legal representative has specifically requested otherwise, or where applicable laws or regulations otherwise require, EPFD shall use AMC as EPFD’s preferred provider of air medical transport services. This means that if EPFD has a need for any air medical transport services and such transport is Medically Necessary, EPFD shall request that AMC provide such services before EPFD requests such services from any other provider of air medical transport services. To this end, EPFD shall cause all of its officers, directors, agents and

employees, together with any and all other persons providing or rendering any medical services at, on behalf of, or through EPFD or its facilities, to request any necessary or desirable air medical services from AMC prior to requesting such services from any other provider thereof. EPFD shall utilize the applicable communications center for requests to AMC for air transport services. Subject to the availability of the Helicopter, AMC shall dispatch and launch the Helicopter. If the Helicopter is unavailable or unable to respond to EPFD's request for any reason (including without limitation that such Helicopter is responding to another call or request, is out of service, or is experiencing mechanical or other difficulties or if weather conditions preclude safe flight operations), or if AMC refuses the flight for any other reason, or if it is advisable or required that the patient be transported by another provider for medical or regulatory reasons, then EPFD may request emergency air medical services from another provider.

1.4 No Exclusivity

Nothing in this Agreement shall be construed as creating an exclusive arrangement between EPFD and AMC.

2.0 TERM AND TERMINATION

2.1 Term

This Agreement will commence on August 1, 2024 (the "Commencement Date") and will expire on July 31, 2029 (the "Initial Term") and may be extended for three (3) successive 1-year terms beyond the Initial Term (each, a "Renewal Term", and together with the Initial Term, the "Term") if both parties agree. If AMC wishes to renew, then, AMC shall give notice to the City at least ninety (90) calendar days prior to the expiration of the Initial or Renewal Term.

2.2 Termination for Cause

Either Party may terminate this Agreement immediately due to an uncured breach by the other Party pursuant to Section 4.1.

2.3 Termination for Decline in Revenue

In the event that the revenue producing flight volume or payor mix drops to a financially unviable situation that is beyond AMC's reasonable expectations, AMC may terminate this Agreement with respect to one or more Base Sites (up to and including termination of the entire Agreement) with a written notice served to EPFD at least ninety (90) days prior to the ceasing of operations.

2.4 Termination without Cause

After the first twelve (12) months of the Initial Term, each party shall have the right to terminate this Agreement by giving the other party at least one hundred eighty (180) days' written notice to terminate.

3.0 LEGAL OR REGULATORY CONCERNS

Notwithstanding any other provision in this Agreement, in the event that either Party has reasonably determined that: (i) any federal or state law or regulation makes it unlawful for either Party to be bound by the terms of this Agreement; (ii) one or more of the provisions of this Agreement may jeopardize either Party's participation in or payments under Medicare, Medicaid, any successors to these programs, or any other material payor

arrangement; (iii) this Agreement does not conform with any federal or state laws or regulations or accreditation standards passed subsequent to the Commencement Date; or (iv) the provisions of this Agreement may jeopardize EPFD's tax-exempt status or may subject either Party to monetary penalties under any state or federal law, either Party may give the other notice of intent to amend this Agreement to the Parties' satisfaction. The Parties agree to immediately enter into good faith negotiations to adjust or amend this Agreement accordingly. Notwithstanding Section 2.0, if after 30 days of such negotiations the Parties cannot reach agreement, either Party may terminate this Agreement upon 60 days' prior written notice to the other Party.

4.0 EVENTS OF DEFAULT

The following occurrences are events of "default" pursuant to this Agreement:

4.1 Breach by Either Party

In the event that either Party has breached any material representation, warranty, or covenant in this Agreement, the non-breaching Party shall provide to the breaching Party a written description of such breach ("Notice"). If the breaching Party is unable to correct such breach within 60 days of the Notice, the non-breaching Party shall have the right to terminate this Agreement immediately upon written notice; provided, however, that if such breach is not susceptible to being cured within 60 days, and the breaching Party is diligently working to cure such breach, then such Party shall have an additional 30 days.

4.2 Resolution of Disputes

In order to have a productive and efficient relationship, the Parties will strive to maintain open, direct, and efficient communications with each other. The EPFD Program Director will communicate with the appropriate AMC representative regularly and as necessary regarding the Parties' performance of obligations under this Agreement.

All claims, disputes, and controversies arising out of or in relation to an alleged breach of this Agreement shall follow the following procedure.

Either Party may request a peer-to-peer review to resolve any issues or disputes. Upon such a request, both Parties shall make available an individual with appropriate credentials for a telephone call or other communication within 15 days of the request.

With respect to issues for which the peer-to-peer review process has been exhausted, either Party may request an in-person meeting to resolve the issue. Within 45 days of such request, senior position delegates from the Parties shall meet in-person in a good faith effort to resolve the dispute.

If the Parties are unable to resolve the dispute through peer-to-peer review or a good faith meeting, the Parties shall resolve the dispute through binding arbitration conducted in accordance with the procedures in this Agreement and administered by the American Arbitration Association under its Commercial Arbitration Rules (the "AAA Rules"), and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof; provided, however, a Party shall not be required to use the foregoing dispute resolution procedures or otherwise follow the provisions of this Section regarding any dispute with respect to which a Party is seeking purely injunctive or other equitable, nonmonetary relief, and such Party shall be entitled to seek such relief before any court having jurisdiction over such dispute and the Parties. In the event of a conflict between the AAA Rules and this Agreement, the provisions of this Agreement shall control. For all disputes regardless of the amount in dispute, the

arbitration shall be conducted by one arbitrator mutually agreed upon by the Parties. The arbitrator may construe or interpret this Agreement but may not vary or ignore any of the terms of this Agreement. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrator. No potential arbitrator may serve unless he or she has agreed in writing to abide and be bound by these procedures. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrator have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction. All aspects of the arbitration shall be treated as confidential. Neither the Parties nor the arbitrator shall disclose the content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a Party shall give written notice to the other Party and shall afford such other Party a reasonable opportunity to protect its interests. The Parties shall be permitted to conduct reasonable discovery consistent with the AAA Rules, taking into consideration the idea of proportionality as appropriate to limit the costs and burden of discovery. The Parties shall conduct all arbitration in a location mutually agreeable to the Parties. The prevailing Party shall be entitled to recover attorneys' fees, expert fees, and other expenses of the arbitration.

5.0 AVIATION SERVICES

5.1 Aircraft Type and Configuration

On the Commencement Date, AMC will provide and operate, at AMC's own expense, one (1) EC130T2 single-engine helicopter in single pilot VFR configuration located in El Paso, Texas (the "Primary Helicopter") and equipped as outlined in Exhibit A. The Primary Helicopter will be painted and identified in colors and paint scheme as AMC and EPFD mutually agree. Subsequent aircraft selection will be at AMC's discretion in consultation with EPFD.

5.2 Aviation Crew

AMC shall provide, at AMC's own expense, a sufficient number of pilots to staff the Flight Program.

All pilots assigned to the Flight Program shall: (i) possess a Commercial Pilots Certificate Rating; (ii) have an FAA Instrument Helicopter Rating with instrument experience; (iii) have a minimum of 2,000 hours helicopter flight experience, at least 100 of those hours at night, 5 hours in type and 2 hours of local orientation flight time; (iv) possess a valid FAA Second Class Medical Certificate; (v) have completed the Helicopter approved ground and flight training programs as specified by AMC's FAA-approved pilot training program, as well as AMC indoctrination and any other applicable training programs; (vi) prior to assignment to the Flight Program, have successfully completed a pilot proficiency flight in the applicable Helicopter completed by an FAA examiner or an AMC check airman; (vii) be familiar and knowledgeable of the helipads, heliports, hospitals, refueling centers and airports ordinarily served by the Flight Program and all applicable regulatory requirements; (viii) conform to EPFD and AMC dress code and conduct guidelines while on duty; (ix) adhere to the Standards of Conduct described in Exhibit F; and (x) be available to participate in appropriate committees, monthly staff meetings and training and orientation programs as requested by EPFD and approved by AMC. AMC shall provide aviation staff uniforms, to include helmets, and night vision goggles ("NVGs").

5.3 Aircraft Maintenance

AMC shall ensure the airworthiness of each Helicopter operated in the Flight Program. AMC may either maintain the Helicopters with its own staff or retain a qualified third party to do so. AMC shall conduct

the maintenance of the Helicopters at its sole cost and in accordance with all current FAA regulations, manufacturer issued mandatory Service Bulletins, FAA issued Helicopter Airworthiness Directives, applicable federal and state laws, and AMC's maintenance practices and procedures.

AMC will assign a sufficient number of maintenance technicians to each Base Site. All maintenance technicians assigned to the Flight Program shall possess an FAA Airframe and Powerplant License and be rated and licensed to maintain the Helicopters. Maintenance shall be available 24 hours per day, 365 days per year, in accordance with AMC policies and procedures. AMC shall, at its sole cost, be responsible for providing any facilities needed for major maintenance.

5.4 Aircraft Modification

EPFD shall follow AMC's established policies and procedures to request any modifications to the Helicopters. All modifications are subject to AMC's prior written approval and shall be at EPFD's sole cost and expense. Modifications include, but are not limited to, any changes, additions, or substitutions to the interior or exterior of the Helicopter and any changes to the portable medical equipment. EPFD shall not purchase any equipment, fixtures, components, or parts to be installed on or carried in the Helicopter without AMC's prior written approval.

5.5 Backup Services

AMC shall use reasonable efforts to arrange for backup services through the availability of a similarly equipped Backup Helicopter, as necessary. AMC shall determine, in its sole discretion, the most effective way to provide backup services during periods when the Primary Helicopter is not available.

5.6 Licenses and Certification

AMC shall obtain and maintain, at AMC's own expense, all licenses, permits, and operating permits from the FAA, the State of Texas and/or other agencies necessary for operation of the Helicopters.

AMC shall comply with all federal, state and local laws, statutes, rules, regulations, and orders applicable to the operation of the Helicopters, including 14 C.F.R. Part 135.

5.7 Operational Control

AMC shall have operational control of all aspects of the Flight Program at all times, as it relates to non-clinical matters. Notwithstanding any other provision of this Agreement, AMC shall have sole and exclusive authority over initiating, conducting, and terminating each flight. All transport requests pursuant to this Agreement shall be subject to and conducted in accordance with AMC's operational procedures. The pilot on duty shall have complete authority to make all decisions concerning the suitability of weather conditions, landing areas, condition of the Helicopter for flight, loading of the Helicopter, and all other factors affecting flight safety and compliance with FAA regulations.

EPFD agrees that all written material it publishes, in whatever media, including its billing statements and pages on any website EPFD maintains referring to the Flight Program or any air medical services thereunder, shall contain the legend: AVIATION SERVICES PROVIDED BY AIR METHODS CORPORATION or such similar legend as the Parties may agree upon. In addition, each Helicopter shall bear a legend on its fuselage, legible from the ground (when the aircraft is stationary), identifying AIR METHODS CORPORATION as the operator of the Helicopter.

Both AMC and EPFD shall comply with any and all applicable FAA flight safety requirements for air medical programs.

AMC shall make a copy of AMC's proprietary operating standards available to EPFD upon reasonable request. EPFD will not release any information that is identified by AMC to be proprietary or trade secret information, unless authorized by AMC in writing or otherwise required by law.

AMC shall participate in EPFD requested training, public relations, disaster situations, and other non-medical related flights, subject to AMC's approval and in accordance with Exhibit G.

5.8 Base Sites

As of the Commencement Date, EPFD shall provide at its sole cost one (1) Base Site located at 12230 Pine Spring Dr. El Paso, Texas 79936 (Fire Station 35) for the purpose of basing the Primary Helicopter, aviation crew, Clinical Crew (defined below) and maintenance facilities. Each Base Site shall include the items outlined in Exhibit B attached hereto. The Parties agree to negotiate a separate lease for the Base Site in parallel with this Agreement and will execute such lease within sixty (60) days of the El Paso City Council's approval of both agreements. EPFD and AMC shall mutually agree in writing upon any new Base Site or change in a Base Site location.

AMC will provide access to a hangar in the region for weather and maintenance considerations as needed.

Each of EPFD and AMC shall obtain and maintain, at such Party's own expense, all licenses, approvals and operating permits from the FAA, the State of Texas and/or other agencies necessary for operation at the Base Site.

5.9 AMC Area Manager

AMC shall designate an AMC Area Manager who will be responsible for the day-to-day administrative oversight of the Flight Program.

6.0 CLINICAL SERVICES

6.1 Clinical Crew

The Flight Program will be staffed at all times with a qualified medical crew composed of one (1) Registered Nurse supplied by AMC and one (1) Paramedic supplied by EPFD (the "Clinical Crew"). The Parties shall mutually agree upon any change in the Clinical Crew composition. The Clinical Crew shall be available to allow AMC to respond immediately to all flight requests on a 24 hours per day, 365 days per year basis. Clinical Crew members will meet the minimum qualifications listed on Exhibit E and will adhere to the standards of conduct described in Exhibit F. For clarification, the Parties acknowledge that there may be certain transports in which a local hospital provides a specialty team to provide clinical care for a specific patient and that such transports may not include one or both Clinical Crew members.

AMC shall reimburse EPFD for the provision of Paramedics to the Flight Program in accordance with Exhibit C.

The Clinical Crew shall meet and comply with all AMC, Texas Department of Health, and CAMTS standards, policies, protocols and procedures. AMC shall share such proprietary standards, policies, protocols and procedures with the Clinical Crew and EPFD concurrently with the execution and delivery of this Agreement and from time to time following the Commencement Date upon EPFD's reasonable request, subject to confidentiality obligations set forth below.

The Clinical Crew shall participate in AMC safety, compliance and quality audits and programs, at AMC's request. AMC shall provide proprietary training programs about its standards, policies, protocols and procedures at the Base Site. For the benefit of integrity of care, EPFD Paramedics, both those onboarding at the commencement of the Agreement and those onboarding at any other point during the Term, shall receive clinical training for purposes of the Flight Program at EPFD's sole cost through AMC's Ascend Clinical Training Program pursuant to a Clinical Education Agreement between EPFD and AMC affiliate AMC CE, LLC to be entered into contemporaneously with this Agreement; provided, however, that notwithstanding any training provided by AMC or its affiliate, AMC and its affiliate shall have no liability or responsibility for the clinical competency or actions of the EPFD Paramedics assigned to the Flight Program. EPFD will have the sole responsibility to train its Paramedics and to ensure each Paramedic meets the requirements set forth on Exhibit E. Likewise, EPFD shall have no responsibility or liability for the clinical competency or actions of the AMC Registered Nurses assigned to the Flight Program.

EPFD shall participate in the Flight Program's CAMTS accreditation process. Each Clinical Crew member shall be required to meet all educational, certification, and experience standards recommended by CAMTS and outlined in the proprietary Air Methods Medical Operations Manual, which AMC shall provide to EPFD and the Clinical Crew subject to the confidentiality obligations set forth below. The Parties recognize that compliance with such minimum standards is material to this Agreement.

EPFD, at its sole cost, will also provide safety and communications equipment for its Paramedics as approved by the AMC safety department. AMC will provide uniforms, helmets and NVGs for the Clinical Crew.

In addition to the Ascend Clinical Training, the EPFD Paramedics shall participate in appropriate committees, monthly staff meetings and training and orientation programs at AMC's request and will be expected to adhere to the same performance standards as AMC employees.

6.2 Medical Oversight

AMC shall provide physician medical oversight including online and offline medical command for the Flight Program. A medical director (the "Medical Director") who is mutually agreed upon by the Parties shall provide medical oversight. The Medical Director shall comply with all state and federal regulations as applicable for emergency medical service medical directors. The Medical Director will implement clinical care protocols for the Clinical Crew and operate a quality improvement program in accordance with AMC procedures. The Medical Director shall meet all educational and experience recommendations of CAMTS and all other qualifications described in Exhibit E. The Medical Director shall be responsible for all medical aspects of, and all medical decisions and directions relating to the Flight Program, and AMC shall be responsible for all decisions, directions and actions of the Medical Director.

6.3 Medical Equipment

AMC shall provide and maintain all of the medical equipment for each Helicopter. The equipment list, as set forth on Exhibit D, shall be adjusted from time to time to remain in compliance with state EMS regulations and applicable governmental regulations, and to remain consistent with medical equipment used by AMC in the Flight Program.

6.4 Medical Supplies

AMC shall provide all of the medical supplies used on each Helicopter. AMC may adjust the supply inventory list from time to time to remain in compliance with state EMS regulations and applicable governmental regulations, and to remain consistent with medical equipment used by AMC in the Flight Program.

6.5 Program Management

EPFD shall provide, at its sole expense, a Program Director with oversight responsibility for the Flight Program. The Program Director, who shall meet regularly with designated contacts to obtain Flight Program performance feedback. The Program Director will participate as requested by AMC in AMC regional meetings, conference calls, and other initiatives. The Parties agree that the Program Director will be EPFD's Fire Chief or designee.

6.6 Paramedic Staffing and Out-of-Service Time

In the event that EPFD is unable to provide qualified and fully trained Paramedics during the first one hundred twenty (120) days following the Commencement Date, AMC reserves the right to provide its own paramedics to staff open shifts during such time period, and AMC shall reduce the Clinical Crew Fee set forth on Exhibit C as described below for any shift in which EPFD does not provide a Paramedic.

In the event the Flight Program is out of service for lack of a Paramedic, AMC reserves the right to reduce the Clinical Crew Fee set forth on Exhibit C accordingly. AMC's payment of fixed monthly clinical crew fees for the Clinical Crew, as described in Exhibit C, will be reduced by 1/30th for each 24-hour shift in which EPFD does not provide an EPFD Paramedic.

7.0 TRAINING

AMC shall provide, at AMC's sole expense, all of the necessary aviation and flight safety training for aviation staff in accordance with AMC's pilot training program, as well as all necessary aviation and flight safety training for Clinical Crew in accordance with AMC's training procedures. AMC shall use reasonable efforts to provide additional aviation and flight safety training for Clinical Crew as EPFD may reasonably request or as AMC may recommend. The Parties shall mutually agree in advance in writing on the allocation of cost for such additional training.

8.0 COMMUNICATION CENTER SERVICES

AMC shall provide communication center services for the Flight Program through an established communication center ("AirCom"), 24 hours per day, 365 days per year. AirCom shall accept critical care transport requests from any referral source and any receiving facility in accordance with AMC's policies and procedures. AirCom shall be responsible for assigned operational aspects of communications including, but not limited to, alerts, communication and coordination with the flight team and ground agencies, and flight-following, in compliance

with AMC policies and FAA regulations and standards. AMC shall provide guidance and training for AirCom to ensure that all communication center functions meet these requirements.

EPFD shall supply radios and cell phones for the EPFD Paramedics.

9.0 ADDITIONAL SERVICES

9.1 Community Education and Outreach

AMC and EPFD shall, upon mutual agreement, develop a comprehensive community education and outreach plan for the Flight Program (the “Plan”). The Plan shall be consistent with EPFD’s mission and goals and AMC’s capabilities and shall cause no conflict of interest between AMC and EPFD. The Plan shall include development of specific services that will be provided by the Flight Program, identification of regional hospital affiliations and a budget for the resources necessary to implement the Plan. AMC will assign a business development manager (“Account Executive”), as further described in Exhibit G, to support the Flight Program in addition to his/her other duties for AMC. AMC and EPFD shall share equally the costs of implementing the Plan, in addition to all other costs each pays pursuant to this Agreement, including but not limited to personnel costs, aviation costs beyond those enumerated in Exhibit G, advertising costs and the cost of educational materials, which shall not exceed \$800 per Party, per Base Site, per month. AMC and EPFD representatives shall jointly review the Plan and progress against the Plan on a quarterly basis. The Parties shall make modifications and alteration of the Plan upon mutual agreement.

9.2 Customer Conference

If deemed necessary at AMC’s sole discretion, AMC may sponsor EPFD representatives to attend the annual AMC customer conference in accordance with AMC’s policies. AMC conducts the conference for the purpose of continuing education with regard to air medical transport, trends in the air medical industry, and updates on AMC policies, procedures, performance, objectives and other operational issues.

10.0 THIRD PARTY BILLING

AMC shall, at AMC’s sole expense, have sole authority to bill and collect, or cause the AMC Billing Entities to bill and collect, any and all fees for services provided under this Agreement. AMC and the AMC Billing Entities shall set the fee schedule and billing policies for all critical care transport services provided by the Flight Program.

AMC or the AMC Billing Entities as the licensed and billing entity shall be responsible for all patient records and documentation created on behalf of AMC and the AMC Billing Entities pursuant to this Agreement, including patient care records, billing records, and other related documents. EPFD agrees that it will retain and, subject to all applicable patient privacy rules and regulations, provide to AMC and the AMC Billing Entities or their authorized representatives all documents and records necessary for billing and collection for Flight Program services on a timely basis, or via virtual private network into EPFD’s system. Additionally, EPFD shall obtain all consents for AMC and the AMC Billing Entities which may be needed for AMC and the AMC Billing Entities to perform services under this Section including but not limited to consents to use patient information to the extent additional consent is necessary and consents necessary to contact responsible parties via cellular phone (including via an autodialer and similar equipment). AMC and the AMC Billing Entities, on the one hand, and EPFD, on the other hand, shall retain all such documents and records, and to hold them available for such

inspection until the expiration of 10 years after the patient's age of majority, regardless of the date of termination of this Agreement.

All EPFD and Flight Program employees responsible for the submission of data necessary for billing and collection purposes will be responsible for submission of such data in an accurate and timely fashion in AMC's assigned charting system. AMC shall be the sole administrator and holder of the electronic charting system account that will be used for the patient transports provided pursuant to this Agreement. Additionally, EPFD's employees shall use AMC's standard, pre-approved forms related to patient transports, including but not limited to the Physician Certification Statement and the patient Authorization and Consent Form. EPFD and its employees shall cooperate fully with AMC's and the AMC Billing Entities' billing processes, including but not limited to, AMC's and the AMC Billing Entities' documentation requirements, and relevant billing guidelines, policies and procedures, all of which shall be made available to EPFD upon request.

EPFD will assist in obtaining information from patients concerning insurance coverage when the data is available and when appropriate based upon the medical condition of the patient. EPFD clinical personnel will attempt to provide this information as part of the patient charting process.

EPFD will make staff available at reasonable times for training by AMC in methods and procedures regarding and/or required for proper billing. AMC faculty may deliver such training in person and/or via live webcast and/or distributive learning system approaches. AMC will provide all training for EPFD clinical staff at EPFD designated training facilities. AMC will provide training at least annually and at no additional cost to EPFD.

AMC shall, at EPFD's request, conduct an annual review of documentation practices and shall work with EPFD and its employees to ensure awareness of and compliance with AMC's billing and documentation standards.

11.0 QUALITY MANAGEMENT TOOLS

11.1 Real-Time Multidisciplinary Quality Management Tool

EPFD agrees to use the real-time multidisciplinary quality management tool AMC provides ("QM Tool") for all patient transports provided as part of this Agreement. Each of the Clinical Crew must upload all relevant professional licenses and certifications to the QM Tool before providing services under this Agreement. Additionally, EPFD shall give certain AMC management access to all patient records and information uploaded by the Clinical Crew for the purpose of quality assurance and review practices, responses to patient inquiries, and any other appropriate purpose.

EPFD will provide each employee from EPFD providing services pursuant to this Agreement with unique login and access codes to the QM Tool. EPFD and its employees will be solely responsible for maintaining the confidentiality and security of these unique access codes and logins, and EPFD shall not authorize access to the QM Tool except for those employees providing services under this Agreement. EPFD shall promptly inform AMC if an employee no longer provides services under this Agreement so that AMC may terminate that employee's access to the QM Tool.

EPFD shall not take or allow any action that attempts to defeat, disable, or circumvent any security measures that restrict or prevent unauthorized access to, use or copying of any portion of the QM Tool. EPFD's use of the QM Tool shall be subject to the Parties' business associate agreement attached hereto as Exhibit H, a business associate agreement with the third party provider of the QM Tool, and an End User License Agreement or the like, if necessary, to be separately entered into between EPFD and the third party provider of the QM Tool. EPFD's access to the QM Tool shall terminate upon the expiration or earlier termination of this Agreement or EPFD's breach of this Section 11.1.

AMC shall not be responsible for any of its third party software provider's acts and/or omissions in providing and/or supporting the QM Tool, and EPFD hereby affirmatively waives all such claims against AMC for liabilities, losses, lawsuits, claims, judgments, fines, demands, and expenses of any type or kind relating to or arising from its third party software provider's acts and/or omissions in providing and/or supporting the QM Tool.

12.0 PROGRAM FEES AND COSTS

12.1 Program Aviation Costs

AMC shall pay all costs associated with the operation of the Primary Helicopter, and any Backup Helicopter, which may be assigned from time to time. These costs include, but are not limited to, aircraft ownership or lease costs, insurance, operating costs, fuel, landing permits, parking fees, ground ambulance fees, hangar rental, and pilot training costs; provided, however, AMC shall not be responsible for those aviation costs associated with non-clinical or non-training flights except as set forth in Exhibit G. AMC shall be responsible for all taxes, fees, assessments, sales tax, personal property tax, license and registration fees which relate to ownership, use or operation of the Primary Helicopter and any Backup Helicopter.

12.2 Program Clinical Costs

EPFD shall pay all clinical costs of the Paramedics assigned to the Flight Program. AMC shall pay to EPFD a clinical service fee and other fees as identified in Exhibit C, to be adjusted in accordance with Section 13.0. The fees set forth in Exhibit C shall be the sole and complete compensation for the provision of the Paramedics in association with the terms of this Agreement as defined herein.

12.3 Payment of Fees

EPFD shall invoice AMC monthly in arrears for all amounts owed to EPFD, pursuant to Exhibit C, and the invoice should be received by AMC no later than the 15th day of the following month. The invoice shall include an itemized list of all costs and any receipts, if applicable. AMC shall make payment no later than 60 days after receipt of an undisputed invoice. EPFD shall submit all invoices to coupaAPinvoices@airmethods.com. Upon execution of this Agreement, EPFD shall provide AMC with a completed W-9. Any questions regarding an invoice shall be sent to APinquiries@airmethods.com.

13.0 FEES AND ADJUSTMENTS

13.1 Annual Escalation

The Parties shall adjust the applicable fees which are identified in Exhibit C on each 12-month anniversary of the Commencement Date (each an "Anniversary Date") in the manner provided below.

The basis for computing the adjustments to the fees is the Consumer Price Index for All Urban Consumers, U.S. City Average - All Items published by the United States Department of Labor, Bureau of Labor Statistics for the 12-month period prior to each Anniversary Date, not to exceed four percent (4%).

13.2 EPFD Subsidy

The Parties acknowledge and agree that: (a) El Paso is an underserved air medical community as there are currently no rotor wing air medical assets in the entire city, and (b) all previous rotor wing air medical bases in El Paso, including three previous AMC bases, were financially unviable and forced to close. For these reasons, the Parties agree that a subsidy structure is appropriate.

AMC's minimum annual revenue threshold for the Base Site in order to sustain financial viability for the first year of the Agreement is four million three hundred thousand dollars (\$4,300,000), which equates to a minimum monthly revenue threshold of three hundred fifty-eight thousand three hundred thirty-three dollars and thirty-three cents (\$358,333.33) (the "Monthly Revenue Threshold"). Every six months following the Commencement Date of the Agreement, the Parties will meet and review AMC's Base Site revenue results for the previous six months. If the average monthly revenue earned for the applicable six-month period is less than the Monthly Revenue Threshold, then the Parties will apply a monthly subsidy to the following six months equal to the shortfall of the Monthly Revenue Threshold, but not in any event to exceed twenty thousand dollars (\$20,000) per month. For ease of processing, EPFD will not need to make a separate payment to AMC in the event of a subsidy – any applicable monthly subsidy payment will be offset through a reduction to the Clinical Crew Fee set forth in Exhibit C. The Parties will repeat this exercise every six months throughout the Term. For clarity, when reviewing AMC's Base Site revenue results for the previous six months, the Parties will not include any subsidy received from EPFD in such analysis.

Notwithstanding the foregoing, the Parties further agree that EPFD should not be responsible for a subsidy to the extent any revenue shortfall is due to AMC's inability to meet its internal target in-service rate of ninety percent (90%) (the "ISR Target"). If AMC does not meet the ISR Target during any applicable six-month period analyzed by the Parties above, then EPFD will not owe AMC a subsidy for the following six-month period even if AMC fell short of the Monthly Revenue Threshold. For purposes of calculating AMC's in-service rate, AMC will only be deemed to be out of service if grounded for lack of pilot, lack of nurse or a maintenance event. All other reasons, including declines due to weather, refueling or transport in progress will not be factored into AMC's in-service rate for purposes of this Section.

The Monthly Revenue Threshold described above will be increased in year two and each subsequent year of the Term by the same annual escalation calculated in Section 13.1 above.

14.0 TRADEMARK

14.1 License Grant

During the Term, EPFD grants to AMC an irrevocable, exclusive (as to competitors of AMC) right, license, and privilege, with right to sublicense to AMC's Affiliates (defined below) to the extent reasonably necessary for operation of the Flight Program, to use the following EPFD trademark(s), tradename(s), and related designs and logos: "El Paso Fire", "El Paso Fire Shock-Trauma Air Rescue", and "El Paso Fire STAR" (collectively the "Licensed Marks"). AMC recognizes EPFD's ownership of its Licensed Marks as set forth in this Section and AMC acknowledges that all uses of the Licensed Marks and all goodwill resulting therefrom shall inure to the benefit of and be on behalf of EPFD. AMC shall use the Licensed Marks only as follows: (i) in connection with the Flight Program (including without limitation on any applicable helicopters, equipment, services, uniforms, systems, advertisements, promotional materials and products, and reasonable extensions related thereto); (ii) as specified by this Agreement; (iii) in a manner that does not disparage them; (iv) in compliance with any

use guidelines provided by EPFD; and (v) only during the Term of this Agreement. EPFD shall maintain any existing registrations for the Licensed Marks, pursue additional registrations where reasonably necessary to protect the Licensed Marks and their value to the Flight Program, and police against third party use of the Licensed Marks or confusingly similar marks where reasonably necessary to protect the Licensed Marks and their value to the Flight Program.

14.2 Representations, and Warranties

EPFD represents and warrants that: (i) EPFD owns all right, title, and interest in and to the Licensed Marks and has the right to use the Licensed Marks in connection with the Flight Program and to grant AMC the right to use the Licensed Marks as contemplated herein; (ii) the Licensed Marks and the use thereof as contemplated in this Agreement do not and will not infringe, misappropriate, or otherwise violate the intellectual property or other rights of any third party; and (iii) EPFD is not aware of any asserted, unasserted, or threatened claim by any third party with respect to the Licensed Marks..

14.3 Branding

The Parties shall brand the Primary Helicopter with the Licensed Marks and related designs as mutually agreed upon. Upon expiration or termination of this Agreement, AMC agrees to promptly cease its use of the Licensed Marks.

15.0 FAIR MARKET VALUE AND REFERRALS DISCLAIMER

The amounts to be paid hereunder represent the fair market value of the goods and services to be provided as established by arms-length negotiations by the Parties and have not been determined in any manner that takes into account the volume or value of any potential referrals between the Parties or any of their Affiliates. The Parties agree that the benefits to each Party do not require, are not payment for, and are in no way contingent upon the admission, referral, or any other arrangement for the provision of any item or service offered by either Party in any facility, controlled, managed, or operated by any Party. Each of the Parties expressly acknowledges and agrees that it has been and continues to be its intent to comply fully with all federal, state, and local laws, rules, and regulations. It is not the purpose nor is it a requirement of this Agreement to offer or receive any remuneration or benefit of any nature or to solicit, require, induce, or encourage the referral of any patient, the payment for which may be made in whole or in part by Medicare or Medicaid. No payment made or received under this Agreement is in return for the referral of patients or in return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any goods, service, item, or product for which payment may be made in whole or in part under Medicare or Medicaid. No Party shall make or receive any payment that would be prohibited under state or federal law.

16.0 INSURANCE

16.1 AMC Aircraft Hull and Liability Insurance

During the Term, AMC shall maintain an aircraft hull and liability insurance policy with a reputable insurance company for bodily injury, personal injury and property damage covering each Helicopter with a combined single limit of not less than \$50,000,000 per occurrence. Such aircraft hull and liability policy shall include EPFD as an additional insured. AMC shall provide evidence of this insurance upon reasonable request.

16.2 EPFD General Liability Insurance

EPFD shall maintain general liability insurance, or self-insured coverage to meet this obligation, covering its obligations under this Agreement, including contractual liability set forth in this Agreement, the foregoing to have a combined single limit of not less than \$10,000,000. EPFD shall provide evidence of this insurance upon reasonable request.

16.3 Professional Medical Liability Insurance

Each Party shall maintain professional liability insurance, or self-insured coverage to meet this obligation, including coverage for medical errors and omissions and contractual liability set forth in this Agreement, the foregoing to have a combined single limit of not less than \$5,000,000 each claim, with an aggregate limit of \$8,000,000. Such professional liability policy shall include the other Party as an additional insured. Each Party shall provide evidence of this insurance upon reasonable request.

16.4 Cyber Liability

Each Party shall carry cyber liability insurance, or self-insured coverage to meet this obligation, including first and third party coverage, the foregoing to have a combined single limit of not less than \$1,000,000 each claim, with an aggregate limit of \$1,000,000.

16.5 Workers Compensation and Employers' Liability

Each Party shall carry workers compensation and employer's liability insurance, or self-insured coverage to meet this obligation, including stop gap coverage, including all endorsements as may be necessary to insure fully such Party's obligations required by law, the foregoing to have \$1,000,000 each accident, disease, and employee. Each Party shall place this insurance with a reputable insurance company. Each Party shall provide evidence of this insurance upon reasonable request.

16.6 Cancellation

Each policy carried by each Party to satisfy its contractual obligations hereunder shall provide that no cancellations or material alterations with respect to the insurance be made, unless at least 30 days' prior written notice of such cancellation is provided to the other Party, or at least 10 days' prior written notice is provided to the other Party in the event of cancellation due to non-payment.

16.7 Other Requirements

All insurance required herein shall be endorsed to waive all rights of subrogation with respect to the insured Party, its agents, and employees except to the extent the other Party caused the liability giving rise to the claim. The Parties' insurance providers shall have at least an A.M. Best A- rating and Class VII financial size.

17.0 FORCE MAJEURE

Neither AMC nor EPFD shall have any liability or responsibility for delay in performance or nonperformance of its obligations set forth in this Agreement resulting from any event beyond the Parties' reasonable control, included but not limited to the following: acts of God, of the public enemy, civil war, insurrections or riots, inclement weather, fires, floods, natural disasters, explosions, tornadoes, earthquakes or serious accidents, epidemics, pandemics, or quarantine restrictions; embargoes or legal or court orders affecting materials, fuel, oil

facilities, airports, and airways; any act of government, any act of the FAA, Department of Transportation, or any foreign counterpart thereof, or any foreign government, governmental priorities, airport or air traffic control, allocation regulations, embargoes, or orders affecting materials, fuel, oil, facilities, or any aircraft used by AMC hereunder, strikes, labor disputes causing cessation, slowdown or interruption of work or other like circumstances (each, a “Force Majeure”).

In the event of a Force Majeure, the Party affected by such Force Majeure shall provide prompt written notice of such Force Majeure to the other Party and shall use commercially reasonable efforts to resume work under this Agreement as soon as reasonably practicable. In the event of a Force Majeure, the performance period shall be extended for the period of time required to remove the event causing the delay.

Should a Party’s performance under this Agreement be suspended for more than 60 consecutive days due to a Force Majeure, then either Party shall be entitled to terminate this Agreement upon written notice to the other. Neither Party shall be liable for any damages caused by a Force Majeure.

18.0 ACCESS TO BOOKS AND RECORDS

18.1 Document Retention and Inspection

Each Party agrees to retain and make available upon the request of the other Party, the Secretary of the Department of Health and Human Services, or the Comptroller General of the United States, or any of their authorized representatives, any agreements between the Parties, and all books, documents and records necessary to verify the nature and extent of the costs and the services provided under this Agreement. The Parties agree to retain all such books, documents and records, and to hold them available for such inspection until the expiration of 4 years after the expiration or earlier termination of this Agreement.

Additionally, EPFD agrees to provide AMC any information related to EPFD or its employees providing services under this Agreement that is requested by a government agency or other payor in order to process and pay claims or enroll in Medicare and/or Medicaid.

Each Party agrees that any subcontractor to which it is, to a significant extent, associated or affiliated with, owns, or is controlled by, or has control of, will similarly be required by such Party to retain and give access to similar books, documents and records. Each Party agrees to promptly notify the other Party of any request it receives for access to its subcontractor’s records and to furnish a copy of such request. The regulations require that access be given within 20 days from the date of the request, unless written objection is made. If the other Party deems such a request to be inappropriate, then it may file an objection. Any proceeding regarding the other Party’s objections will be pursued at the other Party’s sole cost and expense; provided, however, that the Parties shall cooperate with respect to such objections.

18.2 HIPAA Business Associate Assurances

As detailed in Exhibit H, EPFD and AMC hereby represent and warrant to the other that each is a “health care provider,” as that term is defined in the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated under such Act (as the Act and regulations are amended, restated and superseded from time to time, collectively, “HIPAA”), and that they are principally responsible for protecting the confidentiality of all patient-specific “protected health information” (as that term is defined in HIPAA) concerning patients transported by AMC in the Flight Program. EPFD and AMC will take such actions and adopt such policies, procedures and protocols concerning patients’ protected

health information as are necessary to comply with HIPAA.

As health care providers, EPFD and AMC may each provide protected health information to the other for purposes of treatment, payment or operations (as each such term is defined in the HIPAA Privacy Regulations), provided that EPFD and AMC each has a relationship with the individual who is the subject of the protected health information.

18.3 Government Requests

If access to either Party's books and records related to this Agreement is granted to the government, it will be granted to such Party's place of business, unless such Party elects, at its option and at its expense, to furnish copies to the government. Any government requested copies will be paid for by the government or such Party.

18.4 Compliance with Requests

Compliance with such requests for information under this Section 18.0 shall not provide a basis for a claim for extra compensation under this Agreement.

19.0 NOTICES

All notices and other communications hereunder shall be in writing and shall be delivered personally, utilizing a next-day service by a recognized next-day courier or by registered or certified mail, return receipt requested, postage prepaid. Notices will be deemed delivered when received or rejected as shown on the tracking report or return receipt. All notices hereunder shall be delivered to the addresses set forth below, or pursuant to such other instructions as may be designated in writing by the Party to receive such notice:

To AMC:

Air Methods, LLC
5500 South Quebec Street, Suite 300
Greenwood Village, CO 80111
Attn: Senior Vice President, South Central Region

To EPFD:

City of El Paso
300 North Campbell
El Paso, Texas 79901
Attn: Fire Chief

with a copy (which will not constitute notice) to:

Air Methods, LLC
5500 South Quebec Street, Suite 300
Greenwood Village, CO 80111
Attention: Legal Department
Email: contracts@airmethods.com

20.0 WARRANTIES AND DISCLAIMERS OF AMC

20.1 Aircraft

EPFD hereby acknowledges and agrees that AMC is not the manufacturer of the Primary Helicopter or any Backup Helicopter or the manufacturer's agent with respect to any aircraft used in connection with this Agreement.

20.2 Warranties and Disclaimers

AMC MAKES NO WARRANTIES, GUARANTEES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE DESIGN, ORIGINAL CONSTRUCTION OR CONFIGURATION OR LATENT CONDITION OF ANY AIRCRAFT PROVIDED UNDER THIS AGREEMENT. AMC WARRANTS THAT IT WILL PERFORM ALL WORK, MAINTENANCE, AND OPERATIONAL SERVICES UNDER THIS AGREEMENT, AND AMC WILL SUPPLY AND INSTALL ALL PARTS, AND WILL MAKE SUCH MODIFICATIONS TO AIRCRAFT PARTS, COMPETENTLY, CORRECTLY AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL AVIATION ACT, AS AMENDED, THE FARs AND ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES AND REGULATIONS.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION, AMC MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER OR THE AIRCRAFT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

21.0 LIMITATION OF LIABILITY

In no event, whether as a result of contract, tort, strict liability or otherwise, shall either Party be liable to the other for any punitive, special, indirect, incidental or consequential damages, including without limitation loss of profits, loss of use or loss of contract.

22.0 NO PARTNERSHIP OR JOINT VENTURE

Neither Party intends to create a joint venture, partnership or principal and agent relationship by this Agreement. Accordingly, neither the terms contained herein nor the Parties' actions shall be construed to imply a joint venture, partnership or principal and agent relationship between EPFD and AMC, and neither Party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other.

23.0 NON-SOLICITATION

For a period of 12 months following the expiration or earlier termination of this Agreement, neither Party shall directly solicit, recruit or hire any person who on the date of the termination or expiration of this Agreement is an employee of the other Party or one of its Affiliates. The foregoing, however, shall not prohibit a general solicitation to the public of general advertising or similar methods of solicitation by search firms not specifically directed at the other Party's employees.

24.0 NON-DISPARAGEMENT

During the Term and for a period of 2 years following the expiration or earlier termination of this Agreement, neither Party will disparage, defame, or make any derogatory comments about the other Party. For purposes of this Section, "disparage" shall mean any negative statement, whether written, electronic or oral, about such Party, its Affiliates, and their respective officers, directors or employees, relating to the Party's business or services, including without limitation such Party's billing practices, which could reasonably be expected to

adversely affect the professional or personal reputation of such Party, its Affiliates, or their respective Representatives. Notwithstanding the foregoing, each Party may make truthful statements about the other Party and its officers, directors and employees, if compelled by court order, legal proceeding, or otherwise required by law. The Parties agree and acknowledge that this non-disparagement Section is a material term of this Agreement, the absence of which would result in the Parties refusing to enter into this Agreement.

25.0 CONFIDENTIALITY

25.1. Acknowledgement and Agreement

The Parties acknowledge and agree that, in connection with the performance of their obligations and exercise of their rights under this Agreement, each Party may have access to or obtain Confidential Information (defined below) of the other Party. The term “Confidential Information” shall mean the terms and conditions of this Agreement, and all business, financial, technical, and other information of a Party, including but not limited to Flight Program statistics, projections and strategies, rates, and any analyses of Flight Program performance or events prepared by either Party, that is provided to the other Party hereunder and that (i) is conspicuously marked as proprietary or confidential; or (ii) otherwise would be understood by a reasonable person to be confidential given the nature of the information and the circumstances surrounding the disclosure.

25.2 Handling of Confidential Information

Each Party shall protect the Confidential Information of the other Party using the same degree of care, but not less than a reasonable degree of care, that the receiving Party uses to protect its own confidential information of like nature, to prevent the unauthorized use, dissemination, or publication of such Confidential Information. The receiving Party shall not use or make available in any form the Confidential Information of the disclosing Party or its Affiliates to any other Party other than the receiving Party’s and its Affiliates’ and its and their Representatives whose job performance requires such access, and shall take appropriate steps to ensure that any persons permitted access to such Confidential Information are legally bound to hold such Confidential Information in trust and confidence, pursuant to the restrictions set forth herein, without further disclosure to any third party. The receiving Party will diligently enforce any and all confidentiality agreements with its Representatives to protect the Confidential Information. The receiving Party shall be responsible for any breach of this Section by its Representatives, and such responsibility shall be in addition to and not by way of limitation of any right or remedy disclosing Party might have against such Representatives with respect to any such breach. Further, all Confidential Information that falls under Section 25.1(i) above and is conspicuously marked as confidential shall only be shared with the receiving Party’s Flight Program management. The receiving Party shall only use any Confidential Information for the purposes set forth in this Agreement, and the receiving Party acknowledges and agrees that the disclosing Party and/or its Affiliates may be irreparably harmed if any of the Confidential Information were to be disclosed to third parties, and further agrees that the disclosing Party shall have the right to seek injunctive relief upon any violation of this Section, in addition to all other rights and remedies available at law or in equity. For purposes hereof, “Affiliates” means, with respect to an entity, any entity controlling, controlled by, or under common control, with such entity, existing now or in the future.

25.3 Non-confidential Information

Confidential Information shall not include any information that: (i) the receiving Party lawfully had knowledge of, or access to, prior to the time of disclosure by the disclosing Party or its Affiliates; (ii) the receiving Party developed independently without access to or use of the Confidential Information of

the disclosing Party and its Affiliates and without breach of this Agreement; (iii) has become generally known to the public other than by breach of this Agreement or wrongful act of the receiving Party or its Representatives; or (iv) the receiving Party obtained from a third party without an obligation to maintain confidentiality and not being in wrongful possession of such Confidential Information.

25.4 Disclosure of Confidential Information

Notwithstanding the provisions of Section 25.3 above, the receiving Party may disclose Confidential Information (i) for purposes of billing for services provided under this Agreement; (ii) pursuant to an order or judgment of any court or governmental body; or (iii) pursuant to any applicable law, rule or regulation, provided that for either (ii) or (iii), except where prohibited by applicable law, the receiving Party gives prompt notice to the disclosing Party in advance of such disclosure so that the disclosing Party and/or its Affiliates may have an opportunity to prevent such disclosure through appropriate legal means. If a protective order or other remedy is not obtained, or the disclosing Party waives compliance with the provisions hereof, the receiving Party shall disclose only that portion of Confidential Information which is legally required to be disclosed. The receiving Party shall also seek confidential treatment of such information from the entity to which the disclosure is made and shall cooperate with the disclosing Party and its Affiliates, at the expense of the disclosing Party, regarding the form, nature, content and purpose of such disclosure.

25.5 Right to Confidential Information

Each Party shall own and otherwise retain all right, title and interest in and to its Confidential Information. Disclosure of Confidential Information shall not confer on the receiving Party or its Representatives any rights or licenses to such Confidential Information other than those expressly set forth in this Agreement.

25.6 Destruction of Confidential Information

Upon the expiration or earlier termination of this Agreement, the receiving Party will destroy all documents, papers and other matter in the receiving Party's possession that contain such Confidential Information. Notwithstanding the foregoing: (i) the obligation to return or destroy the Confidential Information will not cover information that is maintained on routine computer system backup storage devices as long as such backed-up information is not used, disclosed, or otherwise recovered from such backup devices; and (ii) the receiving Party may retain a copy of any Confidential Information to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information, or pursuant to established document retention policies, or to the extent required to comply with requirements of applicable law.

25.7 Period of Obligation

The obligations set forth in this Section will apply throughout the Term and for a period of 1 year after expiration or termination of this Agreement.

26.0 EXCLUSION FROM MEDICARE OR MEDICAID

Neither Party has ever been suspended, excluded, or barred from the Medicare or Medicaid programs, or any other governmental program. Neither Party is under investigation or otherwise aware of circumstances which it reasonably believes would result in being excluded from the federal health care programs.

27.0 GENERAL PROVISIONS

27.1 Entire Agreement, Amendment and Waiver

This Agreement supersedes all prior agreements, oral or written, representations, statements, and/or understandings of AMC and EPFD with respect to the subject matter of this Agreement. The terms and provisions of this Agreement shall not be amended or modified without specific written provision to that effect, signed by the Parties. No oral statement of any person shall in any manner modify or otherwise affect the terms and provisions of this Agreement. The waiver of either Party of a breach of any provision of this Agreement shall not operate as or be construed as a continuing waiver or as consent to or waiver of such subsequent breach.

27.2 Assignment

This Agreement shall be binding upon the Parties and their successors and permitted assigns; provided, however, that, except as expressly set forth herein, no Party may assign, transfer, delegate or subcontract its rights or duties under this Agreement without prior written consent of the other Party. Notwithstanding the immediately preceding sentence, either Party may, without the prior consent of the other Party, assign or transfer all of its rights under this Agreement to: (i) a parent, subsidiary, or Affiliate; (ii) a purchaser of all or substantially all assets related to this Agreement; or (iii) a third party participating in a merger, acquisition, sale of assets or other corporate reorganization in which such Party is participating. Any permitted assignee shall assume all obligations of its assignor under this Agreement.

27.3 Employee Conduct

If, in the reasonable opinion of a Party, any of the other Party's personnel directly supporting the Flight Program does not demonstrate a high degree of aptitude for the type of customer service required, including a positive mental attitude and good interpersonal relations, the Party may make a written request to the other Party to review the performance of the individual. The reviewing Party will determine the appropriate disciplinary action, if any, up to and including termination of employment. All such employment actions will be handled on a case-by-case basis in accordance with all applicable state and federal laws and equal opportunity guidelines. The reviewing Party will take action on such request with the intent to resolve all such actions within 30 days of such written request.

27.4 Third Party Beneficiaries

Except as otherwise expressly set forth herein, nothing in this Agreement shall be construed as creating or granting rights or benefits hereunder to anyone other than AMC and EPFD.

27.5 Governing Law

The provisions of this Agreement and all rights and obligations of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America, without regards to conflict of laws principles thereof.

27.6 Investigations

Each Party shall promptly notify the other Party if it is sanctioned or disciplined as a result of any investigatory action related to the Flight Program by any federal, state or local agency or

affiliation/accreditation organization. Each Party shall also promptly notify the other Party if it is sued by any party if the notifying Party reasonably believes such lawsuit will adversely impact its ability to meet its obligations under this Agreement.

27.7 Remedies Cumulative

It is agreed that the rights and remedies herein provided in case of default or breach by a Party of this Agreement are cumulative and shall not affect in any manner any other remedies that a Party may have by reason of such default or breach by the defaulting Party. The exercise by the non-defaulting Party of any right or remedy provided herein shall be without prejudice to the non-defaulting Party's right to exercise any other right or remedy provided herein, at law, or in equity.

27.8 Severability

Each provision of this Agreement shall be considered separable, and if for any reason any provision of this Agreement, is determined to be invalid and/or contrary to any existing or future law, regulation, rule and/or order, such invalidity shall not impair the operations of, or affect those portions of this Agreement which are valid.

27.9 Interpretation

When a reference is made in this Agreement to a Section or Exhibit such reference shall be to a Section or Exhibit of this Agreement unless otherwise indicated. The headings contained in this Agreement or in any Exhibit are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Any capitalized terms used in any Exhibit but not otherwise defined therein shall have the meaning as defined in this Agreement. All Exhibits annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth herein. The word "including" and words of similar import when used in this Agreement will mean "including, without limitation", unless otherwise specified.

27.10 No Presumption Against Drafting Party

Each of EPFD and AMC acknowledges that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting Party has no application and is expressly waived.

27.11 Execution


This Agreement may be executed in multiple counterparts (including by PDF, facsimile or other electronic means), each of which may be deemed an original and will constitute one and the same instrument.

[Signatures on Following Page]

CITY OF EL PASO:

Cary Westin Interim
City Manager

APPROVED AS TO FORM:



Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:



Jonathan Killings
Fire Chief

(Acknowledgement)

STATE OF TEXAS)
COUNTY OF EL PASO)

This Instrument was acknowledged before me on the ____ day of _____, 20____ by Cary Westin, as Interim City Manager of the City of El Paso, a municipal corporation, on behalf of said corporation.

Notary Public, State of Texas
Notary's Name _____

My Commission Expires:

AIR METHODS, LLC

Signature:  _____

Printed Name: Jaelynn Williams _____

Title: CEO _____

Date: 4/5/24 _____

EXHIBIT A
PRIMARY HELICOPTER

Aircraft

Base Site:	El Paso
Manufacturer/Model:	Eurocopter EC130T2
Status:	Used
Certification:	Single Pilot VFR with NVG compatibility
Engines:	Single Engine
Patient Capacity:	Current configuration or as mutually agreed
Aircraft Paint Design:	Paint scheme and branding as mutually agreed

AMC may replace, with 60 days' prior notice to EPFD, any of the foregoing aircraft with the type of aircraft which AMC deems appropriate to provide the emergency air transport services contemplated by this Agreement in the most prudent, efficient and cost-effective manner possible.

AMC and EPFD shall mutually agree on and approve, in writing, the built-in medical equipment and configuration.

EXHIBIT B
BASE SITE REQUIREMENTS

- Parking for Staff
- Helipad
 - 120V power
 - Hose bib and water for aircraft washing
 - Lighting for minor maintenance
 - Storage area for mechanics equipment in close proximity to the aircraft
 - Maintenance on the helipad and related equipment
- Office Space (in close proximity to the aircraft)
 - Common Crew Area
 - Pilot Planning Area
 - Medical Crew Work Area
 - Pilot Rest Area (1 bedroom) and 2 medical crew members rest area (2 bedrooms)
 - Storage space for advanced life support equipment, medical supplies and limited storage space for light aircraft maintenance
 - Mechanic work area
- Telephone Access
 - Crew Phone
 - Pilot Phone
 - Pilot internet/WiFi access
 - Crew Fax Line
 - Mechanic phone and internet/WiFi access
- Mechanic Tool and Supply Area (close proximity to the aircraft)
- Bathroom and Shower Access
- Dirty Utility Area Access
- Computer
- Fax
- Kitchen Facilities
- Fuel Facilities

EXHIBIT C
FEES

AMC SHALL COMPENSATE EPFD:

CLINICAL CREW FEE	\$20,000.00 per month
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*The Clinical Crew Fee shall be adjusted annually on the Anniversary Date pursuant to Section 13.

** The Clinical Crew fee may be reduced in accordance with Section 6.6. EPFD's monthly invoice to AMC shall include the number of shifts in which EPFD did not provide a Paramedic in the prior month and shall reduce the Clinical Crew Fee for that month accordingly pursuant to Section 6.6.

*** The Clinical Crew Fee may also be reduced in accordance with Section 13.2 in the event a subsidy is owed.

EXHIBIT D
MEDICAL EQUIPMENT LIST

Primary Response Bag (content list provided)

Monitor

Monitoring capabilities include:

- 12 Lead ECG Monitoring
- Oxygen Saturation Monitoring
- Capnometry Monitoring
- Non-invasive Blood Pressure Monitoring
- (2) Invasive Pressure Monitoring Ports
- Vital Signs Trending

Cardiac Monitor

Monitoring capabilities include:

- External Pacer
- Defibrillator
- 12 Lead ECG Monitoring

Transport Ventilator -

At a minimum, operating modes include:

- Control
- Assist Control
- SIMV

IV Pumps

4 pumps on-board and additional available on request

Transvenous Pacemaker (if available)

Portable and On Board Suction Units

Primary and Secondary Drug Bags (content list provided)

Pediatric Bag (content list provided)

EXHIBIT E
CLINICAL CREW, PROGRAM MANAGER AND MEDICAL DIRECTOR QUALIFICATIONS

CLINICAL CREW

General

The Clinical Crew shall meet the minimum qualifications and performance standards as outlined in the AMC Medical Operational Policy and Procedure manual. EPFD shall provide access to educational opportunities for the Clinical Crew consistent with those afforded to EPFD employees in EPFD's critical care areas. EPFD will be responsible for: (i) Basic Life Support; (ii) Advanced Life Support; (iii) Pediatric Advanced Life Support; and (iv) TPATC.

AMC mandatory certifications and requirements include, but are not limited to: (i) Texas and New Mexico Licensure; (ii) Advanced Trauma Life Support; (iii) Neonatal Resuscitation Provider; and (iv) CAMTS certification recommendations.

Flight Nurses

- The flight nurse functions as a member of the critical care transport team and is responsible for the care of the critically ill and injured patients transported by the Flight Program. The flight nurse functions in the field and hospital environments after an extensive orientation. Responsibilities include patient care that incorporates advanced assessment, stabilization and intervention skills working under standards and protocols approved by the Medical Director. Use of these protocols and standards may require independent judgment if immediate contact with the Medical Director is unavailable.
- Qualifications:
 - Registered Nurse with at least 3 years critical care experience/ED/ICU
 - Excellent communication skills and customer service skills
 - Current certifications in BLS/CPR; ACLS; PALS, TPATC (BLS, ACLS and PALS must be provided by AHA or ARC)
 - NRP Advanced provided by the American Academy of Pediatrics if program provides high-risk OB and/or neonatal transports
 - Current Texas and New Mexico nursing certification

Clinical Requirements: Must complete annual competency tests.

Paramedics

- The Critical Care Transport Paramedic functions as a member of the critical care transport team and is responsible for the care of the critically ill and injured patients transported by the Flight Program. The Critical Care Transport Paramedic functions in the field and hospital environments after an extensive orientation. Responsibilities include patient care, which incorporates advanced stabilization and intervention skills working under standards and protocols approved by the Medical Director. Use of these protocols and standards may require independent judgment if immediate contact with the Medical Director is unavailable.
- Qualifications:
 - At least 3 years of first response ALS field experience at the paramedic level
 - Current certifications in BLS/CPR, and ACLS
 - PALS
 - TPATC
 - NRP if program provides high-risk OB and/or neonatal transports
 - Current Texas and New Mexico paramedic certification

Excellent communication skills and customer service skills

Clinical Requirements: Must complete annual competency tests.

PROGRAM DIRECTOR (EPFD)

- The Program Director is responsible for providing a coordinated air/land patient transport system for the Flight Program. This includes monitoring all day-to-day operations including aviation, land and communications components; general administration; and personnel management of the Flight Program. Specific responsibilities include: development of employment procedures, policies, protocols, and systems of measures for achieving the best possible system performance. The Program Director is responsible for monitoring contractual performance as it relates to the Flight Program, overall leadership of the Flight Program and ensuring that the needs of AMC are met.
- EDUCATION AND TRAINING: Bachelor's Degree
- EXPERIENCE:
 - 5 years' experience in air medical or ground medical leadership
 - Qualification as a nurse or paramedic
 - Previous flight or ground experiences (5 years minimum)
 - Excellent communication skills
 - Excellent customer service skills
- LICENSE AND CERTIFICATION: ACLS, PALS, ATLS
 - Pre-hospital certification (EMT-P)

MEDICAL DIRECTOR

Basic Functions & Responsibilities:

AMC is responsible for ensuring there is a Medical Director for this Flight Program. The Medical Director is responsible for the clinical quality of the patient transportation system including, without limitation, maintaining standards of patient care during transport by providing supervision, education and coordination for Clinical Crew members; reviewing, revising, and approving all medical protocols to direct patient care as defined by the Medical Standards manual; working collaboratively with the Program Director to insure quality patient care through the performance improvement program and by developing and implementation systems to monitor clinical care delivery; and working collaboratively with EPFD and AMC to insure professional working relationships are successfully established. The Medical Director will identify relevant issues and enhance the quality of care delivery.

Education & Experience:

- Board Certification in Emergency Medicine
- Transport experience including rotor and fixed wing
- 10 years of clinical experience
- 5 years of experience with air medical transport experience
- Excellent communication skills
- Participation in local, state and national committees related to air medical transport.

Licenses & Certifications:

- Licensed to practice medicine in Texas
- Certifications in ATLS and ACLS or equivalent education
- Current membership in the Air Medical Physicians Association

- Certifications in pediatric and neonatal training programs (or equivalent education or specialty physician consultant available)

Competencies:

Maintains competencies in advanced skills defined in the AMC Helicopter Policy & Procedure Manual to be able to instruct and test medical personnel on an annual and as-needed basis. Knowledgeable in flight physiology concepts, and incorporates same into protocols. Annual EMTALA training required.

Skills:

Maintains skills necessary to practice medicine within scope of practice, and maintains skills required of medical personnel to be able to instruct and test on an annual and as-needed basis. This maintenance of skills may be accomplished in the physician's own clinical practice as well as during patient contact as may be required by applicable state law or local regulations governing the Flight Program.

Characteristics Duties:

- Supervises quality of patient care provided by the Clinical Crew.
- Provides “off-line” medical direction and control for the Clinical Crew, as well as “on-line” medical direction during regular duty time. When he/she is not available, an alternate physician will be appointed to provide medical direction.
- Serves as a full member of the Quality Management team and acts as a liaison with health care providers from referring and receiving hospitals and health care facilities to assure continuity of care.
- Monitors and evaluates daily aviation operations through:
 - Availability to consult individually with team members on new or evolving clinical or operational issues.
 - Regular review of transport records and critiques (such oversight to include issues of team utilization, transport and response times, aviation and medical safety concerns and comments from referring and receiving facilities.)
- Participates in the interview process for hiring new medical employees.
- Participates in and supervises the training of medical personnel, including physicians, when appropriate. Approves orientation program for Clinical Crew members.
- Approves and monitors medical control plan that will include the following:
 - treatment protocols
 - triage protocols
 - communications protocols
 - transfer protocols
 - standing orders
 - continuing education plans

- Will maintain, or cause to have maintained, records of training and continuing education on each member of the Clinical Crew, and such information will be available at all times.
- As clinical consultant to the Clinical Crew, will determine criteria for patients eligible for transport and provide medical approval as to appropriateness for transport on an as-needed basis.
- Will maintain competency in patient care capabilities and limitations, infection control, stress recognition and management, altitude physiology/stressors of flight, and hazardous materials recognition and response.
- Will provide education annually on advanced trauma pathophysiology to include a skills lab for advanced procedures; including cricothyrotomy, pericardiocentesis, needle thoracostomy, intraosseous insertion, advanced airway management, and any other procedure approved by state regulatory agencies.
- This education may be accomplished during a non-patient encounter (i.e. skills lab on manikin, cadaver or animal) and/or during an actual patient encounter via direct supervision of Clinical Crew performance of skills with or without hands-on assistance by the Medical Director.
- Will maintain working knowledge of EMS and trauma regulations appropriate to the service area of the Flight Program.
- Will maintain currency in trends and developments that impact standard of care in the transport environment, and will keep the Program Director informed of these developments so that medical protocols can be revised accordingly.
- Will work collaboratively with the Program Director to enhance business relationships within the medical community.
- Other duties as assigned.

EXHIBIT F
STANDARDS OF CONDUCT

The Standards of Conduct are fundamental and are based on the expectation that all associated with AMC and EPFD shall exceed these requirements. AMC and EPFD are committed to the highest standards of business ethics and integrity. As a minimum standard, everyone associated with AMC and EPFD will conduct their activities in compliance with applicable laws. Everyone associated with AMC and EPFD has a duty to act in a manner consistent with their core values and the following standards derived from them. The Parties agree to abide by the following Standards of Conduct in every regard with respect to its conduct at the facility or with respect to business or activities:

- Exercise good faith and honesty in all dealings and transactions.
- Create a workplace that fosters community, respects the inherent dignity of every person, promotes employee participation and ensures safety and well-being.
- Maintain a high level of knowledge and skill among all who serve in order to provide a high quality of care.
- Provide accurate and truthful information in all transactions.
- Maintain and protect the confidentiality of patient, employee and organizational information.
- Exercise responsible stewardship of both human and financial resources.
- Avoid conflicts of interest and/or the appearance of conflicts.

EXHIBIT G
JOINT BUSINESS DEVELOPMENT AND OUTREACH PROGRAM

The Parties' marketing activities for each Base Site shall be conducted as follows:

1. EPFD shall collaborate with AMC to oversee and direct the business development and outreach activities for each Base Site. EPFD shall provide market information and direction, as appropriate.
2. The EPFD Program Director shall coordinate public relations outreach activity as determined by the Joint Business Development and Outreach Program, as determined by the EPFD and AMC designee.
3. AMC will provide reasonable flight services to designated sites for business development and outreach, as reasonably agreed upon between the Parties. As a general guidance, AMC will provide twelve (12) hours per Base Site per year of actual flight time at its sole expense to support the Joint Business Development and Outreach Program. AMC and EPFD will work together to schedule and implement any public relations flight requests that are made. All such requests and Base Site tours will be documented in accordance with the AMC public relations request form. AMC will keep on file a copy of all public relations requests, as required to maintain accreditation standards.
4. Unless otherwise agreed to by the Parties, the Base Site will remain in-service during any outreach event and available to respond to any flight requests received during such time period.
5. EPFD shall provide appropriate EPFD personnel as reasonably necessary in connection with business development and outreach activities mutually agreed upon hereunder.

EXHIBIT H
HIPAA BUSINESS ASSOCIATE AGREEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO) **HIPAA BUSINESS ASSOCIATE AGREEMENT**

THIS AGREEMENT is entered into on the last date of signature below (“Effective Date”) by and between the CITY OF EL PASO, TEXAS (“CITY”), and AIR METHODS, LLC ("AIR METHODS") by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information (“PHI”) and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as “HIPAA”). CITY and AIR METHODS may be referred to herein individually as a “Party” or collectively as the “Parties”.

Each Party is a health care provider as defined under HIPAA and so each is primarily a Covered Entity for purposes of HIPAA. To the extent that either Party is occasionally serving in the capacity of a “business associate” (as defined by 45 C.F.R. 160.103) during the course of the services provided under the Agreement, the Parties shall comply with the following requirements set forth below.

RECITALS

WHEREAS, CITY has entered into a contract with AIR METHODS to perform services or provide goods, or both;

WHEREAS, each Party is a health care provider providing clinical services under the contract and possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA;

WHEREAS, in certain limited circumstances each Party may serve in the capacity of a BUSINESS ASSOCIATE and may receive such information from the COVERED ENTITY, or create and receive such information on behalf of the COVERED ENTITY, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, each Party wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and AIR METHODS agree as follows:

A. HIPAA Terms

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.

- a. **Agreement** shall refer to this document.
 - b. **Business Associate** means whichever Party is serving in the capacity of a Business Associate, as defined by HIPAA, in a given scenario.
 - c. **Covered Entity** means whichever Party is serving in the capacity of a Covered Entity, as defined by HIPAA, in a given scenario.
 - d. **HHS Privacy Regulations** shall mean the Code of Federal Regulations (“C.F.R.”) at Title 45, Sections 160 and 164, in effect, or as amended.
 - e. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term “individual” is defined in 45 C.F.R. 164.501.
 - f. **Information** shall mean any “health information” provided and/or made available by the COVERED ENTITY to the BUSINESS ASSOCIATE, and has the same meaning as the term “health information” as defined by 45 C.F.R. 160.102.
 - f. **Parties** shall mean the CITY and AIR METHODS.
 - g. **Secretary** shall mean the Secretary of the Department of Health and Human Services (“HHS”) and any other officer or employee of HHS to whom the authority involved has been delegated.
 - h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.
2. **Limits on Use and Disclosure Established by Terms of Agreement.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the COVERED ENTITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)
 3. **Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from the COVERED ENTITY for the following stated purposes:
To provide public health, research, and related support services (service) to the community for the mutual benefit and general welfare of the Parties (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

4. **Use of Information for Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).
5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from the COVERED ENTITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
 - a. The disclosure is required by law; or
 - b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).
6. **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of the COVERED ENTITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).
7. **BUSINESS ASSOCIATE OBLIGATIONS:**
 - a. **Limits on Use and Further Disclosure Established by Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the COVERED ENTITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
 - b. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
 - c. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to the COVERED ENTITY **within two (2) days of discovery** any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).

- d. Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).
- (i) **45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2).** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.
- e. Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).
- f. Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the COVERED ENTITY, amend or correct protected health information (PHI) in its possession or under its control.
- g. Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).
- h. Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).
- i. Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the COVERED ENTITY, available to the Secretary

or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).

- j. **Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
 - k. **Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
 - l. **Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
 - m. **Subpart E of 45 C.F.R. Part 164.** To the extent BUSINESS ASSOCIATE is to carry out one or more of the COVERED ENTITY's obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to the COVERED ENTITY in the performance of such obligation(s).
 - n. **Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
 - o. **Notice and Authorization Required for Electronic Disclosure of PHI.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.
 - p. **State Law on Medical Records Privacy.** The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.
8. **Property Rights.** The Information shall be and remain the property of the COVERED ENTITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
9. **Modifications.** The Parties agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth

in Title 45, Parts 160 and 164, (Subparts A and E the “Privacy Rule” and Subparts A and C the “Security Rule”) of the Code of Federal Regulations.

10. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

B. Term and Termination

1. **Term.** The Term of this Agreement shall be effective as of May 1, 2024 and shall terminate on April 30, 2029 or on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
2. **Termination for Cause.** Upon the COVERED ENTITY’s knowledge of a material breach by BUSINESS ASSOCIATE, the COVERED ENTITY shall:
 - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the COVERED ENTITY.
 - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
 - c. Notify the Secretary of HHS if termination is not possible.
3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINESS ASSOCIATE, with respect to protected health information received from COVERED ENTITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY, shall:
 - a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;
 - b. Return to the COVERED ENTITY, or, if agreed to by the COVERED ENTITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the COVERED ENTITY that the Information has been destroyed;
 - c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in

this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;

- d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
- e. Return to the COVERED ENTITY or, if agreed to by COVERED ENTITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.

C. Remedies. If the COVERED ENTITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, COVERED ENTITY may, at its option, pursue any and all of the following remedies:

- 1. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;
- 2. Take any other reasonable steps that COVERED ENTITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
- 3. Terminate this Agreement immediately.
- 4. Injunction. COVERED ENTITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to COVERED ENTITY. Accordingly, in addition to any other remedies available to COVERED ENTITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, COVERED ENTITY shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.

D. Miscellaneous

- 1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.

2. **Amendment.** CITY and AIR METHODS agree that amendment of this Agreement may be required to ensure that the Parties comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. Either Party may terminate this Agreement upon 60 days written notice in the event that the other Party does not promptly enter into an amendment that the terminating Party, in its sole discretion, deems sufficient to ensure that it will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P. O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
200 N. Campbell
El Paso, TX 79901
ATTN: Fire Chief

AIR METHODS: AIR METHODS, LLC
ATTN: Legal Department
5500 South Quebec Street, Suite 300
Greenwood Village, Colorado 80111

5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
7. **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws, with venue in El Paso County, Texas.
8. **Compliance with Laws.** Each Party agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, each Party reserves the right to notify the other Party in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
9. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
10. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and AIR METHODS, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
11. **Entire Agreement; Counterparts.** This Agreement constitutes the entire Agreement between CITY and AIR METHODS regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures begin on Following Page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

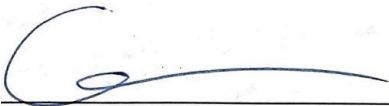
HIPAA BUSINESS ASSOCIATE AGREEMENT

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day of _____, 2024.

CITY OF EL PASO:


Cary Westin
City Manager

APPROVED AS TO FORM:



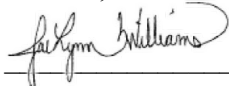
Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:



Jonathan Killings
Fire Chief

AIR METHODS, LLC.

Signature:  _____
Printed Name: JaeLynn Williams
Title: CEO
Date: 4/5/24