

CITY OF PALMER ACTION MEMORANDUM NO. 09-046

SUBJECT: Authorize the City Manager to Enter into and Execute a Contract to Provide Dispatch Services for Guardian Ambulance, a Medical Ground Ambulance Company

AGENDA OF: August 25, 2009

<div style="border: 2px solid red; display: inline-block; padding: 5px 20px; color: red; font-weight: bold;">Authorized</div>

Approved for presentation by B. B. Allen, City Manager *B. B. Allen*

Route To:	Department/Individual:	Initials/Date:	Remarks:
X	Originator (Public Safety Director)	<i>JA</i> 8/4/09	
X	City Clerk	<i>JH</i> 8/20/09	
X	City Attorney	<i>[Signature]</i> 8/20/09	
	Director of Public Safety		
X	Director of Administration	<i>[Signature]</i> 8/5/09	
	Director of Community Services		
	Director of Public Works		

Attachment(s): Cooperative Service Agreement with Guardian Ambulance Services

Certification of Funds:

	No fiscal impact.	
	Funds are budgeted from this account number:	
X	Funds are not budgeted. Budget modification is required. Affected account number: 01-00-00-3422	\$3,794

Director of Administration Signature: *[Signature]*

Background: On October 14, 2008, the city council approved Action Memorandum 08-063: requesting authorization to enter into a contract with Guardian Flight to provide dispatch services for their medical evacuation services. The City requested a signed contract from Guardian. The contract went unsigned. Subsequently, Guardian Flight went through a major reorganization. The flight and ground ambulance services were separated and sold to different parties. The ground ambulance portion of the business was purchased by Mr. Doug Green, who had been a manager for Guardian Flight.

Summary statement: Mr. Green has expressed his desire for Palmer to provide dispatch services to Guardian Ambulance. Under the revised proposed contract, Palmer Dispatch will provide dispatch services to Guardian Ambulance for a fee of 1% of the overall annual dispatch

operating budget. This 1% fee has long been the minimum buy-in for Palmer Dispatch services, and is the rate charged to the City of Houston to provide fire dispatch services. For the remainder of FY09, the fee is pro-rated from September 1, 2009 through December 31, 2009. Both parties anticipate the renewal of the contract for FY10, based upon 1% of the FY10 Dispatch budget approved by the City Council.

Administration recommendation: Approve action memorandum 09-046.

COOPERATIVE SERVICES AGREEMENT
Between the
CITY OF PALMER and GUARDIAN AMBULANCE
For
DISPATCH SERVICES

A. DEFINITIONS/PURPOSE

1. Definitions

In this Agreement:

- a. "Palmer" means the City of Palmer;
- b. "Guardian Ambulance" means an Alaska corporation offering private ambulance service, licensed to provide ambulance transfer of patients.
- c. "dispatch center" means the communications center located in the Palmer Public Safety Building.
- d. "user" means Guardian Ambulance;
- e. "agreement" means the Cooperative Services Agreement Between the City of Palmer and Guardian Ambulance for Dispatch Services.

2. Purpose

This Agreement is entered into between the parties to set out the terms and conditions under which Palmer will provide dispatch services for the users. The Agreement covers operation, staffing, cost allocation, and funding provisions for the dispatch center.

B. TERM

The term of the Agreement shall begin September 1, 2009 subject to the termination provisions of Section H. Expiration date of this agreement is December 31, 2009. The parties may extend or modify the Agreement upon the written mutual consent of the parties.

C. SERVICES PROVIDED BY PALMER

Palmer shall provide the following services to the user, and shall pay those costs associated therewith out of funds derived under this Agreement, from Guardian Ambulance's payments, more particularly set out in Section G of this Agreement.

1. Twenty-four-hours-a-day, seven-days-a-week, 911 telephone answering, including the in-house telephone switch, telephone equipment and devices to include all incoming trunk lines, direct-inward-dialing (DID) lines and facsimile (FAX) lines not associated with the Enhanced 911 network (E-911).
2. Radio or telephone dispatching of emergency requests for services of the users.
3. Accurate recording and logging of incoming and outgoing emergency calls and to provide to the users such records of those calls at the user's request.
4. To provide the above services prioritized based on the nature of the call as per Palmer Dispatch Standard Operating Procedures (SOP).
5. Palmer shall provide training to the dispatchers.

D. SERVICES PROVIDED BY GUARDIAN AMBULANCE

Guardian shall provide the following equipment and services and shall pay the costs of the items listed below, but the payment for the following shall not be credited to Guardian Ambulance as part payment of its allocated share under this Agreement:

1. Provide for any radio systems, radio programming, telephone circuits, or network to communicate with Palmer Dispatch at Guardian Ambulance's sole cost.
2. Guardian Ambulance may provide Palmer with suggestions for service enhancements.

E. NON-DISCRIMINATION

Palmer and Guardian Ambulance will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical handicap, age, or status as a disabled veteran. Palmer and Guardian Ambulance shall take action to ensure that such applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical handicap, age, or status as a disabled veteran. Such actions shall include, but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. Palmer and Guardian Ambulance agree to post in conspicuous places available for employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. Palmer and Guardian Ambulance will, in all solicitations or advertisements for employees placed by or on behalf of Palmer and Guardian Ambulance, state that all qualified applicants will

receive consideration for employment without regard to race, color, religion, sex, national origin, physical handicap, age, or status as a disabled veteran. Palmer and Guardian Ambulance will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement.

F. ALLOCATION OF COSTS

1. The parties have agreed to allocate the costs of dispatch services according to the following:
 - a. First, Palmer shall provide Guardian Ambulance with Palmer's written estimates of the total costs of operating the dispatch center for 2008
 - b. Second, the total costs of operating the dispatch center will be allocated according to the following percentages:
Guardian Ambulance: 1% of dispatch center budget.
 - c. In addition, since the dispatch costs are estimates only, the parties recognize that events beyond those reasonably foreseeable may occur and that significant increases in cost may occur.

G. PAYMENTS

1. Guardian Ambulance agrees to pay to Palmer for dispatch costs the amounts agreed to herein and under any extensions of this Agreement.
 - a. Base Budget (2009):

Operations Expense - \$1,138,137

Cost of services to equal 1% of 2009 operating budget, or \$11,381, pro-rated from September 1, 2009, totaling \$3,793.64
2. Guardian Ambulance shall pay Palmer their annual payments according to the following schedule:
 - a. Upon signing agreement* - 1/2 of the amount owed, or \$1,896.82;
 - b. December 1, 2009– 1/2 of the amount owed, or \$1,896.82.

H. TERMINATION

Palmer or Guardian Ambulance may terminate this Agreement at any time by giving written notice to the other party of such termination, at least 180 days prior to the effective date of the termination. This contract may be terminated at the

sole discretion of Palmer if, for any and all reasons, Palmer ceases to provide dispatch services to users other than Palmer.

I. MODIFICATIONS TO THE AGREEMENT

Palmer and Guardian Ambulance, from time-to-time, require changes to this Agreement. Such changes must be agreed to by Palmer and Guardian Ambulance, in writing, prior to any change being implemented. Any such modifications or changes shall become a part of the Agreement.

J. DEFENSE AND INDEMNIFICATION

This Agreement is for the benefit of the parties only and not for the benefit of any third party. The parties understand and agree that, to the maximum extent possible, all activities carried on hereunder concern the establishment, funding, use, operation or maintenance of an enhanced 911 system or are activities associated with those actions, and thus receive the immunity provided under AS 29.35.133 or AS 09.65.070 or both or any other law.

Palmer shall indemnify, defend, and hold and save the users, their elected and appointed officers, agents, and employees, harmless from claims demands, suits, liability including costs, expenses, or attorneys fees that may arise out of Palmer's performance under the terms of this Agreement. Palmer shall be responsible under this clause for legal actions or claims resulting from injuries, death, economic loss, damages, violation of statutes, ordinances, constitutions, or other laws, rules or regulations, contractual claims, or loss by Palmer's, or its officers', agents', employees', partners', suppliers', or subcontractors' performance.

Each user shall indemnify, defend, hold, and save Palmer, its elected and appointed officers, agents, and employees, harmless from claims, demands, suits, or liability, including costs, expenses, or attorneys fees that may arise out of each user's performance connected with the terms of this Agreement. The user shall be responsible under this clause for legal actions or claims resulting from injuries, death, economic loss, damages, violation of statutes, ordinances, constitutions, or other laws, rules or regulations, contractual claims, or loss, by the user, or its officers', agents', employees', partners', suppliers', or subcontractors' performance.

K. INSURANCE

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of the Agreement to create in the public or any member thereof a third party benefit hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

Guardian Ambulance shall procure and maintain the following insurances:

1. Minimum Scope of Insurance

- a. Insurance Services office form number CG 0001 (Edition 01/96) covering Commercial General Liability;
- b. Workers Compensation insurance as required by the State of Alaska and Employers Liability Insurance;
- c. Professional Liability insurance against liability arising out of the rendering or failure to render professional services under this agreement on a form acceptable to the City of Palmer.

2. Minimum Limits of Insurance

- a. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, property damage, personal injury and advertising injury. The general aggregate limit shall be \$2,000,000.
Workers Compensation and Employers Liability: Minimum limits:
Bodily injury by Accident: \$1,000,000 each accident
Bodily injury by Disease: \$1,000,000 each employee
Bodily injury by Disease: \$1,000,000 policy limit

Guardian Ambulance shall add the City of Palmer as additional insured, with a Waiver of Subrogation on Guardian Ambulance's general liability insurance policy, along with a Waiver of Subrogation on Guardian Ambulance's Workers Compensation Insurance.

- b. Professional Liability: \$1,000,000 combined single limit per occurrence. The general aggregate limit shall be \$1,000,000. If the professional liability insurance is written on a claims made form, Guardian Ambulance shall provide insurance for a period of two years after final payment of this agreement.

- c. Excess Liability: In order for Guardian Ambulance to meet the required minimum limits of insurance it is permissible to combine an excess liability or umbrella policy with the general liability or employers liability. In the instance where Guardian Ambulance purchases an excess liability or umbrella policy the occurrence limit and the aggregate limit may be of the same amount.

3. All Insurance

Each insurance policy required by this agreement shall be endorsed to state that the coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after 30 days prior written notice for nonpayment of premium or fraud on the part of Guardian Ambulance or 60 days prior written notice for any other reason by certified mail, return receipt requested, has been given to the City of Palmer. The City of

Palmer reserves the right to require complete, certified copies of all required insurance policies at any time.

4. Verification of Coverage

Guardian Ambulance shall furnish the City of Palmer with certificates of insurance and certified copies of all endorsements. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

5. Lapse in Coverage

A lapse in insurance coverage is a material breach of this Agreement which shall result in immediate termination of the Agreement.

L. ASSIGNMENT

None of the parties to this Agreement shall assign an interest in this contract and shall not transfer any interest in the same without the prior written consent of all parties to this Agreement.

M. EFFECT OF WAIVER

The failure of any party at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of any party thereafter to enforce each and every protection hereof.

N. SEVERABILITY

If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

O. GOVERNING LAW

Any civil action arising from this contract shall be brought in the superior Court for the Third Judicial District of Alaska at Palmer, only. The law of the state of Alaska shall govern the rights and obligations of the parties. The common law rule of construction against the drafter does not apply to this Agreement.

P. INTERPRETATION AND ENFORCEMENT

This Agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in

this Agreement are not to be construed as limitations or definitions, but are for identification purposes only.

Q. NOTICES

Any notice required pertaining to the subject matter of the contract shall be personally delivered or mailed by prepaid first-class, registered or certified mail to the following address:

To the City of Palmer
City of Palmer
Director of Public Safety
231 West Evergreen
Palmer, Alaska 99645

Copy to:
City of Palmer
City Manager
231 West Evergreen
Palmer, Alaska 99645

To Guardian Ambulance
Guardian Ambulance
Manager
3620 Jewel Lake Road
Anchorage, AK 99502

Q. CAUSES BEYOND CONTROL

In the event a party is prevented by a cause or causes beyond control of the party from performing any obligation of under this Agreement, non-performance resulting from such cause or causes shall not be deemed to be a breach of contract which will render the party liable for damages or give rights to the cancellation of the contract for cause. However, if and when such cause or causes cease to prevent performance, the party shall exercise all reasonable diligence to resume and complete performance of the obligation with the least practicable delay. The phrase "cause or causes beyond control," as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the party and which prevent the performance of the party: fire, explosions, acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent the party from performing the terms of the contract as set forth herein. Events, which are peculiar to a party and would not prevent another similar party from performing, including, but not limited to financial difficulties, are not causes beyond the control of the party.

R. ENTIRE AGREEMENT

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than these contained herein, and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

S. ACKNOWLEDGMENT

The parties acknowledge that they have read and understand the terms of this Agreement, have had the opportunity to review the same with counsel of their choice, and are executing this Agreement of their own free will.

CITY OF PALMER

B.B. ALLEN, Manager

Date

STATE OF ALASKA)

)ss

Third Judicial District)

On _____, 2009, B.B. Allen personally appeared before me, who is personally known to me to be the signer of the above document, and he acknowledged that he signed it.

NOTARY PUBLIC

My Commission expires:

Approved for content _____

Michael Gatti, City Attorney

Date

GUARDIAN AMBULANCE

DOUG GREEN, Owner

Date

STATE OF ALASKA)
)ss
Third Judicial District)

On _____, 2009, DOUG GREEN personally appeared before me, who is personally known to me to be the signer of the above document, and he acknowledged that he signed it.

NOTARY PUBLIC

My Commission expires:
