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C-10466
11/24/2015

RELEASE AND SETTLEMENT AGREEMENT

This RELEASE AND SETTLEMENT AGREEMENT (the "Agreement") is made this 24th day of November, 2015, by and between the City of Glendale, an Arizona municipal corporation ("City") and SW General, Inc. dba Southwest Ambulance, an Arizona corporation ("Contractor") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. The Parties currently operate under a month-to-month Emergency Ambulance Transportation Agreement ("Transportation Agreement"), Advanced Life Support Contract Labor Services [Agreement] ("ALS Agreement"), and Training Vehicle Contract Labor Services and Equipment [Agreement] ("Training Agreement") all dated July 27, 2004 (collectively, the "Ambulance Agreements");

B. The Parties have had certain contract discussions, and desire to fully and finally resolve any claims against the other;

C. The Parties agree to a full settlement as outlined below and under the terms and conditions hereinafter set forth;

D. The Parties recognize and understand that the Agreement and each term thereof must be approved by the Glendale City Council before being finalized;

E. The City and Contractor wish to memorialize their agreement with this document; and,

NOW THEREFORE, for and in consideration of the covenants and agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

WITNESSETH:

1. The Parties agree that the outstanding fees due and payable to the City under the Ambulance Agreements total $1,030,719.28 (the "Settlement Amount") for services through September 30, 2015. The Parties further agree that an additional $7,319.94 (the "Additional Amount") is owed to the City for MCT Tech/Maintenance Fees representing the first-quarter payment for fiscal year 2015-2016. Contractor shall pay the Settlement Amount and the Additional Amount to the City, by wire transfer, within ten calendar days of the execution of this Agreement; City shall provide the wire-transfer instructions to Contractor by e-mail.

2. From and after September 30, 2015, Contractor agrees that for services provided under the ALS Agreement, Contractor shall pay the ALS ride-along rate approved by the Arizona Department of Health Services ("DHS"), which is currently $98.15 per ambulance transport. The Parties agree that, at all times the ALS Agreement remains in force, and to the extent that DHS approves a different ride-along rate, the Parties shall likewise adjust the ride-along rate in the ALS Agreement so that it is at all times consistent with the DHS-approved rate.

3. Each Party hereby releases, remises, forever acquits and discharges each other Party and, as applicable, that Party's successors, predecessors, parent corporations, affiliates, partnerships, subsidiaries, commonly owned or controlled entities, past and present employees, officers, partners, trustees, agents, members, directors, owners, shareholders, assigns, insurers, and attorneys from any and all claims, counterclaims, demands, rights, suits, actions, debts, liabilities, or causes of action of every kind and nature whatsoever, known or unknown, express or implied, at law or in equity, from the beginning of the world up to and including the date of the Agreement, with respect to any claims that have been or could have been asserted by any Party with regard to the Ambulance Agreements or any other aspect of the Parties' business relationship. Notwithstanding the breadth and generality of the foregoing, the Parties expressly agree that the above release excludes the covenants contained in this Agreement.

4. The Parties agree that the terms of this Agreement as well as the facts and allegations surrounding any allegations toward Contractor and the collection activity in question shall remain confidential, except to the extent disclosure may be legally required. This confidentiality provision includes, but is not limited to, any medium or method of communication.

5. By entering into this Agreement, neither of the Parties admits any liability to the other. In fact, the Parties specifically and expressly deny any liability, each to the other. Therefore, this Agreement may not be used as an admission against either Party for any purpose.

6. By entering into this Agreement, each Party warrants and represents that it owns and has not assigned, sold, or otherwise transferred any of the claims or potential claims that are released herein.

7. This Agreement shall be governed by, construed and enforced in accordance with the laws of the United States of America and the State of Arizona.

8. This Agreement contains the entire agreement between the Parties and this Agreement may not be altered, amended, modified or otherwise changed except by written instrument executed by all of the Parties.

9. It is further acknowledged, understood and agreed that no promises, representations, understandings, agreements or warranties have been made by any of the Parties other than those expressly contained herein. All prior oral representations and/or written settlement discussions or negotiations are hereby merged into and superseded by this Agreement.

10. Each Party has consented to the form of this Agreement and it is expressly agreed that the provisions are not to be construed and/or interpreted against any Party.

11. The Parties shall bear their own attorneys' fees and expenses in connection with this Agreement, the Ambulance Agreements, and any other aspect of the Parties' business relationship up to and including the Effective Date of this Agreement.

12. This Agreement may be executed by facsimile or electronic signature, and in counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same agreement.

13. The Parties also agree to make the following amendments to the Ambulance Agreements:

a. The Training Agreement is hereby terminated, effective immediately.

b. The ALS Agreement is hereby amended to delete Paragraphs 5(b), 5(c), and 5(d) in their entirety.

c. The Transportation Agreement is hereby amended to reflect a month-to-month agreement for Contractor to provide services to the City.

d. The Transportation Agreement is hereby amended to delete Paragraph 9(c) in its entirety.

e. A new provision is hereby added to the Transportation Agreement, as follows:

Notices. Any notice required or permitted to be given pursuant to any provisions of this Agreement shall be given in writing, and deposited with the United States Postal Service, postage pre-paid, registered or certified mail, return receipt requested, or by a nationally recognized overnight courier service, addressed as follows:

To: SW General, Inc.
Legal Department
6200 S. Syracuse Way, Ste. 200
Greenwood Village, CO 80111

To: City of Glendale
City Attorney's Office
5850 W. Glendale Ave., Ste. 450
Glendale, AZ 85301

f. A new provision is hereby added to the Transportation Agreement, as follows:

Fair Market Value. This Agreement has been negotiated at arm's length and in good faith by the parties. Nothing contained in this Agreement, including any compensation paid or payable, is intended or shall be construed: (i) to require, influence or otherwise induce or solicit either party regarding referrals of business or patients, or the recommending the ordering of any items or services of any kind whatsoever to the other party or any of its affiliates, or to any other person, or otherwise generate business between the parties to be reimbursed in whole or in part by any Federal Health Care Program; or (ii) to interfere with a patient's right to choose his or her own health care provider.

g. A new provision is hereby added to the Transportation Agreement, as follows:

Compliance with Anti-Kickback Statute. Each party shall comply with the Federal Health Care Programs' Anti-Kickback Statute (42 U.S.C. § 1320a-7b)

and any applicable regulations promulgated thereunder. The parties further recognize that this Agreement shall be subject to the amendments of the Anti-Kickback Statute or any of its applicable regulations. In the event any applicable provisions of the Anti-Kickback Statute or its regulations invalidate, or are otherwise inconsistent with the terms of this Agreement, or would cause one or both of the parties to be in violation of the law, the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of the Statute and its applicable regulations. City acknowledges that it has received copies of Rural/Metro's Code of Ethics and Business Conduct and Rural/Metro's Anti-Kickback Policy.

h. Except as outlined in this Agreement, all remaining terms and provisions of the Ambulance Agreements shall remain in effect.

IN WITNESS WHEREOF, the Parties have executed this Release and Settlement Agreement as of the date and year first set forth above.

CITY OF GLENDALE FIRE DEPARTMENT:

By: _____

Print Name: TERRY CARRISON

Its: FIRE CHIEF

Dated: 12-4-15

SW GENERAL, INC.:

By: _____

Print Name: Edward B. Van Horne

Its: CEO

Dated: 11.19.15

CITY OF GLENDALE:

By: _____

Print Name: Richard A. Bowers

Its: Acting City Manager

Dated: 12/1/15

APPROVED AS TO FORM:

By: _____

Print Name: Michael Bailey

Its: City Attourney

Dated: 11/30/15

ATTEST:

_____

City Clerk