

RESOLUTION NO. 11-019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED AGREEMENT FOR AMBULANCE SERVICES BETWEEN THE CITY OF KEY WEST AND LIFESTAR RESPONSE OF ALABAMA, d/b/a CARE AMBULANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in Resolution No. 10-340, the City Commission ranked responses to RFQ 009-10 for Ambulance Services, and authorized the City Manager to negotiate an agreement with Lifestar Response, the top-ranked company;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That the attached Agreement for Ambulance Services is hereby approved between the City and Lifestar Response of Alabama.

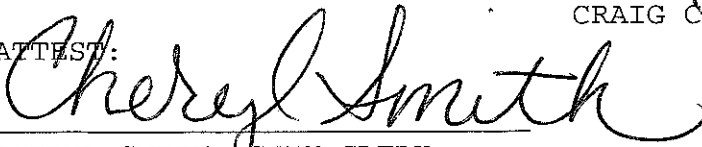
Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 13 day of January, 2011.

Authenticated by the Presiding Officer and Clerk of the Commission on 14 day of January, 2011.

Filed with the Clerk on January 14, 2011

  
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CRAIG CATES, MAYOR

ATTEST:  
  
\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

**CONTRACT**  
**Provision of Ambulance Service**  
**for the City of Key West, FL**

The following are the terms and conditions of the contract between the City of Key West, Florida (City) and LifeStar Response of Alabama, d/b/a Care Ambulance (Vendor). This contract is based on the City of Key West's Request for Proposal 009-10 Emergency Ambulance Service, original and Addendums 1 thru 4, LifeStar Response Corporation Proposal (July 1, 2010). The contract will become effective on April 1, 2011 and be effective until March 31, 2014, unless one or more of the following occurs:

1. The City and Vendor mutually agree to end the contract.
2. The City determines that the Vendor is in default of the contract.
3. The City and the Vendor agree to extend the terms of the contract as described below.

**City's Responsibility**

The City of Key West's contractual responsibilities include:

- Monitoring vendor compliance and enforce contractual terms;
- Providing 911 dispatching personnel and dispatching services utilizing a medical priority dispatch system;
- Providing BLS first response utilizing Key West Fire Department personnel and equipment;
- Providing and maintaining the Computer Aided Dispatch (CAD) system which will serve as the official recording system for response times and service reporting. There is no requirement on behalf of the City to alter or enhance dispatch systems;
- Providing the vendor with information that will allow completion of contract requirements in a timely manner;
- Providing access to City radio frequencies; and
- Providing oversight and ambulance compliance inspections. Prior to commencing any inspections hereunder, Vendor shall certify to City that it has performed an independent inspection and all operations, and equipment is in good working order and otherwise complies with all regulatory requirements.

**Vendor's Responsibilities**

The vendor is responsible for responding to all requests for emergency ambulance service in the designated service area. The requirements for all operations are delineated throughout these specifications and will become the basis of the performance based agreement between the City and the vendor.

The vendor shall also be responsible for the following:

- Furnishing and managing all personnel required in the delivery of emergency ambulance operations;
- Providing all billing and office personnel;
- Providing local office space for customer assistance, and administrative oversight;
- Employing or contracting for medical direction, and other personnel, based on the above requirements;
- Supplying all medical supplies, medications and disposable equipment;
- Providing all vehicles and vehicle maintenance;
- Providing in-service training, quality assurance, and improvement monitoring for EMS provider and first responder personnel;
- Developing and issuing standing orders and medical protocols;
- Providing the required insurance coverage for all employees and response personnel operating under the oversight of the medical director;
- Providing community education;
- Providing mutual aid and disaster response services; and
- Other associated support functions.

The vendor is responsible for providing all computer billing software, hardware, and other equipment and software used by the vendor in the provision of these services. Billing and collection services shall be conducted according to the professional guidelines outlined in the agreement. The vendor shall provide detailed and comprehensive monthly reporting on response activities, patient treatments, billing and collection reports, customer and citizen complaints, breakdowns, accidents, and equipment malfunctions.

The vendor is expected to comply with all applicable county, state, and federal guidelines in the delivery of pre-hospital medical care and to obtain the necessary State of Florida and Monroe County licensing in order to provide emergency transport services. Failure to gain the appropriate licenses and certifications prior to commencing service will be treated as a vendor default.

The vendor will apprise the City fully of any changes or modification in its deployment practices or anticipated deployment practices that could alter service delivery.

The vendor business office shall maintain reasonable business hours and be located within city limits. The vendor shall establish and maintain a published telephone number for customer contacts and a posting of up to date transport fee schedules and the disclosure of corporate contact information on a City designated website. This includes access to Spanish speaking personnel who can provide immediate customer assistance.

## Description of Service Area

The vendor will provide basic and advanced life support care and transportation within the City of Key West proper, and areas including part of Stock Island, Sunset Key (accessible by boat only), Fleming Key, Truman properties, and Sigsbee Park. Trumbo Point, along with other U.S. Navy properties belonging to the Key West Naval Air Station, though inaccessible by the public, will receive ambulance services through this agreement (Reference City Charter, Section 2.01). Service will also be provided to cruise ships docked in Key West, and participate in the area automatic/mutual aid agreements.

## Program Responsibilities

The vendor will provide the following services as enumerated in this contract.

*A. Scope of Services*— The vendor shall furnish all personnel necessary in the delivery and oversight of emergency ambulance service for the municipal boundaries as identified in Attachment One - Service Area. The vendor is also responsible for providing medical direction and clinical oversight for all aspects of the EMS delivery, including the Key West Fire Department response personnel, Key West Police Communications Center personnel involved in emergency medical dispatching and pre-arrival medical instructions, and the Key West Police Department officers. An estimated 165 Key West employees (70 fire fighters and 95 police officers) will receive oversight in the delivery of EMS services at the start of the agreement. Additionally, the vendor shall furnish stand-by special events coverage, limited long-distance emergency transfer service, EMS transportation for incidents involving transfer to and from aeromedical EMS units, reasonable mutual aid services, and comprehensive reporting, as specified in this proposal.

The vendor shall be the City's exclusive emergency ambulance vendor within the specified service area per City Charter Section 2.01.

*B. Response Time Performance*— The City reserves the right to review and approve vendor's deployment plans and encourages a strong and on-going working relationship between the City, the Key West Fire Department, and the vendor. This system will be based on the City's processing of requests for service and then dispatching vendor resources in accordance with the vendor's deployment plan. Response time shall be measured in minutes and integer seconds, and shall be "time stamped" by the City provided CAD system.

1. **Response Time Requirements:** At the start of the contract period, for each response presumptively determined to be an emergency response (as categorized by National Academies of Emergency Dispatch standards as Echo, Delta, Charlie, or Bravo level calls) the vendor shall place a transport capable ALS unit on scene within 8 minutes zero seconds for each incident, and at 90 percent reliability for all assignments in the municipal service area as defined in City Charter Section 201.

For each response presumptively determined to be a non-life threatening emergency response (as categorized by National Academies of Emergency Dispatch standards as Alpha level calls) the vendor shall place a transport capable ALS unit on scene within 15 minutes zero seconds at 90 percent reliability for all assignments in the municipal service area stated in City Charter Section 201. Responses to Alpha level calls are made without the use of lights or sirens as determined by MPDS.

Note: Until such time as the KWPD Communications Division can implement MPDS at the appropriate level, all calls dispatched as “emergency” will fall under the eight minute and zero second rule unless designated by the KWPD supervisor.

2. **Response Time Measurement Methodology:** The response time measurement methodology employed can significantly influence operational requirements for EMS systems. The following are applicable:

a. **Time Intervals:** System response times are measured from the time the call is received by the vendor until the first arriving transport capable ambulance is on scene.

For the purpose of the RFP and the Agreement, the vendor’s emergency response times shall be measured from the time the vendor is notified by radio, telephone, data link, or other means that its services are required at a particular location until unit arrival at the incident location by the vendor’s first arriving ALS ambulance. The time stamp that will be used is the time that the vehicle is assigned by dispatch, the marker referred to as “dispatch” in the CAD system.

Arrival at the incident location means the moment an ambulance crew notifies the KWPD Dispatch Center that it is fully stopped at the location where the ambulance shall be parked while the crew exits to approach the patient. In situations where the ambulance has responded to a location other than the scene (e.g., staging areas for hazardous materials, violent crimes incidents, or non-secured scenes) arrival at scene shall be the time the ambulance arrives at the designated staging location.

In instances when ambulances fail to report “at scene” the time of the next communication with the ambulance shall be used as the “at scene” time. However the vendor may appeal such instances when it can document the actual arrival time through another means (e.g., communications tapes/logs, etc.).

In order for the City to accurately assess several clinical aspects of EMS, the vendor will also report to communications the following times:

- Time “at patient” – The time when the EMS provider begins assessing the patient or for multi-casualty incidents, the initiation of patient triage.
- Time of “first shock” or “CPR initiated” – When indicated, the time between arriving “at patient” and delivery of defibrillation.

b. **Reassignments and Cancelled Calls:** Only the City’s Communications Center can reassign an emergency ambulance. If an ambulance is reassigned while en route and prior to arrival on the scene, then the incident response time for the original call and purpose of determining compliance may be claimed as an exception.

The vendor can determine to cancel from a call prior to arrival only in accordance with approved medical protocols and based on information received from first response units on scene or the Communications Center. If an assignment is cancelled prior to arrival on the scene, the vendor’s compliance will be calculated based on the elapsed time from receipt of call to the time the call was cancelled.

- c. **Response Times Outside Designed Service Area Excluded:** The vendor shall not be held accountable for emergency response time compliance for any assignment originating outside the limits of the service area. Response to requests for automatic/mutual aid service will not be counted in the total number of calls used to determine compliance for the City response times.
- d. **Each Incident a Separate Response:** Each incident will be counted as a single response regardless of the number of units that are dispatched. If a third or greater unit is dispatched to the same incident, said unit is expected to arrive on scene within 15 minutes of dispatch.
- e. **Response Time Exceptions and Exception Requests:** The vendor shall maintain the ability for backup capacity, in order to rapidly put into service reserve ambulance units during periods of high demands or temporary system overload. However, it is understood that from time to time unusual factors beyond the vendor's reasonable control will affect the achievement of the specified response time standards. These situations are limited to severe weather conditions, declared mass casualty incidents, disaster, or other periods of unusually high demand. Exceptions require the approval of the City. High demand is defined as those periods when four or more emergency responses are in progress simultaneously.

If the vendor feels that any response or group of responses should be excluded from the calculation of the response time standards due to "unusual factors" beyond the vendor's control, the vendor may request an exception. Any such request must be in writing and received by the Fire Chief (or designee) within five business days of the end of each month. If the vendor is in dispute with the findings of the Fire Chief (or designee) they may appeal this decision to the city manager. Appeals to the city manager must be filed within five business days from the date of the Fire Chief (or designee)'s findings. The determination of the city manager shall be final and binding on both parties.

Equipment failure, traffic congestions, vehicle breakdown or other such "incidental occurrences" shall not be grounds to grant an exception

*C. Vehicles, Vehicle Maintenance, and Equipment Repairs*– It is the vendor's responsibility to provide ambulances capable of transporting patients receiving ALS care, that meet the KKK-specifications, State of Florida, and Monroe County minimum standards. The vendor shall also provide all medical and technical hardware and software needed to properly equip each ambulance.

It is the vendor's responsibility to maintain and equip each ambulance in accordance with State of Florida guidelines for ALS transport vehicles. The vendor and medical director may choose to stock each vehicle with additional equipment, tools, and protective clothing beyond that which is required by state guidelines.

Vehicle maintenance shall be the responsibility of the vendor in accordance with the warranty maintenance specifications of the vehicle manufacturer. Upon contract commencement, the vendor will provide service using newly purchased vehicles. Records shall be kept for all maintenance and repair work and shall be made available to the City upon request. The City expects all ambulances and equipment used in the performance of the Agreement will be

maintained in an excellent manner. Any ambulance, support vehicle, and/or piece of equipment with any deficiency that compromises its function must be immediately removed from service. All maintenance costs shall be the responsibility of the vendor. Any vehicle repairs, parts replacements, or general up-keep shall be the responsibility of the vendor. Vehicles are to be kept clean and fully stocked. The vendor shall maintain, store, and dispose of all bio-medical equipment and by-products in accordance with the Joint Commission of the Accreditation of Healthcare Organization (JCAHO) standard.

1. **Equipment Requirements:** Each ambulance unit shall be equipped with the required medical supplies, medications, bandages, splints, airway and suction equipment, oxygen and other supplies and disposable goods as required by State of Florida guidelines. It is the responsibility of the vendor to maintain sufficient quantities of goods and supplies to adequately stock and re-stock vehicles without interruption of services. The vendor is expected to have additional supplies and equipment in a secure location within City limits to allow the re-stocking of first line vehicles on a 24/7 basis throughout the contract period.
2. **Replacement of Medications and Medical Supplies for the Key West Fire Department:** At the start of the contract period, the vendor shall develop written guidelines for the replacement of applicable medications (including oxygen), medical supplies, disposable splinting materials, and other disposable supplies used by the Key West Fire and Police Departments in the delivery of patient care. All such supplies, equipment, and medications shall be replaced on a no cost basis to the City. Any such plan must be a community wide plan as defined by, and in compliance with, Medicare regulations. The vendor must also develop a controlled substance storage, distribution, usage, and documentation policy that satisfy any applicable laws and medical director's policies.

*D. Radio Communications* – The vendor is required to use the City of Key West Police Dispatch Center to process and monitor all vehicular movements. Licensed emergency radio frequencies will be made available to the vendor for use for emergency communications and official radio traffic. Dispatch services for emergency responses originating at the KWPD Dispatch Center and using of City licensed radio frequencies will be authorized at no cost to the vendor. The vendor is required to communicate all vehicle movements, emergency and non-emergency, through the City's Police Communications Center.

1. **Medical Priority Dispatching System:** The KWPD Dispatch Center (when prepared to do so) will use the medical priority dispatch protocols and pre-arrival instructions approved by the National Academies of Emergency Dispatch. The dispatch priorities are subject to change by the medical director. Adherence to the dispatch protocol is required.
2. **Computer Aided Dispatch:** The City's computer aided dispatch (CAD) system will be used to record dispatch-information for all ambulance activities. The CAD time should be synchronized daily or at an interval sufficient to keep time within ten seconds of official US time. The CAD time punching system shall include the date, hour, minutes, and seconds. All radio and telephone communications including pre-arrival instructions and time track shall be recorded on tape and kept for a minimum

of two years. The CAD system shall meet the requirements of data reporting as specified herein.

*E. Data and Reporting Requirements*— The ability for a community to monitor and evaluate the effectiveness of its EMS delivery system is greatly dependent upon the availability of valid data and statistical analysis that measures system performance including both clinical and financial outcomes. At the start of the contract period, the City requires the vendor to provide detailed and periodic reporting as follows:

1. **Operational Reporting Requirements:** Vendor shall provide to the Fire Chief (or designee), within 10 days after the first of each month, reports dealing with its performance during the preceding month as it relates to clinical and operational performance as specified herein. The vendor will rely on the City's CAD data in generating its response time reports. At a minimum the vendor will include the following in its operational monthly reports:
  - Total responses
  - Total emergency transports
  - Total patients transported
  - Total responses and transport activity by ambulance unit
  - Total cancelled calls (prior to arrival)
  - Total patient refusals (treatment and transport)
  - Distribution of responses by time of day and day of week
  - Description of incidents by severity of injury/illness Response time summary for all responses
  - Response time summary by ambulance unit
  - Frequency of simultaneous calls for service (citywide)
  - Summary of mutual aid requests
  - Summary of call duration (transports and non-transports)
2. **Financial Reports:** The vendor shall organize and report its financial records in a manner to facilitate the direct comparisons between dispatch incident numbers and patient account records. The financial records should be provided to the city on a quarterly basis and organized to capture the following:
  - Total expenses and revenues
  - Total average charge per patient
  - Total average patient charge for mileage
  - 30, 60, and 90 day Accounts Receivable
  - Distribution of payments by all payment groups (Medicare, Medicaid, private insurance, direct payment, non-collectables/bad debt)



- Quarterly collection rate (percentage) for all ambulance billings
  - Total accounts written off as bad debt after 180 days attempted collections
3. **Miscellaneous Recordkeeping:** The vendor shall complete, maintain, and as requested by the City provide copies of records including:
- Deployment planning reports
  - Vehicle maintenance records
  - Continuing education and certification records documenting training compliance
4. **Electronic Patient Care Reporting (E-PCR):** The vendor will, within three months of beginning service, institute and maintain an electronic patient care reporting system.

The vendor will be responsible for assuring that the system is compatible with the 911 center to allow for population of EMS reports by the CAD system. Data points to be populated include:

- Date of incident
- All response times
- Address of incident
- MPDS Code or chief complaint

The vendor will be responsible for training all personnel in the use of the E-PCR system.

The vendor will be responsible for the purchase, care, and maintenance of the E-PCR system.

Note: All administrative, operational, and financial reports required by this contract, will only include the vendor's Key West site emergency ambulance service. No consolidated or regional reports will be accepted.

*F. Coverage and Availability* – These specifications are for a performance agreement. The City neither accepts nor rejects the vendor's level of effort estimates, rather the City accepts the vendor's financially guaranteed commitment to employ whatever level of effort is necessary to achieve the clinical response time and other performance results required by the terms of the agreement as outlined in these specifications.

1. **Initial Ambulance Coverage Plan:** Notwithstanding the above, at the start of the contract period, the vendor must include an ambulance coverage plans for the Key West service area, the number of ambulance and reserve ambulance units required, supervisory units, personnel and other components that it will use to meet the performance standards required herein. Acceptance by the City of the proposer's offer shall not be construed as acceptance of the proposer's proposed level of effort. At a minimum, the vendor will provide the level of effort contained in their proposal.
2. **24/7 Coverage:** The vendor ensures the prescribed services will be available on a 24-hour a day basis, seven days a week, and 365 days per year. It is further understood

by the vendor that there will be certain periods of time during the year that service demand will exceed the normal daily call volume. During these heightened periods of demand (City cultural and celebration events, man-made or natural disasters, hurricanes, mass casualty incidents, and transportation accidents) the vendor will rapidly increase its staffing and available ambulances in response to these peak demand periods. The vendor is required to provide emergency contact information and maintain the accuracy of this information, in order to contact key personnel during a critical emergency or during disaster situations.

*G. Integration of the Key West Fire Department as a First Responder* – The vendor agrees that on all incidents, the senior Key West Fire Department fire department officer will be responsible for incident command as espoused by the National Incident Management System (NIMS). The incident commander shall when appropriate designate the vendor's EMS supervisor or lead paramedic as the *medical group supervisor* based on NIMS procedures. The vendor's designated EMS supervisor or lead paramedic will be in medical control of all patient care in accordance with EMS protocols. Fire personnel will support the care provided by the vendor on-scene, and when the situation warrants, will accompany ambulance personnel in the ambulance by providing care en route or driving the ambulance to the hospital.

The vendor further agrees that they will assist the Key West Fire Department in enhancing their first responder program to possibly include advanced life support first response as approved by the Fire Chief and EMS medical director.

*H. Risk Management and Loss Control Provisions* – The vendor agrees, that by April 1, 2011, they will submit to the Fire Chief (or designee) a copy of its risk management program. The program must include an aggressive loss control program including, pre-screening of potential employees (including drug testing), initial and on-going driver training using a curriculum equivalent to EVOC, randomized and significant event investigations (e.g., motor vehicle accident with injuries or any vehicle accident which requires the towing of the ambulance from the scene of the accident), lifting technique training, hazard reduction training and other training or policy guidelines that are directed towards injury prevention and accident avoidance.

The vendor agrees to provide the City an annual report no later than 15 months after the start of the contract period and every 12 months thereafter.

*I. Deployment Planning and Disaster Response* – The vendor agrees to be actively involved in planning for and responding to any declared or undeclared disaster in the City. Disaster coordination will be facilitated through the City's Office of Emergency Management, Key West Fire Department, and the Monroe County Office of Emergency Management.

1. **Planning Documents:** The vendor shall develop, within 90 days of the signing of this service contract, a mass casualty incident plan and an emergency disaster plan following the NIMS incident command system guidelines. This plan will be submitted to the City's emergency manager and the fire chief for review and incorporation into the City's Emergency Management Plan.
2. **Supervisory Training and Participation in Drills and Exercises:** The vendor's supervisory personnel will be required to complete incident command training and hazardous material training as required by the City's emergency management staff.

Vendor involvement shall include participation in training, drills and exercise without additional charge to the City. The vendor may be considered for eligible grant funding when applicable, for the above described drills and exercises. If grant funding is unavailable, the vendor is responsible for all costs involved with training their employees.

The vendor further agrees that within 30 days of commencement of operations, all EMS providers will be certified in IS-700 and ICS-100, and all supervisory personnel or those designated to act as supervisors will also be certified in IS-800 and ICS – 200.

Within 60 days of commencement of operations, the EMS Manager (or those who may act in that capacity, and any EMS representative to the EOC must be certified in ICS-300 and ICS-400.

3. **Evacuation Planning:** The vendor agrees to work directly with the Lower Keys Medical Center, any other medical facility, and the Monroe County Office of Emergency Management in developing a medical evacuation plan for the City of Key West. This plan shall be developed within 90 days from the signing of the agreement and presented to the City's emergency manager for review and inclusion into the City's Emergency Management Plan.
4. **Performance Criteria During Disaster Situations:** In the event of a disaster within Key West or in the event the Monroe County Office of Emergency Management directs the vendor to respond to a disaster in a neighboring jurisdiction, normal operations shall be suspended and the vendor shall respond in accordance with the respective disaster planning document. The vendor shall use its best efforts to maintain primary emergency services in the City. During the period of a declared disaster, the City will not impose performance requirements for response times and other performance criteria.
5. **Reimbursements for Disaster Related Costs:** Any additional direct marginal costs resulting from the performance of disaster services that are non-recoverable from third parties may be invoiced for payment by the City and County consistent with applicable Federal guidelines at the time of the incident. This shall not include any cost for maintaining the normal level of service during the disaster, but shall be limited to the reasonable and verifiable direct marginal costs for these non-reimbursed additional disaster services. If EMS transportation is involved, the vendor agrees to collect funds by usual means before billing the City or County.

*J. Mutual Aid* – The vendor, at its option, may enter into mutual aid agreements with other emergency ambulance agencies, provided, however, that:

1. Any mutual aid provided within Monroe County must be substantially medically equivalent services;
2. The responding entity agrees to the City's EMS system standards including clinical, insurance and other requirements for clinical review; and

3. Written agreements between the vendor and other agencies are to be approved by the City Fire Chief (or designee). The City shall not unreasonably withhold its approval of such agreements.

*K. Service Inquiries and Managing Complaints* – The vendor shall log all inquiries and service complaints, including complaints involving billing and collection issues. The vendor shall provide prompt response and follow-up to such inquiries and complaints. Such responses shall be subject to the limitation imposed by patient confidentiality restrictions and HIPAA privacy rules.

Note: Any inquiry or verbal complaint adjusted without the customer filing a written complaint will not require follow-up reporting to the Fire Chief (or designee).

The vendor shall on a monthly basis submit to the City a list of all written complaints received and their appropriate disposition/resolution. Copies of any inquiries and resolutions of a clinical nature shall also be referred to the Medical Director within (24) hours or the next business day.

It is the desire of the City that the vendor notify the Fire Chief (or designee) regarding the most egregious or criminal actions that could reflect negatively on the City or its employees. In these situations it is essential that this notification be made as soon as possible and apart from the monthly reporting process.

*L. Prohibition of Contract Transfer without Prior Approval* – Vendor shall not transfer, assign, enter into any license, management or similar arrangement, change ownership, pledge, or hypothecate this Agreement or Vendor's interest and/or obligation of performance in and to any part of this Agreement (hereafter referred to as a "*Disposition*") without the prior written consent of City, which consent may be withheld in the sole discretion of the City. Such consent if given must be expressed by Resolution of the City Commission. This prohibition against a Disposition shall be construed to include a prohibition against any assignment or transfer by operation of law, legal process, receivership, bankruptcy or otherwise, whether voluntary or involuntary.

## **Clinical and Employment Practices**

*A. Medical Oversight* – At the start of, and continuing throughout the agreement, the vendor agrees to furnish and fund all medical oversight services including the services of a Medical Director for all system participants (e.g. First Responders, Ambulance Personnel, Emergency Medical Dispatchers, Police Fire Responders) through an independent contract, with a Florida licensed physician, Board-certified by the American Board of Emergency Medicine, or the American Board of Osteopathic Emergency Medicine, and affiliated with the Lower Keys Medical Center. Upon written request of the vendor, the City Manager may grant exceptions to specific board certifications or hospital affiliations.

1. Duties of the Medical Director:
  - a. Establish a uniform and appropriate system standard of care.
  - b. Review and approve local medical oversight standards and training requirements (including if necessary written and practical test) for EMS personnel providing care under the Medical Director's authority.

- c. Develop guidelines for on-line medical direction, transport destination policies and use of air medical services in support of the EMS systems mission.
- d. Establish written and on-line (electronic) medical protocols and standing orders necessary in providing oversight for all First Responders, Ambulance Personnel and Emergency Medical Dispatchers in the delivery of per-hospital emergency medical care.
- e. In consultation with the City and the vendor, develop standards applicable to on-board equipment used in the delivery of First Responder services and Emergency Ambulance services within the service area.
- f. No less frequently than one time every three months, report on the clinical aspects of the quality of care and on the response time performance being provided by the vendor, first responder and priority medical dispatching services.
- g. On an annual basis provide a written annual report to the City on the quality of care and an evaluation of those critical performance measurements of the EMS system.
- h. Monitor all aspects of system performance including clinical quality of care and verification of response time performance reported by First Responders and the vendor.
- i. Attend meetings with the administrators of the Emergency Department of the Lower Keys Medical Center in order to obtain insight and direct feedback from the primary medical receiving unit regarding the medical care that is being delivered by the system providers.
- j. Provide consultation to the Fire Chief (or designee) regarding requests by the vendor for relief from response time compliance in accordance with applicable provisions for relief in the agreement.
- k. Be able to respond on emergency incidents as agreed to by the Fire Chief (or designee) and the vendor.

*B. Personnel Qualifications and Staffing* – The vendor agrees that all Ambulances rendering services under this Agreement shall be staffed and equipped to render ALS level care. The paramedic shall be the primary caregiver for all emergency patients and shall accompany all patients in the back of the ambulance during any patient transportation except as otherwise permitted by medical protocols.

1. **Minimum Staffing:** The vendor is required to staff a minimum of one (1) EMT-P and one (1) EMT-B. At the vendor's option the requirement for EMT staffing levels on any units may be enhanced to higher levels of training without obligation to the City.

During City declared emergency situations, the vendor may be permitted to staff extra BLS ambulances that are staffed with at least two (2) EMT-Bs.

2. **Qualifications:** Personnel will be appropriately certified or licensed by the State of Florida and their functional privileges will be specifically authorized by the Medical Director in accordance with medical oversight policies.

3. **Professionalism:** The City expects and requires professional and courteous control and appearance at all times from the vendor's ambulance personnel, supervisors, middle managers and top executives. The vendor shall address and correct any occasional departure from this standard of conduct.
4. **Employment Practices and Background Checks:** All persons employed by the vendor shall undergo a criminal record check conducted by the vendor. This should include, at a minimum convictions related to driving under the influence of drugs or alcohol, drug related offenses, and sexual offenses including rape, child abuse, and spousal abuse. The vendor must independently judge the employability and potential liability associated with employing any individual with a past history of such offenses. The vendor shall provide the City with its specific policies concerning drug and alcohol use and sexual harassment. In addition, the vendor shall provide its employment policies relating to the hiring of employees with felony and misdemeanor convictions. The vendor shall not employ or retain any employee whose Florida EMS credentials or drivers' license is revoked or currently suspended.
5. **Key Personnel:** The vendor agrees to furnish the names and contact information for those personnel they identify as their administrators and operations supervisors. If necessary, the vendor is expected to furnish replacement personnel with equal or superior qualifications.

Vendor shall offer employment in substantially similar positions to each employee currently employed by the incumbent provider. Such employment shall be at or above the employee's current base pay. However, it is recognized that all such current employees will be required to comply with all reasonable rules and regulations instituted by Vendor that are applicable to similarly situated employees. Such employees hired by Vendor shall retain their original hiring date for seniority status and similar assignments.

*C. OSHA and Other Regulatory Compliance*— The vendor agrees to adopt procedures specifically for Key West Rescue that will meet or exceed the regulatory requirements for occupational safety and health including but not limited to infection control, blood borne pathogens and TB. These precautions shall be designed for both the safety of ambulance personnel and Key West Fire Department first responders. Additionally, such measures would include, but not be limited to written procedures and directives, universal precautions, periodic training and safety alerts, annual medical screenings, the wearing of personal protection equipment, and insuring adherence to all HIPAA guidelines.

*D. Discrimination Prohibited*— The vendor agrees that it will comply with all applicable provisions of federal, state and local laws and regulations prohibiting discrimination. Specifically, the vendor warrants that it will fully comply with Title VI and VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act (ADA), and all other regulations promulgated hereunder. The vendor will not discriminate against any employee or applicant for employment because of race, religion, color, disability, national origin, sex, sexual orientation or age.

*E. Establish a Drug-Free Workplace*— The vendor agrees, in accordance with Florida laws, to establish a Drug-Free workplace within its Key West operations. These guidelines will include, but not be limited to;

1. A published statement notifying employee that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform the employee about the dangers of drug abuse in the workplace, the company's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon the employees for drug abuse violations.
3. Give each employee a copy of the statement specified in Paragraph 1.
4. Impose a sanction on, or require satisfactory participation in a drug assistance or rehabilitation program, by any employee convicted of a drug related crime or determined to be in violation of the vendor's drug and alcohol control policy
5. At the beginning of the contract period have a drug-testing program in effect that addresses both pre-employment drug screening and the for-cause or random testing of employees.

## **Financial and Administrative Provisions**

*A. Term of Contract and Renewal Provisions* – The initial term of the Agreement shall be for a period of 3 years beginning April 1, 2011. The City may offer, at its sole option, and based in part upon the vendor's superior performance, two (2) twenty-four (24) month renewals. The offer shall be for one 24-month extension after the completion of the initial 3-year contract period and then a second 24-month extension at the completion of the first 24-month extension period. Each extension will be considered independent of the other and will be offered at the sole option of the City. If the City determines that an extension of the contract is warranted, such offer shall be made at least nine months prior to the scheduled end of the term of the Agreement or previously granted extension. After the City's notification to the vendor of its intent to extend, the vendor shall decide within 60 days if it intends to accept the invitation to extend the agreement.

*B. Methods, Forms of Compensation, and Availability of City Services* – The vendor agrees that compensation will be based on the following:

1. **Market Rights:** The City, except as otherwise outlined in these specifications, shall use the vendor exclusively for the performance of emergency ambulance services within the defined service area boundaries.
2. **User Fees:** The primary financial compensation for the vendor for the services rendered under this RFP will be from funds received for fee-for-service billings and collections and contractual arrangements with insurance providers and other payers.
3. **Local Tax Subsidy:** The City will not provide any subsidy for ambulance services
4. **First Responder Assistance:** The vendor shall have the benefit of BLS level first responder services throughout the entire service area.
5. **Communications Infrastructure:** The use of the City's Emergency Communications/EMS Dispatch Center infrastructure is provided at no cost to the vendor for emergency transport activities.

6. Contract Extensions: By furnishing services that are determined by the City to be clinically superior to the requirements of this specification, the City may grant certain rights to contract extensions.

*C. Ambulance Fees and Guidelines for Rate Increases* – The vendor agrees to charge patients for the services rendered according to the patient fee schedules included. The proposed rate schedule shall be in effect for the initial 12 months of operations and shall not be increased during this timeframe. All emergency transport rates shall be based on the patient condition or the services rendered. There is no intent on the City's part to require ALS care on every situation found.

The vendor shall agree to the following rate schedule for all services, materials, medications, and other actions or items that may be billed to a patient in the course of their treatment and transport. The rate schedule shall include:

- Base rate for all levels of transport:
  - Basic Life Support Emergency \$560.
  - Advanced Life Support Emergency (Medicare ALS-1) \$900.
  - Advanced Life Support Emergency (Medicare ALS-2) \$950.
- Mileage charge: \$12.00 per loaded mile
- Equipment and medications charges are bundled into the transport rate.
- Emergency stand-by charge at any incident – No charge for stand-by
- Non-emergency or scheduled stand-by event – If a unit is committed to the scene, the vendor may charge a reasonable fee.
- **Disclosure of Fee Schedule:** It is the City's desire to provide complete disclosure of all charges and fees associated with the delivery of ambulance services. As such the vendor shall establish as part of this contract its full and complete rate schedule for all services and charges. These charges shall be posted at the vendor's business office, be made available as a handout to all patients and/or family members, and be posted on the City's web page. The vendor may not deviate or alter the established fee schedule with prior written authorization by the Fire Chief (or designee).
- **Rate Increases:** The vendor may request a rate increase after the initial 12 months of operations and base this request on market factors, collection rates, and inflationary impacts in the Key West area. Request for rate increases are to be made in writing to the Fire Chief (or designee). The Fire Chief (or designee) shall investigate the situation and make a recommendation to the City Commission. All changes to ambulance rates are made by the City Commission. Any contract rate structure increase shall be in effect for a minimum of 12 months. In no instance may the vendor request more than one rate increase within any consecutive 12 month period.

*D. Billing System and Access to Information* – The vendor shall conduct all billing and collection functions for the EMS system in a professional and courteous manner. The City's goal is for the vendor to collect the maximum amount available from patients and third party payers, without unduly pressuring those who legitimately cannot pay.



The vendor must fully outline its billing and collection policies and procedures prior to the start of the contract. This should include samples of invoices, reminders, telephone collection methods, and handling accounts turned over to collection. Policies about acceptance of assignment and write-off should be specifically addressed.

1. **Local Access:** A specified local phone number for inquiries from patients and third party payers will be provided by the vendor for patient's use. Should the vendor elect to manage its account receivables from a location other than the Key West area, a local access phone number still must be provided.
2. **Web Page Access:** The vendor may provide billing and payment information that is account specific in a web-based format. Patients shall have the opportunity to make inquiries, obtain account information, locate company contact information, and make payments on a secure on-line web page without incurring additional fees.

If the vendor decides to use this method, the City will be extended inquiry capabilities for no additional charge. This will occur without the need to renegotiate the agreement.

3. **On-scene Collection Prohibited:** For services provided within the Key West service area, the vendor shall not engage in on-scene collection for local services at scene, en route, or upon delivery of the patient at the receiving medical facility.
4. **Third-Party Billing and Collection:** The vendor may engage, at its sole expense, a third-party agent to provide EMS billing and collection services. The third-party service is required to comply with all rules imposed by the City on the vendor.
5. **Audits and Inspections:** The vendor shall provide the City with an annual audited financial statement prepared by an independent public accounting firm in accordance with generally accepted accounting principles consistently applied. Statements shall be available within 150 days of the close of each fiscal year. If the vendor's financial statements are prepared on a consolidated basis, then separate balance sheets and income shall be subject to the independent auditor's opinion. If the vendor performs a corporate-wide audit, they must only provide a balance sheet, and profit/loss statement. Also required is an auditor statement that that these financials are accurate and complete, and have been integrated into a consolidated financial statement.

At any time during normal business hours and as often as may be reasonably deemed necessary, the Fire Chief (or designee) may observe the vendor's office operations, and the vendor shall make available any and all business records, including incident reports, patient records, and financial records of the vendor pertaining to the agreement subject to applicable Federal Law. The Fire Chief (or designee) may audit, request a subsequent audit or a special audit, copy, make transcripts, or otherwise reproduce such records including but not limited to contracts, payroll, accounts receivable, inventory, collective bargaining, and other records, daily logs, employment agreements, and other documentation for the City to fulfill its oversight role.

The Fire Chief (or designee) may ride as a "third-person" on any of the vendor's ambulance units at any time, provided, that in exercising this right to inspection and observation, City representatives shall conduct themselves in a professional and courteous manner, shall not interfere with the vendor's employees' duties, and shall at all times be respectful of the vendor's

employer/employee relationship. Unless mutually agreed to by both parties, the vendor will be given at least 24 hour notice for such ride-a-longs.

*E. Insurance Requirements*– At the time that this contract is awarded and throughout the term of the Agreement, the vendor shall meet or exceed the following requirements.

1. Prior to the time the vendor is entitled to commence any part of the project, work or services under the Agreement, vendor shall procure and maintain the minimum insurance coverage and limits as provided herein. Said insurance shall be evidenced by delivery to the City of (a) certificates of insurance executed by financially stable insurance carrier(s) acceptable to the City and licensed or permitted to write insurance by the Florida Department of Insurance, listing coverage and limits, expiration dates and terms of policies, and listing all carriers issuing or reinsuring said policies; and (b) a copy of each policy, including all endorsements. Insurance requirements shall remain in effect throughout the term covered in the Agreement and any extensions.
  - a. Commercial general liability insurance, including but not limited to, contractual, liability assumed under the Indemnity provisions of this Agreement, premises, operations, products, completed operations, personal injury, and advertising injury. The amounts of such insurance shall not be less than \$1,000,000 bodily injury and property damage combined single limits; and \$2,000,000 aggregate. The insurance shall include fire legal liability of not less than \$50,000 per occurrence, unless otherwise stated by exception herein.
  - b. Professional liability insurance (ambulance attendants and Medical Director) including errors and omission with minimum limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate, on a claims made basis. Vendor shall maintain in force a Professional liability insurance policy similar to the aforementioned for no less than two years following the expiration or termination of the contract.
  - c. Workers compensation coverage to statutory limits as required by law; employer's liability insurance of not less than \$1,000,000 bodily injury by incident; \$1,000,000 bodily injury by disease for each employee; and \$1,000,000 bodily injury by disease.
  - d. Commercial automobile liability-bodily injury, property damage and collision covering all vehicles used under the Agreement for owned, hired and non-owned vehicles provided by the City or others, with limits of not less than \$1,000,000 combined single limits bodily injury and property damage. Policy shall include coverage for loading and unloading hazards unless covered under the general liability or professional liability above. Vendor shall provide coverage regardless of actual vehicle ownership
  - e. Uninsured and underinsured motorist coverage of at least \$300,000 shall be provided.
  - f. "Umbrella" coverage in the amount of at least \$5,000,000 shall be provided as additional coverage to all underlying liability policies. This policy may be written as a form following basis.

2. **Endorsements Required:** Each insurance policy shall include the following conditions by endorsement to the policy:
  - a. Each policy shall require that 30 days prior to its expiration, cancellation, non-renewal or any material change in coverage or limits, a notice thereof shall be sent to the City at its address of record by the insurer. Vendor shall notify the City in a like manner within 24 hours after receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage received by the vendor from its insurer; and nothing shall absolve the vendor of this requirement to provide notice.
  - b. Companies issuing the insurance shall have no claims against the City for payment of premiums, assessments or deductibles, which are the sole responsibility and risk of the vendor.
  - c. Except for worker's compensations coverage all such policies shall name the City, its officers, employees, and the medical director, as additional insureds.
3. All insurance shall be maintained with companies:
  - a. Holding a "general policy holders rating" of "B+" or better, as set forth in the most current issue of "Best Insurance Guide," the successful rating to "B+" or comparable rating from reputable rating organizations;
  - b. Licensed or permitted to operate in the State of Florida; and
  - c. In good standing with the Florida Department of Insurance or similar agency.
4. **Self-insured Risk:** Any program of self-insurance risk employed by the vendor shall be subject to prior approval and ongoing monitoring by the City and their legal counsel. In addition to any assurances required by the City under this provision, as initially agreed prior to final award of the Agreement, the following items shall at a minimum be met by the City's satisfaction:
  - a. Potential fiscal liability associated with the risk to be assumed by the vendor must be reasonable and limited to an amount which would, if realized, not impair vendor's ability to performance obligations under the Agreement:
  - b. The coverage contemplated shall at a minimum be equivalent to the coverage required under paragraph 1 above.
  - c. Throughout the term the City shall be immediately notified of any major claims, the amount reserved against potential claims, or other program changes, which may adversely affect the vendor's ability to provide insurance against the risk as required in the Agreement.
  - d. The self-insured program meets and complies with all applicable laws and regulations.
5. **Indemnification:** The vendor (as indemnitor) will be required to indemnify, save, and hold the City, its officers, and employees, agents, successors and assigns (as indemnitee) harmless from and against and in respect of any act, judgment, claim, domain, suit, proceeding, expenses, orders, action, loss, damage, cost, charge, interest, fine, penalty, liability, reasonable attorney and expert fees, and related

obligations (collectively, the “claims”) arising from or related to acts and omissions of the vendor in its performance under the Agreement, whether direct or indirect including but not limited to, liabilities, obligations, responsibilities, remedial actions, losses, damages, punitive damages, consequential damage to third parties, treble damages, costs and expenses, fines, penalties, sanctions, interests levied, and other charges levied by other federal, state and local government agencies on the City by reasons on the vendor’s direct or indirect actions. This indemnity will survive and remain in force after the expiration or termination of the Agreement and is limited; provided, however that the indemnity is not intended to cover claims against City arising solely of City’s own negligence or intentional misconduct. For purposes of this section, the term the City shall include City officers and its employees and the medical director.

The following provisions shall control the indemnity provided hereunder:

- a. **Indemnity Defense:** The vendor, at its cost and expense, shall fully and diligently defend the City against any claims brought, investigations undertaken, or actions filed which concern claims for which the City is indemnified. The vendor may employ qualified attorneys of its own selection to appear and defend the claim or action on behalf of the City upon City approval. The vendor acting in good faith and in the best interest of the City, shall have the sole authority for the direction of the defense, and shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions against the City so long as such compromise or settlement does not impose a liability on the City not fully covered and satisfied by the indemnity provided by this section or, in the City’s judgment, subject to any material adverse order, judgment, decree which impairs its image or ability to operate its business as previously conducted. Otherwise, the City reserves the exclusive right to reject any such compromise or settlement and prosecute the claim, compromise or settlement. The vendor shall inform the City, on a quarterly or more frequent basis, on the progress and proposed resolution of any claim and shall cooperate in responding to inquiries of the City and its legal counsel.
- b. **Reimbursement for Expenses:** The vendor shall reimburse the City for any and all necessary expenses, attorney’s fees, interest, penalties, expert fees, or costs incurred in the enforcement of any part of the Agreement 30 days after receiving notice that the City has incurred the said costs.
- c. **Cooperation of the Parties and Notice of Claim:** The vendor and the City shall provide the other prompt written notice of any such audit or review of any actual or threatened claim, or any statement of the fact coming to the party’s attention which is likely to lead to claim covered by the indemnity. Each party agrees to cooperate in good faith with the other and respond to any such audit or review and defending any such claim.

*F. Federal Employer Identification Number and Corporate Identification* – The vendor shall provide all vital and accurate information relating corporate information as registered with State of Florida, the Florida Department of Business and Professional

Regulations, and the federal government. Such information shall include at a minimum but not limited to the following:

- Name of corporation
- Type of corporation
- Authorization to transact business in Florida
- Registration of any fictitious names
- Names of officers
- Corporate address
- Federal identification number
- Contact person for company
- Name and title of person authorized to sign legal documents on behalf of the company

*G. Sworn Statement Regarding Public Entity Crime* – The vendor shall provide as part of its proposal a sworn statement in accordance with Paragraph 287.133(1)(g), Florida Statutes, indicating any violation of state or federal law by a person affiliated with the vendor's company or corporation, with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any state of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision or any other state of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

*H. Demonstration of Financial Depth and Stability* – Proposers shall provide documentary evidence, which clearly documents the financial history of the organizations and demonstrates that the proposer has:

- The financial capacity to handle the expansion (including implementation and start-up costs) necessitated by the award of the Agreement.
- Proposers shall include copies of its financial statements for the most recent two-year period. Audited financial records are preferable. If audited financial records are unavailable, proposer must provide un-audited financial statements supported by federal tax returns. In cases where the proposer is forming a new entity, the financial records of the parent company shall be available for review.
- Has expertise in billing Medicare-Part B and other 3rd party payers of ambulance services (or contracts with a third-party agency with necessary expertise).
- Vendor shall provide information, which demonstrates a clear and convincing capability to implement and manage a billing and collection system. The proposer should include information about what steps, policies, procedures, training, equipment and management techniques would be used on award of the Agreement.

- Has the ability to secure insurance coverage's required under this procurement. Any existing self-insurance plan used for the purpose of qualification must substantially meet the requirements set forth in the contract.
- Vendor shall detail any and all notifications of pending insurance (separate listing for auto and professional liability) claims, investigations, and settlements including both status and resolution. Any incidents of this nature will be reported to the Fire Chief (or designee) within five business days of the vendor becoming aware of the incident.

*1. Default and Termination of Agreement* – If conditions or circumstances, constituting a default as set forth in this section exist, the City shall have all rights and remedies available at law in equity under the Agreement, specifically including the right to terminate the Agreement, the right to pursue the vendor for damages and the right of emergency takeover as set forth in Section J. All the City's remedies shall be non-cumulative and shall be in addition to any other remedy available to the City. Conditions and circumstances, which constitute default of the Agreement, shall include the following:

1. Failure of the vendor to operate the EMS system in a manner which enables the City and the vendor to remain in compliance with federal state, county, or City of Key West laws, rules, or regulations, medical control policies and/or related rules and regulations adopted pursuant thereto;
2. Failure of the vendor to meet system standards of care established by the medical director;
3. Falsification of information supplied by the vendor during or subsequent to this procurement process;
4. Failure of the vendor to provide data or falsification of data supplied during the course of operations, including by way of example but not by way of exclusion, dispatch data, patient report data, response time data, performance measurements, financial data or falsification of any other data under the agreement;
5. Failure of the vendor to maintain equipment in accordance with the manufacturer recommended maintenance practices;
6. Chronic and consistent failure of the vendor's employees to conduct themselves in a professional and courteous manner and to present a professional appearance;
7. Failure of the vendor to comply with the approved rate regulation, billing or collection provisions of the Agreement;
8. Vendor makes an assignment for the benefit of creditors, files a petition of bankruptcy, is adjudicated insolvent or bankrupt, petitions to apply for any custodian, receiver or trustee for a substantial part of its property, commences and proceeding relating to it under bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction;
9. Failure of vendor to cooperate with and assist the City after a default has been declared as provided for herein, even if it is later determined that such breach never occurred or that the cause of such breach was beyond vendor 's reasonable control;

10. Acceptance or payment by vendor or any of vendor 's employees of any bribe, kick-back or consideration of any kind in exchange for any consideration whatsoever, when such consideration or action on the part of vendor or vendor 's employees could reasonably be construed as a violation of federal, state or local law;
11. Failure of vendor to maintain insurance in accordance with the Agreement;
12. Chronic failure of vendor to consistently meet response time requirements as set forth in the Agreement;
13. Failure to submit audited financial statements prepared by a certified public accountant or public accounting firm within the specified time frame under the terms and conditions outlined in the Agreement;
14. Any other failure of performance, clinical or other system standards of care as required in the Agreement and which is determined by the City Commission to constitute a default or endangerment to public health and safety;
15. Restriction, suspension, or revocation of operating licenses or certifications imposed by Monroe County or the State of Florida;
16. Vendor debarment by CMS.

*J. Provisions for Curing Default and Emergency Take Over* – In the event the city manager determines that there has been a material breach by the vendor of the standards and performances as defined in this specification, which breach represents an immediate threat to public health and safety, such default shall constitute a default of the Agreement. In the event of a default, the City shall give the vendor written notice, delivered in-person to the vendors' local address, setting forth with reasonable specificity the nature of the default. Vendor shall have the right to cure such default within 5 calendar days of receipt of such notice and the reason such default endangers the public's health and safety. Within 24 hours of receipt of such notice, vendor shall deliver to City, in writing, a plan of action to cure such default. If the vendor fails to cure such default within the period allowed for cure (with such failure to be determined in the sole and absolute discretion of City) or vendor fails to timely deliver the cure plan to the City, City may take-over vendor 's operations. Vendor shall cooperate completely and immediately with City to affect a prompt and orderly transfer of all responsibilities to City.

To accomplish continuous delivery of service, the City may, in exercising an emergency take-over, take possession of all of the vendor's equipment, facilities, and records used in the performance of the Agreement. The City may retain possession of said equipment, facilities, and records until such items can be acquired by City or another vendor is engaged to perform the service. Should the City exercise this option, it shall pay the vendor the reasonable rental value of such equipment and facilities during the time they are used by the City. Liability of the City to the vendor for this period will be that of a service for hire, with ordinary wear and tear specifically exempt from such liability.

The vendor shall not be prohibited from disputing any such finding of default through litigation, provided, however that such litigation shall not have the effect of delaying, in any way, the immediate takeover of operations by the City. Nor shall such dispute by vendor delay the City's access to the funds made available by the performance letter of credit. These provisions shall be specifically stipulated and agreed to by both parties as being reasonable and

necessary for the protection of public health and safety, and any legal dispute concerning the finding that a default has occurred shall be initiated and shall take place only after the emergency take-over has been completed, and shall not under any circumstances delay the process of an emergency take-over or the City's access to performance security funds as needed by the City to finance such take-over of operations.

Vendor's cooperation with and full support of such emergency take-over, as well as the vendor's immediate release of performance security funds to the City shall not be construed as acceptance by the vendor of the findings and default, and shall not in any way jeopardize vendor's right of recovery should a court later find that the declaration of default was made in error. However, failure on the part of the vendor to cooperate fully with the City to affect a smooth and safe take-over of operations, shall itself constitute a breach of the Agreement, even if it was later determined that the original declaration of default by the City was made in error.

The vendor shall post a surety bond of \$1,000,000 that may be accessed by the City to cure any default caused by the vendor. The bond will be posted with a licensed surety bond agency as required by Florida Law. Upon declaration of default, the vendor shall not interfere or take legal action to prevent access to the bond.

*K. "Lame Duck" Provisions*— Should vendor fail to prevail in a future procurement cycle, vendor shall agree to continue to provide all services required in and under the Agreement until the new vendor assumes service responsibilities. Under these circumstances vendor will, for a period of several months, serve as a "lame duck" vendor. To ensure continued performance fully consistent with the requirements of the Agreement through any such period, the following provisions shall apply:

1. Vendor shall continue all operations and support services at the same level of effort and performance as were in effect prior to the award of the subsequent Agreement to a competing organization, including but not limited to compliance with provisions hereof related to qualifications of key personnel;
2. Vendor shall make no changes in methods of operation which could reasonably be considered to be aimed at cutting vendor service and operating cost to maximum profits during the final stages of the Agreement;
3. City recognizes that if a competing organization should prevail in a future procurement cycle, vendor may reasonably begin to prepare for transition of service to the new vendor. City shall not unreasonably withhold its approval of vendors' request to begin an orderly transition process, including reasonable plans to relocate staff, scale down certain inventory items, etc., as long as such transition activity does not impair vendors' performance during this period;
4. During the process of a subsequent competition conducted by City, vendor shall permit its non-management personnel reasonable opportunities to discuss with competing organizations the issues related to employment with such organizations in the event vendor is not the successful proposer. Vendor may, however, require that its non-management personnel shall refrain from providing information to a competing organization regarding vendor's current operations, and vendor may also prohibit its management level personnel from communicating with representatives of competing organizations during the competition. However, once City has made its decision



regarding award, and in the event vendor is not the winner, vendor shall permit free discussion between any City-based vendor employee and the winning proposer without restriction, and without adverse consequence to any City-based employee.

5. Institutional memory is often considered a major tool for the successful transition of contractual services. To this end, the City may take into consideration as a basis for award, a new vendor agreeing to continue the employment of non-management personnel, especially those who are bona-fide city residents. The City will make no recommendation as to salary, benefit, or other working condition requirements not contained in the current agreement.

*L. Penalties for Contract Violation* – In order to provide quality EMS care and maintain a successful relationship between the City and the vendor, the City must strictly enforce all parts of the agreement. The Fire Chief (or designee) will cite the vendor for any violation and assess a penalty, either monetary, performance, abatement or a combination thereof.

Penalties for the violations will include:

1. Failure to respond to an emergency within three minutes: \$100
2. Failure to arrive at a level B, C, D, or E emergency within eight minutes and 0 seconds: \$150
3. Failure to arrive at a level A call dispatched as an emergency within fifteen minutes and 0 seconds: \$75
4. Failure to respond to an emergency call: \$1,000.00 plus the city's cost for Key West Fire Department first response and mutual aid ambulance service.

Note: Response by a contracted back-up ambulance provider will be considered the same as if the vendor responded.

Note: For sections 2 and 3 above, the KWPD will provide the Fire Chief (or designee) a monthly report on the calls where the required response times were not met. If the vendors' monthly 90<sup>th</sup> percentile response meets the response time requirements, then no fines will be imposed. If the vendor fails to meet the monthly 90<sup>th</sup> percentile response time requirements, then the vendor will be cited for ALL late calls for the month.

1. Failure to respond at the ALS level: \$500 plus the City's cost of securing ALS care.
2. Failure to meet the 90th percentile response time standards: first occurrence \$2,500 per month; second occurrence \$5,000 per month; third occurrence \$10,000 per month plus possible default action. Occurrences start again each calendar year.
3. Failure to have personnel trained at the appropriate ICS level: \$50 per day/per employee after 60 days of employment.
4. Operating a unit with a provider who lacks the appropriate licensure, certification, or medical director granted privileges: \$5,000 for each workday the provider has worked in violation. Maximum fine \$25,000.
5. Failure to implement a comprehensive risk management plan: \$2,500 for each month in non-compliance. After three months, the City may begin the default procedure.

6. Failure to submit the required quality management reports: \$1,000 plus \$500 per day, for up to 30 days.
7. Lapse or suspension of any required insurance: \$2,500 plus \$1,000 for each day until resolved.
8. Breakdown of an ambulance en route to a call: \$250
9. Breakdown of an ambulance with a patient on board: \$500
10. Any restriction, suspension, or revocation of the vendor's license by the County or State government: \$10,000 in addition to possible default actions.
11. Failure of a unit to possess the appropriate EMS equipment: \$500
12. Malfunction of any diagnostic or therapeutic equipment: \$250
13. Violation of the "lame duck" provisions: \$2,500 per day until abated.
14. Debarment by any CMS program (Medicare or Medicaid): \$25,000 in addition to possible default actions.
15. Falsification of a patient care report or billing request: \$1,000 per event
16. Failure to notify the City of a pending insurance event: \$1,000 plus \$250 per day.
17. Failure to initiate an E-PCR system within 3 months of contract initiation: \$2,500 plus \$1,000 per month.
18. Other violations not listed above: violation notice but no monetary penalty. May be used as a basis to decide whether to approve automatic contract renewal.

Note - Payment of a fine does not release Vendor from any other liability related to the breach of the Agreement that resulted in the assessment of such fine

*M. Issuance of Violation Notice*— The following agencies are responsible for issuing violation notices to the vendor:

1. Violation of sections 1–6 above: dispatch manager of the KWPD Dispatch Center.
2. Note: If the dispatch manager is aware of a situation that is a proximate cause to a violation of sections 1-6, a violation notice may be withheld (e.g. known road blockage due to an incident).
3. For sections 2 and 3, KWPD Dispatch will provide the Fire Chief (or designee) a monthly report of all calls considered late. Individual violation notices are not necessary. If the vendor fails to meet the monthly response time requirement, the Fire Chief (or designee) will issue one citation, listing all late responses, and the total amount due.
4. All other violations: either the Fire Chief (or designee) or the Office of the City Manager.
5. Recognition and abatement being an important component to any quality management process, the appropriate agency, unless noted above, will issue a violation notice within seven days of occurrence or within seven days after the City should have reasonably known about the violation.

*N. Actions upon Receiving a Violation Notice*

1. Violation notices will be on a standard form approved by the Fire Chief (or designee), and hand delivered to the vendors' local office.
2. Upon receiving the form, the vendor may take the following actions:
  - a. Pay the proposed fine and complete any abatement required. Payment must be made to the city manager and any abatement must be completed within 30 days of violation notice issuance (unless indicated above).
  - b. Appeal the fine or abatement action.
  - c. Request to initiate the Alternative Dispute Resolution section of the contract. This must be agreed to by the City and the vendor as described below.

Note: When one response leads to multiple violations, only the fine for the most expensive offense will be assessed.
3. To appeal the decision to the Fire Chief (or designee), the vendor shall note their intention on the violation notice and forward it to the Fire Chief (or designee) within 15 days of receiving the violation.
4. The Fire Chief (or designee) will schedule an in-person hearing for each violation. The Fire Chief (or designee) may choose to hear all cases within one day each month. The vendor may attend the hearing and present evidence or witnesses to answer the violation notice.
5. Within five days of the hearing, the Fire Chief (or designee) will issue a written decision to the vendor. The administrator may take the following actions:
  - a. Dismiss the violation
  - b. Sustain the violation and order abatement but suspend any monetary penalty
  - c. Sustain the violation and impose a penalty up to the designated fine
  - d. When applicable, order the beginning of default procedures
6. Except as designated within the agreement, the Fire Chief (or designee)'s decision is final.
7. If the designated Fire Chief (or designee) is unavailable, or at his discretion, recuses from hearing the case, an assistant city manager will substitute as the hearing officer.
8. Hearing timelines may be modified by agreement of the City and the vendor.

Timelines or any procedural issues listed above will not stop the City from taking any emergency action necessary to keep its EMS system performing.

*O. General Provisions*

**1. Assignment:** Vendor shall not transfer, assign, enter into any license, management or similar arrangement, change ownership, pledge, or hypothecate this Agreement or Vendor's interest and/or obligation of performance in and to any part of this Agreement (hereafter referred to as a "*Disposition*") without the prior written consent of City, which consent may be withheld in the sole discretion of the City. Such consent if given must be

expressed by Resolution of the City Commission. This prohibition against a Disposition shall be construed to include a prohibition against any assignment or transfer by operation of law, legal process, receivership, bankruptcy or otherwise, whether voluntary or involuntary.

2. **Permits and Licenses:** The vendor shall be responsible for and shall hold any and all required federal, state, or local permits or licenses required to perform its obligations under the Agreement. In addition, the vendor shall make all necessary payments for licenses and permits for the services and for issuances of state permits for all ambulance vehicles used. It shall be entirely the responsibility of the vendor to schedule and coordinate all such applications and application renewals as necessary to ensure that the vendor is in complete compliance with federal, state, and local requirements for permits and licenses as necessary to provide the services. The vendor shall be responsible for ensuring that its employees' state and local certifications as necessary to provide the services, if applicable, are valid and current at the beginning of the contract period and at all times throughout the contract period.
3. **Compliance with Laws and Regulations:** All services furnished by the vendor under the Agreement shall be rendered in full compliance with all applicable federal, state and local laws, ordinances, rules and regulations, including HIPAA and the American Recovery and Reinvestment Act. It shall be the vendor's sole responsibility to determine which, and be fully familiar with all laws, rules, and regulations that apply to the services under the Agreement, and to maintain compliance with those applicable standards at all times. Furthermore, the vendor agrees to perform in accordance with the provisions of any regulations or written guidelines established by the medical director.
4. **Product Endorsement/Advertising:** The vendor shall not use the name of the City for the endorsement of any commercial products or services without the expressed written permission of the City.
5. **Omnibus Provision:** Vendor understands and agrees that for four years following the conclusion of the Agreement it may be required to make available upon written request to the secretary of the U.S. Department of Health and Human Services, or any other fully authorized representatives, the specifications and subsequent Agreements, and any such books, documents, and records that are necessary to certify the nature and extent of the reasonable costs of services.
6. **Warranty Regarding Consideration and Procurement:** Proposer warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the proposer to procure or solicit a Agreement under this procurement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the proposer, any fee, commission, percentage, brokerage fee, gifts, or other consideration contingent upon or resulting from this procurement. Further, proposer represents that its pricing has been independently arrived at without collusion. It has not knowingly influenced and promises that it will not knowingly influence a City employee or former City employee to breach any ethical standards. It has not violated, and is not violating, and

promises that it will not violate the prohibition against gratuities and kickbacks. Violation of this warranty shall constitute default of the resulting Agreement.

7. **Relationship of the Parties:** Nothing in the contract shall be construed to create a relationship of employer and employee or principal and agent, partnership, joint venture, or any other relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of the Agreement.
8. **Rights and Remedies Not Waived:** Vendor will be required to covenant that the provision of services to be performed by the vendor under the Agreement shall be completed without further compensation than that provided for in the Agreement. The acceptance of work under the Agreement and the payment therefore shall not be held to prevent maintenance of an action for failure to perform work in accordance with the Agreement. In no event shall payment of consideration by City constitute or be construed to be a waiver by City of any default or covenant or any default by vendor. City's payment shall in no way impair or prejudice any right or remedy available to the City with respect to such default.
9. **Consent to Jurisdiction:** Vendor shall consent to the exclusive jurisdiction of the courts of the State of Florida or a federal court in Florida in any and all actions and proceedings between the parties hereto arising under or growing out of the Agreement. Venue shall lie in Monroe County, Florida.
10. **End-term Provisions:** The vendor shall have 90 days after termination of the Agreement in which to supply the required audited financial statements and other such documentation necessary to facilitate the close out of the Agreement at the end of the term.
11. **Notice of Litigation:** Vendor shall agree to notify City within 24 hours of any litigation or significant potential for litigation of which Vendor is aware. Further, vendor will be required to warrant that it will disclose in writing to the City all litigation involving the vendor, vendor's related organizations, owners, and key personnel in performance of this contract
12. **Time of Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.
13. **No Third Party Rights.** The provisions of this Agreement are for the exclusive benefit of City and Vendor, and except for rights expressly granted to third parties by the terms hereof, no third party shall have any right or claim against City by reason of such provisions or be entitled to enforce any of such provisions against City.
14. **Waiver** The failure of a party to insist, in any one or more instances, upon strict performance of any covenants or provisions of this Agreement, or to exercise any option of such party herein contained, shall not be construed as a waiver or relinquishment of that or any right or remedy of such party hereunder and shall not be deemed a waiver of any subsequent breach or default by the other party of the covenants or conditions herein. Acceptance of continued services by City, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach. No waiver by a party of any provision hereof shall be deemed

to have been made unless expressed in writing and signed by such party. With respect to City, such written expression of waiver may only occur by Resolution of the Key West City Commission.

*P. Alternative Dispute Resolution – Pre-suit Mediation Required*

Except as provided herein and in those instances where a clear and immediate threat to public safety is involved, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Agreement may be commenced until the matter has been submitted for mediation in accordance with this section. Either party may commence mediation by providing the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with one another in selecting a mediator, and in scheduling the mediation proceedings. If the parties are unable to agree on a mediator, each shall select a Supreme Court Certified Circuit Civil Mediator in Monroe County, Florida. Those two mediators shall then select a third mediator who shall conduct the mediation. The mediation shall be held in Key West, Florida within 30 days of the request for mediation, unless otherwise agreed by the parties.

The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the mediation, or 60 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire. The provisions of this Clause may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered. The 60 day waiting period will be waived if the statute of limitations would expire during the 60 day period.

## Key Terms

Throughout the document, we use key terms that we will define for reader clarity.

**Advanced Life Support (ALS)** – Advanced services or skills that include the use of techniques including intravenous (IV) therapy, ECG monitoring, medications, advanced airway management and similar treatments.

**Basic Life Support (BLS)** – Basic EMS skills that include CPR, defibrillation, bleeding control, spinal immobilization, splinting, and similar treatments.

**Paramedic** – Any person licensed by the State of Florida and credentialed by the local medical director to provide advanced life support services.

**EMT-B** – Any person certified by the State of Florida and credentialed by the local medical director to provide basic life support services.

**Medical Director** – A Florida licensed physician, M.D. or D.O., who has been approved by the State of Florida, and the local EMS system to oversee and provide on-line and off-line EMS medical direction.

**Request for Proposal (RFP)** – A document released by the City of Key West that requests bids from vendors to provide emergency ambulance service to the City.

**Proposal** – A response from vendors to wishing to bid on the exclusive contract to provide emergency ambulance service for the City of Key West.

**Medical Priority Dispatch System (MPDS)** – An advanced emergency dispatch system that provides protocols for EMS dispatch, and protocol-driven pre-arrival patient care instructions.

**Medical Oversight** – The process of providing on-line and off-line medical oversight of the EMS system.

**Computer Aided Dispatch (CAD)** – The City EMS telecommunications system that provides voice and data communications for public safety systems within Key West.

**Electronic Patient Care Report (E-PCR)** – A computer device that allows EMS and fire service providers to call and patient data into a reporting system.

**Ambulance Zones** – A geographic area designated by the City to identify specific EMS response areas.

**Ambulance** – A vehicle that meets State of Florida and Monroe County standards to provide medical transportation for sick and injured patients.

**Proposal Review Committee** – A group comprised of Key West officials, and Key West citizens, appointed by the City Commission to review EMS proposals and make a recommendation to the city manager.

**Violation Notice** – A notice sent to the vendor by the appropriate agency notifying them of a violation of the EMS contract.

**Hearing Officer** – The Fire Chief (or designee) or other City official designated by the City Manager.

**Default** – A situation (s) that occurs where the vendor can no longer meet the performance requirement set within the contract.

**Billing System** – The system used by the vendor to collect accounts receivable from the provision of EMS by the vendor. The vendor may subcontract this to a third-party agency provided that all sections of the contract are met.

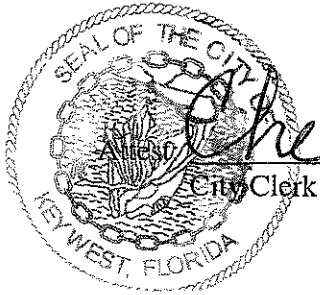
**Fire Chief (or designee)** – The city representative designated by the City Manager to oversee the ambulance service contract. The City Manager has designated the Fire Chief or his designee as the Fire Chief (or designee).

**City Declared Emergency** – A status as declared by the KWPD Dispatch Center, based on an SOP approved by the vendor, Fire Chief, and Police Chief.

**Vendor** – The EMS provider contracted by the City to provide emergency ambulance service. This includes any sub-contracted vendor who provides back-up response. The vendor is responsible for the sub-contractor meeting all the provisions of this contract.

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be executed on the day and year indicated below and shall become effective upon the signature of the last party to the Contract.

Signed, sealed and delivered in the presence of:



**CITY OF KEY WEST, FLORIDA**

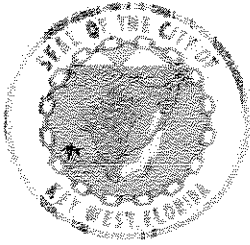
Cheryl Smith By: K. Sebell  
City Clerk City Manager

**LIFESTAR RESPONSE CORPORATION**

Witness: [Signature]  
MARK F. O'GAN


By: [Signature]  
Douglas Tisdale  
Name, Title  
Regional Vice President





## CITY MANAGER'S OFFICE MEMORANDUM

**TO:** Jim Scholl, City Manager

**FROM:** Mark Z. Finigan, Assistant City Manager 

**DATE:** December 29, 2010

**SUBJECT:** Contract with LifeStar Response of Alabama d/b/a Care Ambulance

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### **ACTION STATEMENT:**

This purpose of this resolution is to request City Commission approval of the attached Contract between the City of Key West and LifeStar Response of Alabama, d/b/a Care Ambulance, and to authorize the City Manager to execute such contract.

### **BACKGROUND:**

City Commission selected via Resolution 10-340 the LifeStar Response Corporation (copy of Resolution 10-034 attached) as the exclusive 911 emergency transport provider for the City of Key West. Pursuant to said resolution the City Manager was authorized to enter into negotiations with LifeStar Response Corporation and if successful in negotiating a contract, bring said contract before the City Commission for approval. The resulting proposed contract is attached and presented to the City Commission for approval.

Unlike a Call for Bids in which selection is based on price and price alone, the City's 911 emergency transport provider requirement was solicited using a Request for Proposal (RFP) approach. The significance of the RFP is this solicitation type affords the City of Key West the ability to objectively select a provider on multiple selection factors important to the City, to include price, but not exclusively price. Negotiations were conducted with LifeStar Response of Alabama subsequent to selection by the Commission with a goal of having a contract agreeable to both parties come before the Commission for approval in early January 2011. All obligations, conditions and performance requirements required under the RFP have been incorporated into a resulting contract. Additional performance enhancements have been incorporated over what was required in the RFP as well as the addition of several legal terms and conditions requested by the City Attorney.

To follow are a few of the more substantive enhancements added:

- Language requiring the provider to offer employment in substantially similar positions to each employee currently employed by the incumbent provider. Such employment shall be at or above the employee's current base pay. However, it is recognized that all such current employees will be required to comply with all reasonable rules and regulations instituted by provider that are applicable to similarly situated employees. Employees hired by provider shall retain their original hiring date for seniority status and similar assignments. The provider has agreed to review other "conditions of employment", such as overtime, duty schedules and retirement/health packages; however, the provider is under no obligation to accept such conditions other than those stated above.
- Clearer financial reporting requirements which will enable the City to fully understand the cost of providing 911 emergency transport service to the citizens Key West, as a "stand alone" service area.
- Clarification of violations associated with arriving late for a multi unit response.
- Change to Evacuation Planning language that would ensure the City receive the provider's evacuation plan well in advance of the 2011 hurricane season.
- A stronger "assignment of contract" provision along with pre-suit mediation, language requested by the City Attorney.
- Added "Time of Essence", "No Third Party Rights" and "Waiver" provisions, all requested by the City Attorney.
- Though not a change, it was again reinforced with the provider this relationship is a no subsidy relationship, covering the full three year term of the contract.

The one area of interest to the Commission during the selection process was the discussion of a Letter of Credit (LOC) in lieu of a Surety Bond. The RFP does obligate the awardee to secure a \$1,000,000 surety performance bond; a requirement LifeStar is prepared to fulfill. However, LifeStar was asked if they would agree to a Letter of Credit in lieu of a surety bond. They represented they would. During negotiations LifeStar outlined the financial burden a LOC would place on their entire corporate financial structure. According to LifeStar, a \$1.0M surety bond will cost \$70K per year. A LOC for \$1.0M will require them to encumber \$1.0M of actual funds for the contract period, a cash flow restriction they could not accept. The 911 transport requirement was solicited on a \$1.0M surety bond requirement and their "no subsidy" proposal was predicated on such. It was not until after the proposal opening that discussions developed which called for a LOC as the preferred vehicle for ensuring performance. Quicker access to funds and less legal debate was the City's argument in favor of a LOC. LifeStar did represent a LOC would work, but I assume on second thought the encumbering of \$1.0M for three years is a major issue. Attached for your review is a synopsis of the major features of both a Surety Bond and a Letter of Credit.

So where does that leave us? Is a Letter of Credit superior to a Surety Bond for purposes of accessing? Yes, in my opinion. However, let's examine a little closer the "worst case" situation. LifeStar underestimates the costs to operate in Key West and cannot simply make a "go of it". Will they leave Key West under the cloak of darkness?

Doubtful. LifeStar, as with any of the other major 911 emergency transport players, would suffer irreparable market credibility. Through the mandatory financial reporting requirements built into the contract the City would know well in advance that LifeStar is financially failing in Key West and would immediately identify and be prepared to deploy another 911 emergency transport provider. Moreover, the contract calls for the provider to leave in place the ambulance units. However, in the event they pull out with their ambulance units, your consultant, SPC Tri Data, will tell you any of the major industry players could quickly react to the situation and deploy the 3-4 ambulance units along with the necessary leadership and infrastructure. Could it cost more in this worst case scenario – yes? We would finally start to understand the true costs to operate an effective 911 emergency transport system in Key West. In short, there are contingencies which could handle a situation in which LifeStar fails. Contingencies which would ensure the community has uninterrupted quality 911 emergency transport capability.

As for that Surety Bond, it would be in place and available for the City to recover costs incurred to mobilize another provider as well as any other financial damages the City can demonstrate.

**RECOMMENDATION:**

Approve the attached contract between the City of Key West and LifeStar Response of Alabama d/b/a Care Ambulance as the exclusive 911 emergency transport provider for the City of Key West, pursuant to the terms and conditions outlined in the contract.

# Surety Bonds Versus Bank Letters of Credit

Definitions	
<p><b>Surety Bonds</b></p> <ul style="list-style-type: none"> <li>• A <b>three-party agreement</b> among the surety, the <i>obligee</i> (the project owner), and the <i>principal</i> (the contractor).</li> <li>• A performance bond <b>protects the owner from non-performance and financial exposures</b> should the contractor default.</li> <li>• A payment bond, aka labor and material bond, <b>protects certain subcontractors, laborers, and material suppliers against nonpayment by the contractor.</b></li> </ul>	<p><b>Bank Letters of Credit</b></p> <ul style="list-style-type: none"> <li>• A bank letter of credit (LOC) is a <b>cash guarantee to the owner</b>, who can call on the LOC on demand. The LOC converts to a payment to the owner and an interest-bearing loan for the contractor.</li> <li>• The <b>performance</b> of the contract has <b>no bearing</b> on the bank's <b>obligation to pay</b> on the letter of credit.</li> </ul>
Prequalification	
<p><b>Surety Bonds</b></p> <ul style="list-style-type: none"> <li>• A surety company and producer assess the contractor's business operations, financial resources, experience, organization, existing workload and its profitability, and management capability to <b>verify the contractor is capable of performing the contract.</b> The purpose is to avoid default.</li> </ul>	<p><b>Bank Letters of Credit</b></p> <ul style="list-style-type: none"> <li>• The banker examines the quality and liquidity of the collateral in case there is a demand on the letter of credit. If the banker is satisfied that the <b>contractor can reimburse the bank if demand is made upon the LOC</b>, there is no further prequalification.</li> </ul>
Borrowing Capacity	
<p><b>Surety Bonds</b></p> <ul style="list-style-type: none"> <li>• Performance and payment bonds are usually issued on an unsecured basis and are usually provided on the construction</li> </ul>	<p><b>Bank Letters of Credit</b></p> <ul style="list-style-type: none"> <li>• Specific liquid assets are pledged to secure bank LOCs. Bank LOCs diminish the contractor's line of credit and appear on the</li> </ul>

<p>company's financial strength, experience, and corporate and personal indemnity. The issuance of bonds <b>does not diminish the contractor's borrowing capacity</b> and may be viewed as a credit enhancement.</p>	<p>contractor's financial statement as a contingent liability. The contractor's cash flow in funding initial stages of construction and retention amounts throughout a contract term can be adversely affected.</p>
<h2 style="text-align: center;">Duration</h2>	
<p><b>Surety Bonds</b></p> <ul style="list-style-type: none"> <li>• Surety bonds remain <b>in force for the duration of the contract</b> plus a maintenance period, subject to the terms and conditions of the bond, the contract documents, and underlying statutes.</li> </ul>	<p><b>Bank Letters of Credit</b></p> <ul style="list-style-type: none"> <li>• An LOC is usually <b>date specific</b>, generally for one year. LOCs may contain "evergreen" clauses for automatic renewal, with related fees.</li> </ul>
<h2 style="text-align: center;">How To Obtain</h2>	
<p><b>Surety Bonds</b></p> <ul style="list-style-type: none"> <li>• The <b>contractor obtains the bond through a surety bond producer</b>. A list of surety bond producers is available through the National Association of Surety Bond Producers (NASBP) at <a href="http://www.nasbp.org">www.nasbp.org</a>.</li> </ul>	<p><b>Bank Letters of Credit</b></p> <ul style="list-style-type: none"> <li>• The <b>contractor obtains the LOC</b> through a banking or lending institution.</li> </ul>
<h2 style="text-align: center;">Cost</h2>	
<p><b>Surety Bonds</b></p> <ul style="list-style-type: none"> <li>• Generally <b>0.5% to 2% of contract price</b>. Bond is project specific, covers duration of contract.</li> <li>• Included in contractor's bid price.</li> </ul>	<p><b>Bank Letters of Credit</b></p> <ul style="list-style-type: none"> <li>• Cost is generally <b>1% of the contract amount</b> covered by LOC - e.g. if LOC covers 10% of contract, Cost = 1% x (10% x Contract Amount) x years of contract.</li> <li>• Included in contractor's bid price.</li> </ul>
<h2 style="text-align: center;">Coverage</h2>	
<p><b>Surety Bonds</b></p>	<p><b>Bank Letters of Credit</b></p>

<ul style="list-style-type: none"> <li>• Performance bond - <b>100% of the contract amount</b> for project completion.</li> <li>• Payment bond - <b>100% of contract amount</b> protects certain subcontractors, laborers, and materials suppliers and protects owner against liens.</li> <li>• At least 10% coverage for maintenance of defects the first year after completion.</li> </ul>	<ul style="list-style-type: none"> <li>• The LOC may be obtained for any percentage of the contract, but <b>5% to 10%</b> is typical.</li> <li>• No protection/guarantee that subcontractors, laborers, and materials suppliers will be paid in the event of contractor default. They may file liens on the project.</li> </ul>
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## Claims

Surety Bonds	Bank Letters of Credit
<ul style="list-style-type: none"> <li>• If the owner declares the contractor in default, the <b>surety investigates</b>.</li> <li>• If the contractor defaults, the <b>surety's options</b> are to:                             <ul style="list-style-type: none"> <li>• Finance the original contractor or provide support;</li> <li>• Takeover responsibility for completion (up to penal sum of bond);</li> <li>• Tender a new contractor; or</li> <li>• Pay the penal sum of the bond.</li> </ul> </li> <li>• With payment bonds, the <b>surety pays the rightful claims</b> of certain subcontractors, laborers, and suppliers up to the penal sum of the bond.</li> </ul>	<ul style="list-style-type: none"> <li>• The bank will <b>pay on an LOC upon demand</b> of the holder if made prior to the expiration date.</li> <li>• There is <b>no completion clause</b> in an LOC. The task of administering completion of the contract is left to the owner.</li> <li>• The <b>owner must determine the validity of claims</b> by subcontractors, laborers, and materials suppliers. If there is not enough money from the LOC to pay all of the claims, then the owner has to decide which claims will be paid and which will be rejected.</li> </ul>

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For more information about surety bonding, please contact the:



**Surety Information Office**  
1828 L St. NW, Suite 720

Washington, DC 20036-5104  
 (202) 686-7463 | Fax (202) 686-3656  
[www.sio.org](http://www.sio.org) | [sio@sio.org](mailto:sio@sio.org)

*The Surety Information Office (SIO) is the information source on contract surety bonds in public and private construction. SIO offers brochures and CDs and can provide speakers, write articles, and answer questions on contract surety bonds. SIO is supported by The Surety & Fidelity Association of America (SFAA) and the National Association of Surety Bond Producers (NASBP). All materials may be accessed at [www.sio.org](http://www.sio.org).*



**The Surety & Fidelity  
 Association of America**

1101 Connecticut Avenue, NW, Suite 800  
 Washington, DC 20036  
 (202) 463-0600 | Fax (202) 463-0606  
[www.surety.org](http://www.surety.org) | [information@surety.org](mailto:information@surety.org)

*The Surety & Fidelity Association of America (SFAA) is a District of Columbia non-profit corporation whose members are engaged in the business of suretyship worldwide. Member companies collectively write the majority of surety and fidelity bonds in the United States. SFAA is licensed as a rating or advisory organization in all states, as well as in the District of Columbia and Puerto Rico, and it has been designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience. SFAA represents its member companies in matters of common interest before various federal, state, and local government agencies.*



**National Association  
 of Surety Bond Producers**

1828 L St. NW, Suite 720  
 Washington, DC 20036-5104  
 (202) 686-3700 | Fax (202) 686-3700  
[www.nasbp.org](http://www.nasbp.org) | [info@nasbp.org](mailto:info@nasbp.org)

*The National Association of Surety Bond Producers (NASBP) is the international organization of professional surety bond producers and brokers. NASBP represents more than 5,000 personnel who specialize in performance and payment bonds for the construction industry; and other types of surety bonds, such as license permit bonds, for guaranteeing performance. NASBP's mission is to strengthen the professionalism, expertise, and innovation of the surety industry and to advocate its use worldwide.*

RESOLUTION NO. 10-340

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RANKING RESPONDENTS TO RFP 009-10 FOR AMBULANCE SERVICES; AUTHORIZING STAFF TO NEGOTIATE A CONTRACT IN ACCORDANCE WITH THE ACCEPTED PROPOSALS WITH THE TOP RANKED FIRM AND EACH FIRM THEREAFTER AS NECESSARY UNTIL AN ACCEPTABLE CONTRACT IS BROUGHT BEFORE THE COMMISSION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City issued RFP 009-10 for ambulance services within the City of Key West; and

WHEREAS, an Evaluation Committee conducted a review of the proposals at a properly noticed meeting on August 9, 2010, and ranked the top three most responsive proposals for consideration by the City Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the top three ranked firms based upon the proposals submitted as determined in order by the Commission are:

1. LifeStar Response
2. \_\_\_\_\_
3. \_\_\_\_\_

Section 2: That the Evaluation Committee, in conjunction with City Staff, is authorized to negotiate a contract in accordance with the proposals accepted, starting with the topped ranked firm and, if necessary, with each firm thereafter until an



acceptable agreement is reached. The City Manager is directed to bring the contract before the City Commission for consideration.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 16 day of November, 2010.

Authenticated by the presiding officer and Clerk of the Commission on November 17, 2010.

Filed with the Clerk November 17, 2010.

  
\_\_\_\_\_  
CRAIG GATES, MAYOR

ATTEST:

  
\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

September 20, 2010

Dear Key West Commissioners,

On March 16<sup>th</sup>, 2010 I was returning home on my scooter from my weekly golf match and was involved in a hit and run accident on North Roosevelt Blvd. Fortunately for me, Key West Rescue (AMR) arrived quickly, stabilized my neck and provided overall outstanding care. I was airlifted to Miami's Jackson Memorial Hospital where I had surgery for a fractured my C5 vertebrae requiring donor bone, miscellaneous hardware and six screws to repair. I spent two weeks in the hospital and in-patient physical therapy. That was six months ago and I am happy to say that my recovery has surprised even the most optimistic health care worker.

Needless to say I have seen many doctors, nurses and other health professionals during the last six months. They tell me that I am very lucky and that the rescue workers who treated me at the scene did an outstanding job diagnosing the situation and taking the appropriate actions to ensure no further spine damage. I am fortunate that the highly professional and skilled Key West Rescue paramedics were available and treated me. There is no way that I could come close to fully thanking them for the outstanding job their team did.

I understand that the current Key West Rescue contract is expiring and other firms have placed competitive bids. From the Commission's September 21<sup>st</sup> agenda, it appears that AMR's Key West Rescue is the second choice. Unfortunately, I found out just a few days ago that the Commission was going to review the recommendations and begin negotiations with top choice. I am sure that the review committee did their due diligence on each submitted bid. I also understand that City's financial position is under a great deal of pressure and there can be pressure to select a supplier with the lowest "out of pocket" expense. In reviewing the financial proposals from Commission agenda, it seems odd that Lifestar Response did not require a stipend. I have discussed this proposal with paramedics and it's suggested that part of Lifestar's no stipend submission may be due to utilization of volunteers and/or part time employees with little or no benefits. If this is true it will likely be difficult to attract and retain the best and brightest paramedics to serve our community. Without a full time, stable paramedic workforce, our community is potentially at risk.

Key West Rescue has a long history serving our community. They understand the unique issues associated with serving our distinctive community. My successful recovery is due in no small part to the dedicated paramedics of Key West Rescue. I encourage the Commission to consider either select Key West Rescue as the first choice or negotiate with both Lifestar and Key West Rescue in parallel.

Respectively submitted,

A handwritten signature in black ink that reads "Norman E. Fowler". The signature is written in a cursive style with a long horizontal line extending to the right.

Norman Fowler  
824 Terry Lane, Key West, FL