

STATE OF NORTH CAROLINA

AGREEMENT FOR
AMBULANCE SERVICES

COUNTY OF BUNCOMBE

THIS AGREEMENT ("**Agreement**") is dated as of ____ day of March, 2019, and is by and between BUNCOMBE COUNTY, NORTH CAROLINA, a public body politic and corporate of the State of North Carolina (sometimes referred to herein as "**County**"), and Medical Emergency Ambulance Transport, Inc., a North Carolina business corporation organized and doing business in the State of North Carolina and doing business as "MEDIC" (sometimes referred to herein as "MEDIC").

Whereas, County Ordinances dictate that no person or entity of any kind shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business of emergency, nonemergency or convalescent transportation of patients within the County unless the person holds a valid permit for each ambulance used in such business issued by OEMS and has been granted a franchise for the operation of such business or service by the County.

Whereas, MEDIC has been operating in Asheville and Buncombe County since January 1991, and it has had a convalescent franchise sine June 1996.

Whereas, MEDIC made application with the County to operate ambulances in the unincorporated areas of Buncombe County, and County legal services, in consultation with County EMS, scheduled a hearing with the MEDIC, by and through its president, Mr. Kermit Tolley, and held the same on February 26, 2019.

Whereas, a hearing to consider granting a franchise to MEDIC was held before the Buncombe County Board of Commissioners on March 5, 2019 and the Board determined that it would be in order to grant MEDIC a franchise for a one year term provided the company's ambulances passed inspection of North Carolina Office of EMS ("OEMS") and the County and MEDIC enter into a one year contract.

Whereas, County personnel accompanied by a representative of the Western Branch of OEMS inspected in service MEDIC ambulances on March 6, 2019 and found that four (4) units are immediately available and meet OEMS standards for Paramedic ambulances and a spare unit can be brought up to the Paramedic level by transferring portable equipment and a cardiac monitor from another unit.

Whereas, County and MEDIC desire to enter into this agreement for MEDIC to furnish ambulance services in Buncombe County on an as needed basis.

WHEREAS, pursuant to N.C. Gen. Stat. §153A-11 and N.C. Gen. Stat. § 153A-250, a county has the authority to enter into agreements with third parties and to enter into contracts for ambulance services in all or a portion of a county.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable considerations, the parties hereto contract and agree as follows:

1. This Agreement shall be valid for a term of one (1) year, effective April 1, 2019.

2. MEDIC shall have two (2) ambulances in service and available to provide emergency and convalescent transport services between the hours of 7 AM and 9 PM seven days a week.

MEDIC shall have one (1) ambulance in service and available to provide emergency and convalescent transport services between the hours of 9 PM and 7 AM seven days a week.

3. MEDIC will furnish ambulance services and shall provide the necessary equipment, personnel and those things necessary for furnishing such ambulance services for the County and the Buncombe County EMS System. The services shall be in accordance with minimum standards set forth in this Agreement and as required by federal and State law. Necessary equipment and services provided by MEDIC, and at MEDIC's sole cost and expense, shall include the following:

- radios and other equipment for in service units needed to be accessible to EMS Dispatchers;
- automatic vehicle locators installed and activated at all times for in service units;
- station MEDIC units only in locations assigned by County 911 Center;
- MEDIC shall not "self-dispatch" to any emergency call;
- in service and available MEDIC units must immediately respond and accept to dispatch call from 911 Center regardless of proximity to the incident, incident services required, or convenience; If MEDIC is unable to respond to a dispatched call, MEDIC must provide documented rationale to the County EMS Department within five (5) business days;
- MEDIC must follow all EMS protocols on informing the 911 Center of (a) acceptance of the call, (b) arrival on scene, (c) en route to hospital, (d) arrival at hospital, and (e) back in service and available for calls;
- MEDIC agrees to maintain response performance rates and quality of care in line with established County EMS Standards;
- MEDIC will provide a level of care consistent with existing EMS standards;
- MEDIC will comply with the terms and conditions of Ch. 22, Emergency Services, Art. II Ambulance Services of the Buncombe County Code of Ordinances, a copy of which is attached hereto.

4. Equipment must comply with the standards established by the County EMS system. Responsibility for furnishing the necessary equipment to utilize the County EMS system is the sole responsibility of MEDIC and shall be included through the sole cost and expense of MEDIC. Failure to utilize the appropriate equipment will prevent MEDIC from accessing the County EMS system.

5. In order to include MEDIC ambulances and apparatus into the County's EMS system and be integrated into the County CAD system, or "computer aided dispatch," all MEDIC units required and approved for services by the County must be equipped with Automatic Vehicle Locators ("AVL's") using GPS technology such that EMS dispatchers know where on-call MEDIC units are located. Such AVL units must be activated at all times a MEDIC unit is available to take calls. All costs associated with acquiring, installing and servicing such units on MEDIC ambulances and apparatus shall be at the sole cost and expense of MEDIC.

6. MEDIC will reimburse the County EMS system for Information Technology and Telecommunications infrastructure and maintenance costs. The parties understand and agree that this provision is largely dependent on the options available and the choices of MEDIC. Support for the

Mobile CAD Terminals required for the CAD system and AVL's described above require a current annual fee of \$1,500 per station. Also, MEDIC is responsible for acquiring all necessary computer, programs and equipment associated with installing and launching such systems. Buncombe County Information Technology will assist with installation and programming at no extra cost. However, Buncombe County Information Technology will not perform services for MEDIC as an information technology provider.

7. MEDIC will provide a monthly report on ambulance services metrics. Metrics will be defined between MEDIC and the County EMS Director and may include, but not be limited to, "chute time", "response time", etc. The metrics and performance standards shall be in accordance with minimum standards as set forth by OEMS.

8. County may inspect all records, premises and equipment of MEDIC at any time in order to ensure compliance with OEMS standards, County Ordinances, and this Agreement.

9. County will conduct a monthly review of performance with MEDIC. The review will consist of the assessment of MEDIC performance metrics (e.g., "Chute Time"), quality of care, and dispatched calls that were not responded to. Where appropriate, the County will document deficiencies and required actions.

10. Except as otherwise provided, if the County determines that MEDIC has failed to render ambulance services as provided in this Agreement and County Ordinances, then the County shall give MEDIC ten (10) days advance notice that the services are subject to suspension. If during the said ten (10) day period, MEDIC makes improvements satisfactory to the County, no suspension shall occur. During the ten (10) day period, MEDIC is not relieved of their responsibility to provide ambulance services in a manner otherwise consistent with the terms of this Agreement. County reserves the right, in its sole discretion, to suspend this Agreement immediately for any reason involving service concerns or public safety.

11. MEDIC shall obtain and keep in force during the term of this agreement the following minimum insurance coverage:

a. Worker's Compensation – at the statutory limits in compliance with applicable State and Federal laws. The Contractor shall ensure that any subcontractors also have workers compensation coverage at the statutory limits.

b. Employer's Liability - with minimum limits of \$1,000,000 each accident/\$1,000,000 disease each employee/\$1,000,000 disease policy limit.

c. Commercial General Liability - covering all operations performed by the Contractor with a minimum limit of \$1,000,000 per occurrence with a \$3,000,000 aggregate.

d. Professional Health Care Liability - covering the Contractor's acts, errors, or omissions in the rendering of or failure to render professional health care services with a minimum limit of \$1,000,000 per occurrence with a \$3,000,000 aggregate

e. Business Automobile Liability - covering all owned, non-owned, and hired vehicles used in performance of the contract. The minimum combined single limit per occurrence shall be \$1,000,000 and shall include uninsured/underinsured motorist coverage per NCGS 20-279.21.

f. Excess or Umbrella Liability – shall extend an additional \$1,000,000 limit / \$3,000,000 aggregate over the underlying commercial general liability, professional health care liability, and

business auto liability insurance. Any additional insured under any policy of the underlying insurance will automatically be an additional insured under this insurance.

12. MEDIC shall provide the County with certificates of insurance evidencing the above amounts. The liability certificates shall name Buncombe County as additional insured under the policies. The certificates shall provide that policies shall not be canceled or changed until thirty (30) days written notice has been given to the County. All insurance shall be procured from reputable insurers authorized to do business in North Carolina.

13. Providing and maintaining adequate insurance coverage is a material obligation of MEDIC and is of the essence of this Agreement. MEDIC may meet its requirements of maintaining specified coverage and limits by demonstrating to the County that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the County. MEDIC shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Agreement. The limits of coverage under each insurance policy maintained by the MEDIC shall not be interpreted as limiting the MEDIC's liability and obligations under the contract.

14. MEDIC shall continuously comply with all applicable laws, ordinances and regulations. In particular, all ambulance services of MEDIC shall comply with all such services requirements of the Department of Health and Human Services as well as pertinent provisions of the North Carolina Administrative Code, Title 10A, Department of Health and Human Services, Chapter 13, NC Medical Care Commission, Subchapter 13P, Emergency Medical Services and Trauma Rules, as same may be updated, amended or replaced from time to time. Also, MEDIC must be continuously in compliance with all County EMS and the North Carolina Office of EMS requirements and retain all necessary licenses and permits from the North Carolina Office of Emergency Medical Services, as applicable.

15. MEDIC shall indemnify, defend and hold harmless the County and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, the performance of this Agreement or the actions of the MEDIC its officials, employees, or students under this Agreement up to the limits of its insurance. MEDIC shall indemnify the County in all instances except where the County is primarily negligent through an act or omission.

Nothing herein shall be construed as a waiver on the part of the County to any defense of any claim, including, but not limited to the defense of governmental immunity. And, that the County's obligations under this paragraph shall be limited to the extent and manner of recovery pursuant to County's self-insured claim policies and North Carolina law.

16. County shall not make any funds available to MEDIC from any tax levy or its general funds.

17. **Termination for Convenience.** This Agreement may be terminated by either party, for any reason or no reason, at any time by giving written notice of intent to terminate to the other party upon sixty (60) days notice to the other party.

18. **Termination for Cause.** In the event that MEDIC fails to maintain applicable certifications and applicable permits from OEMS then this Agreement may be terminated by County by giving MEDIC ten (10) days advance written notice of termination.

19. **Governing Law.** The parties intend that this Agreement shall be governed by the law of the State of North Carolina as follows:

Mediation

- Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Buncombe County Resident Superior Court Judge shall name a mediator to hear the matter.
- The parties shall equally share the mediator's fee. The mediation shall be held in Asheville at a location designated by the mediator selected to hear the matter.

Legal Proceedings

- Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Asheville, Buncombe County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Buncombe County, North Carolina.

20. **HIPPA Compliance.** MEDIC is a covered entity under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and agrees to comply with the HIPAA Administrative Simplification Regulations as applicable to its services in accordance with 45 CFR Part 160, Part 162 and Part 164 to protect the privacy and security of protected health information and to provide individuals with certain rights with respect to their health information.

21. **Miscellaneous.** (a) **Notice.** Except as otherwise provided in this Agreement, all notices and communications required to be sent pursuant to the terms of this Agreement shall be in writing and shall be delivered by hand delivery, certified mail, return receipt requested, or by Federal Express or similar overnight courier service, addressed as follows: County: County Manager, 200 College Street, Asheville, NC 28801. MEDIC: 5 Westhaven Drive, Arden, NC 28704. All such notices and other communications, which are addressed as provided in this Paragraph, shall be effective upon receipt. The parties hereto may from time to time change their respective addresses for the purpose of notice to that party by a similar notice specifying a new address, but no such change shall be deemed to have been given until it is actually received by the party sought to be charged with its contents. (b) **Whole Agreement.** This Agreement contains all of the agreements and representations between the parties with respect to the subject matter hereof. None of the terms of this Agreement shall be waived or modified to any extent, except by written instrument signed and delivered by both parties. (c) **Severability/Survival.** If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect. The covenants contained in this Agreement, which by their terms require their performance after the expiration or termination of this Agreement, shall be enforceable notwithstanding the expiration or termination of this Agreement. (d) **Execution.** This Agreement shall only become binding when signed by both MEDIC and County. The parties intend that emailed signatures constitute original signatures and that an email-transmitted

Agreement containing signatures of the parties is binding on the parties having signed such email-transmitted Agreement. The parties agree that the Uniform Electronic Transactions Act shall be applicable and enforceable as to such execution and delivery. (e) Duplicate Counterparts. This Agreement may be signed in counterparts by the parties. It is not necessary that the signatures of the parties appear on the same counterpart or counterparts. All counterparts shall collectively constitute a single agreement. Executed counterparts of this Agreement may be delivered by email transmission. (f) Authority. The individuals signing this Agreement personally warrant that they have the right and power to enter into this Agreement on behalf of MEDIC and County, to grant the rights granted under this Agreement, and to undertake the obligations undertaken in this Agreement. (g) Captions. The captions or headings in this Agreement are inserted only as a matter of convenience and for reference and they in no way define, limit, or describe the scope of this Agreement or the intent of any provision hereof. (h) Counterparts. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

Medical Emergency Ambulance Transport, Inc.

By: _____

Its, _____.

ATTEST:

BUNCOMBE COUNTY

Lamar Joyner, Clerk to the Board

By: _____
Brownie Newman, Chair
Buncombe County Commission