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April 29, 2019

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VIA ELECTRONIC MAIL

Mr. Andrew McKinney
Litchfield Cavo, L.L.P.
One Riverway, Suite 1000
Houston, Texas 77056
mckinney@litchfieldcavo.com

Re: Harris County Emergency Services District No. 11 (the "District"); Term Sheet for Proposed Amended and Restated Contract for Providing Emergency Medical Services with Cypress Creek Emergency Medical Services ("CCEMS") (the "Contract")

Dear Mr. McKinney:

Attached hereto, please find the term sheet outlining the proposed terms of the amended and restated Contract. As you recall, the Board of Commissioners of the District (the "Board") preliminarily reviewed some of the potential terms and negotiable items with you and Mr. Bradley England of CCEMS at the District's March 28, 2019 Board meeting.

The Board sincerely hopes that mutual agreement between the parties on the terms will provide a clear and unobstructed path toward an amended contract between the District and CCEMS that is fair and equitable, and benefits, first and foremost, the District's constituents, and also both parties thereto. Please provide this term sheet to the CCEMS Board of Directors for review, as well as the relevant members of CCEMS administration. As always, please feel free to call with any questions regarding the term sheet.

Sincerely,



Regina D. Adams
General Counsel for the District

RDA/sr
Attachment (1)

cc: Board of Commissioners, Harris County Emergency Services District No. 11 [via email]
Monica A. Garza (firm)
Carla Christensen (firm)

TERM SHEET
**AMENDED AND RESTATED CONTRACT FOR PROVIDING EMERGENCY MEDICAL SERVICES
HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 11 BY AND BETWEEN
CYPRESS CREEK EMERGENCY MEDICAL SERVICES, INC.**

Below are proposed terms for inclusion in an Amended and Restated Contract for Providing Emergency Medical Services (the "Contract") between Harris County Emergency Services District No. 11 (the "District") and Cypress Creek Emergency Medical Services, Inc. ("CCEMS") for the provision of emergency medical services within the boundaries of the District.

- **Emergency Medical Services**
 - CCEMS shall provide emergency medical services within the boundaries of the District.
 - Emergency medical services shall be provided 24 hours a day/7 days a week.
- **Rates for Service**
 - CCEMS shall be compensated for delivery of emergency medical services within the boundaries of the District. Such compensation shall be calculated on a per call/incident basis (the "cost per call/incident").
 - "Cost per call/incident" shall be defined as any dispatched emergency call-out CCEMS makes within the boundaries of the District wherein there is interaction with a patient regardless of whether there is a patient transport or such patient refuses medical attention and/or transport.
 - The cost per call/incident (Average Cost of Transport) shall be computed to include, but not be limited to, the following direct and indirect costs:
 - Vehicle Maintenance Cost including but not limited to:
 - Fuel
 - Vehicle Registration
 - Highway tolls
 - Operating Labor Costs (one paramedic & one EMT/ambulance)
 - Medical Equipment/technology
 - Medical Supplies and Equipment
 - Communications Center Costs
 - For patient transports that originate within the boundaries of the District, the District will be the "payor of last resort" after the patient's Medicare/Medicaid/Insurance coverage/private pay ("MMIP") is applied to the Average Cost of Transport. The District will pay the Adjusted Average Cost of Transport (Average Cost of Transport less the amount paid by the patient's MMIP). Therefore, the District and CCEMS shall determine a flat/base amount to be paid to CCEMS as the cost per call. This eliminates the need for a back-end

recalculation on each call as the collections come in for MMIP. *For illustration purposes only, let's say that the Average Cost of Transport is \$1200, and the MMIP is approximately \$900. Under this circumstance, the District would pay CCEMS \$300 per call/incident as the Adjusted Average Cost of Transport.*

- CCEMS will need to provide the District with the actual Average Cost of Transport and the average MMIP so that the Adjusted Average Cost of Transport may be calculated for the Contract.
- The District and CCEMS shall annually review the cost per call/incident and make changes as necessary thereto. However, the cost per call shall not exceed the AIF for the calendar year, which shall be based upon the MFP and CPI in the Houston Metropolitan Area.
- **Facilities and Equipment**
 - District purchases 2 ambulances for use by CCEMS annually.
 - District purchases 1 additional support vehicle for use by CCEMS every 250,000 miles or 2 years, whichever is longer.
 - Title to and ownership of all assets of CCEMS acquired prior to the effective date of the Contract shall remain the property of CCEMS.
 - Title to and ownership of all assets of the District acquired prior to the effective date of the Contract shall remain the property of the District.
 - Following the effective date of the Contract, title to and ownership of all assets acquired to fulfill the obligations under the Contract shall be in the name of the District. The District agrees to lease all such assets to CCEMS pursuant to a Lease Agreement for Vehicle Apparatus and Stations. [forms of both as exhibits to Contract]. The ambulances and support vehicles will be leased by CCEMS from the District for a *de minimis* amount per year (i.e., \$10/year).
 - Maintenance, operation, repair and insurance of all facilities and equipment shall be the sole responsibility of CCEMS; provided, however, such costs related to new facilities/equipment funded by the District after the effective date of the Contract are the responsibility of CCEMS in accordance with the terms of the Contract. CCEMS
- **Duties and Responsibilities of CCEMS**
 - Continuously meet or exceed the performance standards attached hereto
 - Must comply with all federal, state and local criminal or civil laws, regulations and rules governing Texas non-profit corporations and emergency medical services providers as they may be amended from time to time. If CCEMS violates or allegedly violates any of the above laws, regulations and/or rules that govern it and such violation or alleged violation relates or could relate to this Contract, it must provide written notice of same to the District as soon as is practicable, but no less than 30 days after receipt of notice of the violation or alleged violation. CCEMS must also provide continuous updates to the District

regarding such violations through the conclusion of legal proceedings regarding same, if any

- **Duties and Responsibilities of the District**

- The District shall pay all CCEMS invoices in accordance with the terms of the Contract.

- **Invoices and Back-up to Same**

- CCEMS shall bill the District for the emergency medical services performed during the prior month, as outlined in the Contract, on a monthly basis. The District shall pay such invoices in accordance with the Texas Prompt Payment Act. For a CCEMS invoice to be payable, it must be accompanied by adequate back-up information (that does not violate any patient confidentiality laws) to prove:
 - The overall number of calls/incidents for the prior month
 - The number of patient transports and the number of calls/incidents where no transport occurred, or transport was refused, for the same time period
 - Must be provided to the Board at least 5 days prior to the regularly scheduled Board meeting
- CCEMS shall bill the District for any necessary and previously approved repair and maintenance items to the District's facilities and equipment, if any, and attach all relevant documentation supporting payment of same. If the necessary documentation is not provided at the time of request for payment, then payment for that repair or maintenance item shall be withheld until the proper documentation is provided to the District.
- Emergency repair/maintenance invoices for work performed to the District's facilities and equipment without prior approval, if any, also require inclusion of all relevant documentation supporting payment of same. If the necessary documentation is not provided at the time of request for payment, then payment for that emergency repair or maintenance item shall be withheld until the proper documentation is provided to the District.

- **Required Monthly Reports**

- Needed/recommended repairs or maintenance of facilities or equipment owned by the District, so the District may authorize, as necessary; require written cost estimates/bids/proposals be presented to the Board for review, as necessary.
- Vehicle report: status of any necessary repairs or maintenance to vehicles (District-owned/CCEMS-leased ambulances and support vehicles) and mileage/age report for such vehicles
- Average, high and low response time calculations for the prior month

- **Required Annual Reports**

- Must receive annual CCEMS audit within 180 days of the end of CCEMS' fiscal year

- Must receive an annual report of calls/incidents within the District in February of the following year
- Must receive average, high and low response time calculations for the prior year in February of the following year
- **Insurance Requirements**
 - CCEMS shall maintain at all times general liability, workers comp, property, auto, etc. insurance, as would normally be required.
- **Term/Termination of Agreement**
 - The agreement will be for a term of 4 years commencing on _____
 - CCEMS shall have the option of an automatic extension for 2 year(s), subject to performance standards set out in the Contract being met
 - The District shall have the right to terminate at any time for cause upon 60-days' notice if certain conditions set out in the Contract occur
 - CCEMS breaches contract
 - District provides written notice of breach of contract
 - Within 10 days of notice of breach, CCEMS provides District plans to cure the breach or state disagreement with breach and explain why it disagrees. If disagrees, both parties agree to mediate immediately
 - Updates on curing of breach from CCEMS to District every 7 days
 - CCEMS cures within 30 days of receipt of notice of breach; if failure to cure then District may terminate agreement.
 - If CCEMS breaches and Contract terminated, then "step in rights" occur [may prove difficult with difference in operations/ownership of facilities and equipment early in contract term(s)]
 - CCEMS shall have right to terminate at any time for cause upon 90 days' notice if District does not pay in accordance with terms of Contract and CCEMS provides written notice of breach and termination
- **Governmental Entity Required Language for Contracts**
 - Form 1295
 - Prohibition Against Boycott of Israel
- **Dispute Resolution**
 - Mediation for minor disputes, if necessary
 - Arbitration; both parties waive rights to litigation, require binding arbitration (AAA three-person panel)
- **Performance Standards (attach as an exhibit)**

Please note that all general and "boilerplate" terms (notice, venue, etc.) are not contained in this term sheet but would be included the Amended and Restated Contract. Both parties understand that this term sheet is non-binding and is intended to serve as guidance for preparation of the Amended and Restated Contract, which shall be binding. If the above terms are agreeable to CCEMS, please sign below indicating CCEMS' acceptance of same and authorizing the District

to proceed with drafting the Amended and Restated Contract as outlined herein for the District and CCEMS's review and approval.

HARRIS COUNTY EMERGENCY SERVICES
DISTRICT NO. 11

Tommy Ripley, President, Board of Commissioners

Agreed and accepted, this ____ of _____, 2019.

CYPRESS CREEK EMERGENCY MEDICAL
SERVICES, INC.

_____, President, Board of Directors

PERFORMANCE STANDARDS

1. RESPONSE TIMES.

- a) *Required 9-1-1 Response Times.* CCEMS shall maintain an average monthly response time for all 9-1-1 emergency calls under 11:00 minutes on not less than ninety percent (90%) of all 9-1-1 emergency calls.
- b) *Response Time Calculation.*
 - i. 9-1-1 Requests. Only requests for 9-1-1 emergency ambulance service originating within the District, including transport, no-transport and mutual aid received calls, shall be included in response time calculations.
 - ii. Multiple Ambulances. If multiple CCEMS ambulances are dispatched to a single incident, the arrival time of the first ambulance to arrive shall be the on-scene time used in response time calculation for that incident and response times of additional units shall be excluded from compliance calculations.
 - iii. Beginning of Response Time Calculation. For all 9-1-1 emergency requests for ambulance service, the response time calculation shall begin at the time the call is received at CCEMS' communication center.
 - iv. Ending of Response Time Calculation. The response time calculation shall stop when CCEMS' ambulance transmits an arrival signal to CCEMS' computer-aided dispatch (CAD). Such transmission shall not be made until the ambulance actually arrives at the specific address or location dispatched. In the instance of apartment or business complexes, the arrival signal shall not be made until the ambulance actually arrives at the point closest to the specified address possible.
 - v. Reassignment En Route. If an ambulance is removed from a response prior to arriving on scene and another assigned to the response, the elapsed response time shall not end until an ambulance arrives on the scene.
 - vi. Disregarded En Route. If an ambulance is cancelled (disregarded) en route prior to an ambulance arriving on scene, and no ambulance is required at the location dispatched, the response shall end at the moment of cancellation.
- c) *Staging.* Response times for ambulances which are required to stage prior to arrival on scene shall not be counted in calculating average response times. For purposes of this Agreement, staging is the term used to advise EMS agencies that the response location might contain safety hazards to responding personnel and that responding agencies should not enter the scene until it is determined secure by an appropriate agency.

2. MINIMUM STANDARDS FOR CCEMS VEHICLES AND EQUIPMENT.

- a) *Ambulance Standards.* CCEMS shall employ whatever level of effort is necessary to achieve the average monthly response times above. However, CCEMS shall, at a minimum, maintain the following:

- i. Ambulance fleet. The total number of full-time ambulances shall be seventeen (17) (operating on a 24-hour, seven (7) day a week basis). CCEMS shall maintain a total fleet – front-line plus reserves – of not less than one hundred fifty percent (150%) of full-time deployment (e.g., 26 ambulances).
- ii. Ambulance type. All ambulances which serve this Agreement shall be Type I or Type III, as defined under the most current U.S. General Services Administration regulations.
- iii. Maximum mileage. No ambulance chassis serving this Agreement may have more than 200,000 cumulative miles, except with written authorization from the District. CCEMS may request extended use of a particular ambulance chassis upon showing of superior maintenance and condition. However, under no circumstances shall an ambulance chassis be used to service this Agreement with more than 250,000 cumulative miles.
- iv. Lettering. All CCEMS ambulances and emergency response vehicles serving this Agreement must display lettering which identifies CCEMS' approved business name and is consistent with state regulations. Further, all vehicles servicing this Agreement shall have "Funded through Harris County Emergency Services District No. 11" displayed in at least 3-inch (3") lettering on both sides of the vehicle. Exterior markings for all vehicles servicing this Agreement must be the same or reasonably similar.
- v. Equipment/Supplies. All ambulances servicing this Agreement must be supplied and stocked according to CCEMS' medical protocols. In addition, all ambulances servicing this Agreement must have equipment to improve driving safety (i.e., drivecams or "black boxes"), GPS or similar vehicle tracking equipment, mobile data computers, and all other necessary on-board radio equipment.

b) *Other Vehicle Standards.*

- i. Maximum mileage. No support vehicle serving this Agreement may have more than 200,000 cumulative miles, except with written authorization from the District. CCEMS may request extended use of a particular support vehicle upon showing of superior maintenance and condition. However, under no circumstances shall a support vehicle be used to service this Agreement with more than 250,000 cumulative miles.
- ii. Equipment/Supplies. All support vehicles servicing this Agreement must be supplied and stocked according to CCEMS' medical protocols, if required.

3. PUBLIC RELATIONS AND EDUCATION

- a) *Community and Public Relations Events.* CCEMS shall provide at least one hundred (100) hours of public relations events per year, not including paid standbys. One (1) community or public relations service hour is defined as any number of CCEMS employees involved in any community or public relations event in the District for at least thirty (30) minutes. Community and public relations events include, but are not limited to, show and tell presentations, DUI awareness, and other emergency medical community and public relations/educational subject matter.

- b) *CCEMS Website.* CCEMS shall develop an internet website which provides information about the EMS system, in general, and within the District, in particular. The website shall be updated on at least a monthly basis and include a schedule of upcoming public education classes and other events of interest to the public. The website shall also include a listing of continuing education classes available to CCEMS' employees and employees of other departments or agencies.
- c) *AED and CPR Education.* CCEMS shall provide public education classes for CPR and proper use of automatic external defibrillators (AEDs) on at least a biannual basis. CCEMS may charge a reasonable fee for such classes.

4. QUALITY CONTROL

- a) *Vehicles, Equipment and Facilities.* In the interest of public safety and health and to review quality, the District shall have the right to inspect or have inspected CCEMS' vehicles, equipment and facilities at any time.
- b) *Customer Satisfaction.* The District shall have the right to access and inspect information contained in the CCEMS' complaint files, or other files or records collected or maintained for the purpose of determining customer satisfaction and/or quality control.
- c) *Quality Assurance/Quality Improvement (QA/QI).* CCEMS shall institute a QA/QI program to ensure quality patient care. This program shall encompass issues including but not limited to: continuing education, training on new equipment, skills verification, documentation reviews, communication call reviews, and on-scene evaluation. CCEMS shall additionally continue conducting a Field Training Program for the training of new field employees.

5. EDUCATION

- a) *Continuing Education.* CCEMS shall develop and provide continuing education classes necessary for recertification/re-licensure of all of CCEMS' EMS personnel.
- b) *National Incident Management System (NIMS) Compliance.* CCEMS shall ensure all of its employees servicing this Agreement will have successfully completed all required NIMS training courses appropriate with the particular employee's duties during a NIMS compliant-incident. All NIMS training shall be successfully completed within one hundred eighty (180) days of the employee completing CCEMS' New Employee Orientation Program for its District operations.

6. EMPLOYEE CERTIFICATION

- a) *Field Staff Credentials.* All field staff servicing this Agreement shall be certified to perform emergency medical services with the Texas Department of State Health Services.
- b) *New Employee Orientation.* All field staff servicing this Agreement shall satisfactorily complete CCEMS' New Employee Orientation Program, which shall include instruction on CCEMS' policies and protocols and a period of field training observation.