

CITY OF PALMER ACTION MEMORANDUM NO. 10-025

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

AGENDA OF: April 13, 2010

Authorized

Approved for presentation by B. B. Allen, City Manager Bob Casey

Route To:	Department/Individual:	Initials/Date:	Remarks:
X	Originator – Director of Public Safety	JO 3/16/2010	
X	City Clerk	JB 4/6/10	
X	City Attorney	[Signature] 4/6/10	
	Director of Public Safety		
X	Director of Administration	[Signature] 3/18/10	
	Director of Community Services		
	Director of Public Works		

Attachment(s): Proposed Contract

Certification of Funds:

	No fiscal impact.	
X	Funds are budgeted from this account number: 01-00-00-3422	\$7,874
	Funds are not budgeted. Budget modification is required. Affected account number:	

Director of Administration Signature: [Signature]

Background: On October 14, 2008, Action Memorandum 08-063 was submitted to the City Council requesting authorization to enter into a contract with Guardian Flight to provide dispatch services for their medical evacuation services. The Council approved that AM. 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. On August 25, 2009, Action Memorandum 09-046 was submitted to City Council to approve a contract for dispatch services with Guardian Ambulance. The City Council approved this Action Memorandum, and subsequent requests for a signed contract with Guardian Ambulance went

unanswered. Recently, Dr. Eric Stirling, owner of Guardian Ambulance, contacted City Administration to explain that the contract had gone unanswered due to unforeseen circumstances. Specifically, the company had been negotiating with Anchorage Fire Dispatch for services for their ground ambulances in Anchorage. The results of those negotiations would have an impact on their contract with Palmer. Those issues have been successfully resolved, resulting in Guardian Ambulance's need to enter into the contract with Palmer for additional dispatch services.

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 FY10, the fee is pro-rated from May 1, 2010 through December 31, 2010.

Administration recommendation: Approve action memorandum 10-025.

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 May 1, 2010 subject to the termination provisions of Section H. Expiration date of this agreement is December 31, 2010. 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 (2010):

Operations Expense - \$1,181,111

Cost of services to equal 1% of 2010 operating budget, or \$11,811, pro-rated from May 1, 2010, totaling \$7,874.08

2. Guardian Ambulance shall pay Palmer their annual payments according to the following schedule:

a. Upon signing agreement* - ½ of the amount owed, or \$3,937.04;

b. December 1, 2010– ½ of the amount owed, or \$3,937.04.

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

Guardian 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

Guardian shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or by novation) without the prior written consent of the City, thereto.

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. MODIFICATIONS

1. The parties may mutually agree to modify the terms of the Agreement. Modifications to the Agreement shall be incorporated into the Agreement by written amendments.

2. It is expressly understood that the City may require changes in the scope of services and an unreasonable refusal by Guardian to agree to modification in the scope of services will be the basis for termination of the Agreement for cause. It is expressly understood that the total amount of compensation for successful performance of this Agreement will not be modified, under any circumstances, without the prior written approval of the City.

Q. PERMITS, LAWS AND TAXES

Guardian shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to the performance of this Agreement. All actions taken by Guardian under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. Guardian shall pay all taxes pertaining to its performance under this Agreement.

R. 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
Owner
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 _____, 2010, 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

ERIC STIRLING, Owner

Date

STATE OF ALASKA)

)ss

Third Judicial District)

On _____, 2010, ERIC STIRLING 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:
