MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: October 5, 2010

SUBJECT: 2010 AMBULANCE SERVICE AGREEMENT

I. RECOMMENDED ACTION:

Approve the 2010 Ambulance Service Agreement to contract for services with American Medical Response Ambulance Service in conjunction with Zone 1 agencies.

II. DEPARTMENT CONTACTS:

Jim Duren, Acting Deputy Chief of EMS 425-556-2203 Tim Fuller, Fire Chief 425-556-2202

III. DESCRIPTION:

In the event of an eastside disaster, either natural or manmade or during high emergency call activity periods on a day-to-day basis, there is the potential that all Redmond emergency medical response units could be depleted/involved in the event, and the transport of patients by private ambulance would be necessary. Also, when emergency aid car transport is unnecessary and non-emergency transport referral is by Redmond EMS personnel, this agreement will ensure the timely response of an ambulance according to response time criteria.

The City of Redmond has been a partner in this agreement since 2007. That agreement expired September 30, 2010, and a new RFP was offered for services in 2010-2013 with a three-year extension. American Medical Response Ambulance Service again was awarded the bid.

IV. IMPACT:

- A. Service Delivery: Currently, fire departments in Zone 1 are entering into a partnership with the private ambulance company for transport availability. If Redmond chooses not to be a part of this collective agreement, we potentially will not have the benefit of additional help available in a timely manner, if at all.
- B. Fiscal: The City receives revenue of approximately \$3,000 per quarter when the Provider is unable to meet or exceed patient care performance standards and

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transport protocols or for failure to satisfactorily perform other duties under the agreement.

V. ALTERNATIVES:

Do not approve the agreement. Citizens may be delayed in receiving care at a hospital for non-emergency situations. It may also cause longer responses to other emergencies when our aid cars are transporting non-emergency patients out of the area.

VI. TIME CONSTRAINTS:

The previous agreement ended on September 30, 2010.

VII. LIST OF ATTACHMENTS:

A. 2010 Ambulance Service Agreement

/s/		09/27/10
Tim Fuller, Fire Chief		Date
Approved for Council Agenda	Jane Christenson for	09/27/10
	John Marchione, Mayor	Date

2010 Ambulance Service Agreement

THIS SERVICE AGREEMENT ("Agreement"), effective October 1, 2010, is entered into by and between American Medical Response Ambulance Service, Inc., d/b/a American Medical Response ("Provider"), and the fire district, city or joint fire operation of the State of Washington set forth on the signature page (the "Department"). The Department and the Provider shall be collectively referred to as the "Parties".

I. Recitals

- A. In addition to other fire-related services, the Department is authorized to provide emergency medical transport and emergency medical services (collectively, "Emergency Medical Services") to citizens within or passing through its jurisdiction, and outside its jurisdiction pursuant to mutual or automatic aid agreements with other governmental agencies; and
- B. The Department, is authorized by law to enter into contracts and agreements affecting the affairs of the Department; and
- C. Provider is in the business of providing medical transportation services including but not limited to Basic Life Support ("BLS") ambulance services, and is ready, willing and able to supply BLS ambulance services in coordination with the Department's First Responder Emergency Medical Services to the Department. Provider shall provide such Services on a twenty-four (24) hours a day, seven (7) days a week basis within the Department's jurisdiction.

II. Agreement

In consideration of the mutual promises contained in this Agreement and AMR's proposal in response to RFP#2010-24, Dated July 28, 2010 (the "Proposal"), the Parties covenant and agree as follows.

- 1. Service: The Provider shall provide BLS ambulance services within the Service Area identified in Exhibit A, attached hereto and made a part hereof by this reference, in accordance with this Agreement and the Proposal. In the event of a conflict between this Agreement and the Proposal, this Agreement shall control. Additional services and conditions are to be provided as proposed in and agreed to in the Proposal.
- 2. Response Time Compliance/Liquidated Damages: Provider shall respond to all calls in accordance with the response time criteria set forth in Exhibit B, attached hereto and made a part hereof by this reference. Provider's response time performance will be monitored by the Department as outlined in the Proposal and failure to meet the response time criteria shall result in the imposition of penalties as outlined on Exhibit B. Both parties agree to meet at or near the one (1) year anniversary of this Agreement to determine if the penalty structure is fair and equitable and make adjustments as mutually agreed to by the Parties.

- 3. Billing and Rates: The Provider shall bill patients for services rendered in accordance with the rates stated in the Proposal. The rates for the services provided pursuant to this Agreement may be increased, on an annual basis on the anniversary of the Effective Date, by a percentage equal to the percentage increase in the Medical CPI during the most recent 12-month period for which published figures are available from the U.S. Department of Labor. "Medical CPI" as used above shall mean the medical care consumer price index (consisting of medical care commodities and medical care services) for All Urban Consumers (CPI-U) or the most comparable successor index if such index is discontinued.
- 4. Legal Compliance and Legislative Limitations: In performing the terms of this Agreement, the Parties shall fully comply with all applicable Federal, State and local laws, ordinances, resolutions, operating procedures, and protocols, including the Federal Antikickback Statute. In addition to the foregoing, the Provider shall provide evidence on a periodic basis, at least annually, that the Provider is licensed in the State of Washington to provide all of the services required by this Agreement.
- 5. Independent Contractor: It is understood and agreed by and between the Parties that the status of Provider and Department to each other shall be that of an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time and it is not intended, nor shall it be construed, that either party hereto, or any of their respective employees, agents or representatives, are an employee or officer of the other party, or for any other purpose whatsoever.
- **6. Indemnification**. The Parties shall provide that indemnification more specifically defined in the Proposal.

7. Insurance Requirements.

- **7.1. Department.** The Department shall maintain at all times liability insurance in those amounts and types in accordance with either state law, prevailing industry standards or interlocal agreement establishing the member of the Department.
- **7.2. Provider.** Provider shall maintain at all times liability insurance in those amounts and types more specifically defined in Exhibit C, attached hereto and made a part hereof by this reference. Except for professional liability and workers' compensation, all policies shall name the members of the Department and their officials, officers and employees as additional insured on all policies. Such insurance shall be provided and maintained at Provider's own expense.

8. Term and Termination.

8.1. Term. Subject to the following termination provisions, the term of this Agreement shall be for a period of three (3) years commencing on October 1, 2010 and ending on September 30th, 2013, with an optional three-year renewal as outlined in the RFP.

- **8.2. Termination.** This Agreement may be terminated by the Parties as follows:
 - **8.2.1 Written Advance Notice and Timing.** Either party may terminate this Agreement by providing advance written notice to the other party of that party's intent to terminate. The Department shall provide a ninety (90) day notice to Provider and Provider shall provide a one-hundred eighty (180) day notice to the Department. A breach of the terms of this Agreement need not occur to terminate under this section. If this Agreement is terminated, the Department has the right to offer the remainder of the existing Agreement and its extensions to an existing provider within the Department's service area for right of first refusal. In the event that the Provider chooses to exercise its right to terminate under this section, it shall pay to the Department a penalty of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), to offset the Department's costs in procuring a new contractor. Provider agrees to remit the Monthly Payment to the Department more specifically described in RFP Section 3.05.24.
 - **8.2.2 Breach and Provisions for Early Termination**. Conditions and circumstances that constitute a material breach of this Agreement by Provider include, but are not limited to the following:
 - 1. Failure of Provider to perform in accordance with any of the provisions of this Agreement;
 - 2. Failure of Provider to operate the system in a manner that enables the Department and Provider to comply with federal or state laws, rules, or regulations;
 - 3. Falsification of information supplied by Provider during the term of this Agreement, including but not limited to altering the presumptive run code designations to enhance Provider's apparent performance or falsification of any other data required under this Agreement;
 - 4. Creating patient responses or transports so as to artificially inflate run volumes;
 - 5. Failure of Provider to provide data generated in the course of operations, including but not limited to dispatch data, patient report data, response time data, or financial data;
 - 6. Excessive and unauthorized scaling down of operations to the detriment of performance during a "lame duck" period;
 - 7. Failure of Provider's personnel to conduct themselves in a professional and courteous manner and present a professional appearance;

- 8. Failure of Provider to maintain equipment in accordance with manufacturer recommended maintenance procedures;
- 9. Failure of Provider to cooperate with and assist the Department after breach has been declared;
- 10. Acceptance or payment by Provider or Provider's personnel of any bribe, kickback or consideration of any kind in exchange for any consideration whatsoever, when such consideration or action on the part of Provider or Provider's personnel could be reasonably construed as a violation of Federal, State, or local law;
- 11. Failure of Provider to meet the standard of care as established by this Agreement;
- 12. Failure of the Provider to maintain insurance in accordance with this Agreement;
- 13. Failure of Provider to meet response time requirements as set forth in this Agreement;
- 14. The filing of any bankruptcy or any other similar action, which, in the opinion of the Department, places the performance of this Agreement at risk;
- 15. Failure of Provider to submit reports and information under the terms and conditions outlined in this Agreement.
- **9. No Influence on Referrals:** It is not the intent of either party to this Agreement that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either Party of patients to the other Party or its affiliated providers, if any, or the purchasing, leasing, or ordering of any services other than the specific services described in this Agreement. Any payments specified in this Agreement are consistent with what the Parties reasonably believe to be a fair market value for the services provided.
- **10. Assignment:** Provider shall not assign, sub-contract or delegate any of its rights and obligations hereunder without the prior written approval of the Department.
- 11. Notice: Any notice required or permitted by this Agreement shall be in writing and may be either hand delivered or sent by certified or registered mail, return receipt requested, addressed to the Party to whom it is to be given as follows:

To Provider:

American Medical Response Ambulance Service, Inc.

Attn: General Manager 13075 Gateway Drive #100 Seattle WA 98168

With a mandatory copy as follows:

Legal Department American Medical Response, Inc. 6200 Syracuse Way, Suite 200 Greenwood Village, CO 80111-4737

To Department:

Name: Jim Duren

Title: Deputy Chief of EMS

Address: City of Redmond Fire Department

Address: 8450 161st Avenue NE, Redmond, WA 98052

Either Party may change its address to which notices are sent by a notice similarly sent.

- 12. Records Retention, Privacy, and Inspections: Each party shall maintain all medical records and other documents and information relating to services provided by Provider pursuant to this Agreement in compliance with all Federal, State and local laws, rules and ordinances. The Department shall have the right upon reasonable advance notice to inspect the records at any time during normal business hours. Subject to Federal and State privacy and disclosure restrictions, Provider shall cooperate with, and provide all information requested by, the Department in the event a complaint regarding the services provided by Provider in the performance of this Agreement. Each party shall comply with the privacy and security provisions of the *Health Insurance Portability and Accountability Act of 1996* and the regulations hereunder ("HIPAA"). Each party acknowledges and agrees that it is considered a covered entity under HIPAA. Accordingly, both parties are permitted to use and disclose Protected Health Information in accordance with HIPAA without an additional written authorization of the Patient as long as both parties have a direct relationship with the Patient. All Patient medical records shall be treated as confidential so as to comply with all state and federal laws.
- **13.** Compliance Program and Code of Conduct: Provider has made available to the Department, a copy of its Code of Conduct, Anti-kickback policies and other compliance policies, as may be changed from time-to-time, at Provider's web site, located at: www.amr.net, and the Department acknowledges receipt of such documents. Provider warrants that its personnel shall comply with Provider's compliance policies, including training related to the Anti-kickback Statute.

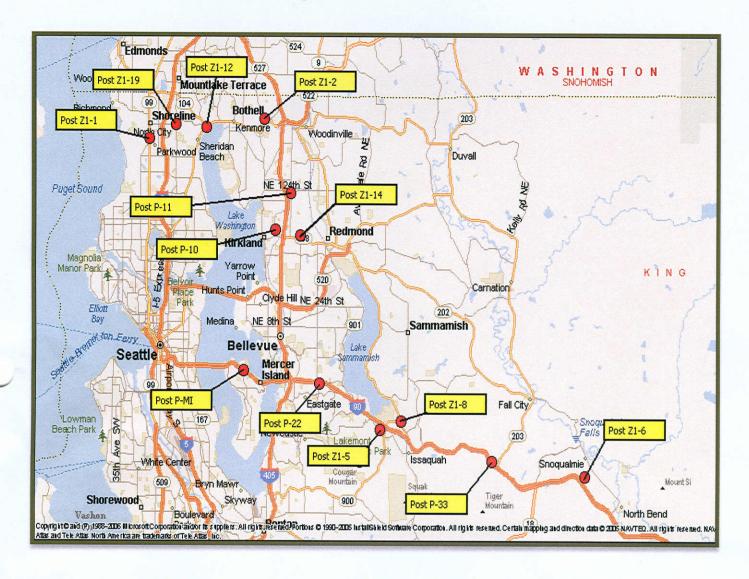
- 14. Non-Exclusion: Each party represents and certifies that neither it nor any practitioner who orders or provides Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C.§ 1320a-7(a). Each party further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other state or federal government payment program. Each party agrees that if DHHS/OIG excludes it, or any of its practitioners or employees who order or provide Services, from participation in Federal health care programs, the party must notify the other party within five (5) days of knowledge of such fact, and the other party may immediately terminate this Agreement, unless the excluded party is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.
- **15. Nondiscrimination.** Provider agrees to not, on the grounds of race, color, sex, creed, religion, ancestry, national origin, or disability, discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state, or local laws. Further, Provider agrees to comply with any requirements made to enforce the foregoing which may be required of or by any governmental agencies in connection with the ambulance service.
- **16. Compliance.** The parties shall comply in all material respects with all applicable federal, state and local laws and regulations, including the federal Anti-kickback Statute. Provider's ambulances will conform to applicable state and local regulations for medical equipment for ambulances and be duly licensed for the transportation of patients. The Parties agree that the Monthly Payment shall be made as reimbursement to the Department for monitoring of contract compliance, documentation, tracking and oversight per article 3.05.24 of RFP#2010-24, and the proposal. The Department represents that the dollar value of the monthly payments does not exceed the cost associated with the administration and execution of this Agreement.
- 17. Attorneys' Fees, Costs and Expenses: In any dispute arising from or relating to this Agreement, the prevailing party shall be awarded its reasonable attorneys' fees, costs and expenses, including any attorneys' fees, costs and expenses incurred in collecting upon any judgment, order or award.
- 18. Additional Terms: Washington law shall govern this Agreement. This Agreement is the entire Agreement between the Parties and there are no oral or collateral Agreements or understandings. This Agreement may only be amended by a document signed by the Parties. If any provision is held invalid or unenforceable, all other provisions shall continue in full force and effect. Waiver of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach of this Agreement. This Agreement shall inure to the benefit of and be binding upon the Parties and their legal representatives, successors, and permitted assigns. This Agreement is not intended to, and shall not; confer rights on any person or entity not named as a party to this Agreement. This Agreement may be executed in several counterparts and by facsimile, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

American Medical Response Ambulance Service, Inc.		
Ву:		
Randall Strozyk	orthwest Great Lakes Region	
Date:		
Department		
Legal Name: City of Redmond		
Ву:		
Name: John Marchione		
Title: <u>Mayor</u>	<u> </u>	
Data		

Zone 1 / AMR Post plan





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EXHIBIT B Response Time Standards

1. Zone Standards

If in any contract year the Provider maintains a response time performance level at less than ninety percent (90%) quarterly or for four consecutive months, the Department shall have the right to terminate the Agreement.

The Contractor shall meet or exceed the following standards within the individual Fire Department service area. Response times shall be measured in minutes and seconds, and shall be timed-stamped by the Contractor's computer aided dispatch (CAD) system.

In the event the selected contractor cannot respond to a request for service, the Fire Departments reserve the right to contact another ambulance company to provide the service. When the Contractor is requested to transport and cannot meet the performance requirements, the Contractor will contact other local Ambulance transport providers to attempt to procure a replacement unit.

• Upon Fire Department Request. A response time of 20 minutes or less in the response area of the following fire departments (with exceptions): Redmond Fire Department response area, Kirkland Fire response area, Bothell Fire Department response area, Shoreline Fire response area, KCFPD No. 16 (Northshore) Fire response area, Mercer Island Fire response area, King County Fire District # 27 (Fall City) response area, Snoqualmie Fire Department response area, Eastside Fire and Rescue (Issaquah, Sammamish, North Bend, Carnation, King County Fire District # 10, King County Fire District # 38) response area (exception for primary response areas for Eastside Fire and Rescue Battalions 4 and 5, and King County Fire Protection District # 45 (Duvall) being 30 minutes or less)

2. Response Time Exemptions

In the monthly calculation of the Provider's response time performance, every Basic Life Support emergency medical service call originating from the Department within the emergency ambulance provider operating area shall be included except as follows:

- **2.1.** In case of a period of unusual system overload, e.g., multiple incidents with multiple victims or a large number of victims from a single incident (e.g., bus crash, plane crash, etc.). For purposes of calculations, unusual system overload will not exceed 3% of provider's monthly call volume per zone.
- **2.2**. **Exemptions**. The Provider shall apply for, and the Fire Departments shall grant, exemptions to response time performance standards in situations beyond the Provider's control that cause unavoidable delays or no response. The Departments shall examine each request for exemption and shall take into consideration traffic, street blockages, severe

weather, and other influencing factors. If the Fire Departments determine the circumstances so warrant, the Fire Departments shall grant an exemption of the response from the performance standards. To be eligible for such an exemption, the Provider shall apply for the exemption with supporting documentation no later than the month following the month of the occurrence. The following subsections describe situations where the Department shall grant an exemption.

- Multiple Unit Response. In the event two (2) or more ambulance units are simultaneously committed to one (1) incident, the first arriving ambulance unit shall be held to the response time standard. The Department may grant an exemption for each ambulance unit starting with the second unit provided the additional units arrive at the scene within an additional 10 minutes. In the event that two (2) units are independently committed to two (2) independent incidents, both units shall be held to the response time standard.
- Concurrent Responses. In the event three (3) or more ambulance units are simultaneously committed to one (1) incident, and one (1) or more additional units are concurrently responding to at least one (1) other separate incident, the Fire Departments may grant an exemption for each unit starting with the third unit provided the additional units arrive at the scene within an additional 10 minutes.
- **Declared Disaster**. In the event an emergency is declared, as defined by RCW 43.06, the Fire Departments may grant an exemption for all ambulance units during the declared emergency.
- Canceled Request. In the event a request is canceled prior to or at the ambulance unit's arrival on scene for reasons other than exceeding the maximum response time standard, the Fire Departments will grant an exemption.
- **Response Location Errors**. In the event the Communications Center provides an inaccurate address, or if the location does not exist, the Fire Department will grant an automatic response time exemption, except if the incorrect response is the result of an error made by Provider's personnel, in that event the Fire Department shall not grant an exemption.
- **Response Location Change**. In the event the Fire Department changes the incident location and the change delays the ambulance unit's response time because the unit must reroute farther than one (1) block to respond to the call, the Fire Department shall grant an exemption.
- **Response Delayed by Accident**. In the event the ambulance unit is involved in an accident and cannot continue to respond to the call, the Fire Department may grant an exemption.
- Response Requested to Area Outside Primary Coverage Area. In the event the Department requests the Provider respond to an area outside of its primary

coverage area, the Fire Department may grant an exemption to the Emergency Response Performance Standard on the condition that the Provider uses diligence to respond to the scene within a reasonable time.

3. Liquidated Damages

The Contractor shall pay the following sums, not as a penalty, but as liquidated damages for failure to meet or exceed patient care performance standards and transport protocols or for failure to satisfactorily perform other duties under the Agreement. The Fire Departments and the Contractor agree that the damages would be difficult to prove in any litigation and that these sums are a reasonable estimate of the damages sustained by the Fire Departments as a result of the Contractor's failure to satisfactorily perform its duties under the Agreement. Nothing in this section shall be construed to limit any remedies, including termination, provided for herein with respect to any non-performance, breach, or default by the Contractor. Each and every call that does not adhere to the scope of services-performance standards shall first be classified as an alleged performance failure. Each alleged performance failure shall be investigated by the Contractor and evaluated by the Department. The Department shall determine whether there were appropriate or acceptable extenuating circumstances that caused or significantly contributed to the performance failure. The Contractor shall pay liquidated damages to the Departments for all performance failures that are determined to be the fault of the Contractor and not the result of an extenuating circumstance. All payments for liquidated damages shall be made payable to the Fire Department where the incident occurred. Liquidated damages shall include, but are not limited to the following:

Action or Omission	Liquidated Damage
For any response to a request that exceeds the response time requirements for that area.	The Provider shall be assessed liquidated damages, per noncompliant response, at the following rates:
	• 01:00-3:00 minutes: One Hundred and 00/100 Dollars (\$100.00).
	• 3:01-7:00 minutes: Two Hundred and 00/100 Dollars (\$200.00).
	• 7:01-10:00 minutes: Three Hundred and 00/100 Dollars (\$300.00).
	• Greater than ten (10) minutes: Four Hundred and 00/100 Dollars (\$400.00).
For any individual response being canceled due to exceeding the maximum response time.	The Provider shall be assessed liquidated damages of Three Hundred and 00/100 Dollars (\$300.00) per incident.

In the event the Provider fails or is unable to respond.	The Provider shall be assessed liquidated damages of Five Hundred and 00/100 Dollars (\$500.00) per incident.
In the event the Provider fails to arrive in a timely manner and the Fire Department transports the patient.	The Provider shall be assessed liquidated damages of Three Hundred and 00/100 Dollars (\$300.00) per incident.
In the event Provider fails to furnish required information, reports, or documentation within the time period specified by the Agreement or by the Department's request.	The Department may, at its option, impose liquidated damages of Fifty and 00/100 Dollars (\$50.00) per day for each item of such information, report, or document. Such liquidated damages shall not be applied in cases where the cause of such reporting deficiency was beyond the Provider's reasonable control.
If an ambulance vehicle experiences a mechanical failure (breakdown) while transporting a patient to a hospital.	The Provider shall be assessed liquidated damages of Three Hundred and 00/100 Dollars (\$300.00) except when the Provider has provided timely and appropriate patient transfer and when the provider has properly maintained the vehicle.
For failure to utilize an acceptable CAD System.	The Provider shall be assessed liquidated damages of Two Hundred Fifty and 00/100 Dollars (\$250.00) per day.
In the event Provider is unable to respond, but sends another provider.	The Provider shall be assessed liquidated damages of One Hundred and 00/100 Dollars (\$100.00) per incident. Each incident will be classified as a performance failure in the monthly calculation of Provider's response time performance.

3.1.1. Invoicing and Payment of Liquidated Damages. No more frequently than monthly and at least quarterly, the Department shall invoice

Provider for any liquidated damages assessed during the prior period. AMR shall pay the liquidated damages within 30 days of receipt of invoice. In the event the Department fails to invoice within 30 days of the end of the prior period, the liquidated damages shall be deemed waived for the period.

- **3.1.2.** Annual Review of Liquidated Damages. Both parties agree to meet at or near the one year anniversary of this Agreement to determine if liquidated damages provisions are fair and equitable.
- **3.2** Appeal Rights. The Provider may request that the Department's Contract Administrator reconsider imposition of liquidated damages. In instances when the Department's Contract Administrator has reviewed the circumstances for imposing liquidated damages and determined that the grounds were sufficient to justify the imposition of the liquidated damages, the Provider shall have the right to appeal such determination to the Fire Chief of the affected agency. The Contract Administrator shall report the reasons for the determination to impose liquidated damages to the Fire Chief. The ruling of the Fire Chief shall be final.
- **3.3 Liquidated Damages Waived for Start-Up Period.** This agreement will be considered a continuation of service and no waiver shall be granted for Agencies that are signatory to the 2007 RFP. Agencies that join will grant a waiver for the liquidated damages during the first two (2) months of the agreement.

EXHIBIT C INSURANCE Provider Insurance Requirements

Automobile Liability. The combined automobile liability, bodily injury and property damage liability insurance aggregate maintained by AMR shall be not less than two (2) million dollars (\$2,000,000) in coverage for each occurrence with a combined limit of five (5) million dollars (\$5,000,000);

Professional Liability Insurance. Provider shall secure Professional Liability Insurance in an amount of not less than two (2) million dollars (\$2,000,000) in coverage for any injury or death arising out of any one incident;

Workers' Compensation Insurance. Provider shall secure for any and all of Provider's employees Workers Compensation Insurance in accordance with the requirements of the State of Washington;

General. Consultant's Errors & Omissions or Professional Liability with limits not less than \$2,000,000 per occurrence and \$5,000,000 as an annual aggregate.

Excess Insurance. A policy above the primary general liability and auto liability policies that will provide a total limit of insurance of \$5,000,000. The excess policy must be at a minimum as broad as the primary policies, and shall name the signing Fire Departments, their officials, employees and volunteers as additional insured. Said policy shall provide that coverage shall not be canceled except after thirty (30) days written notice has been given to the Fire Departments.

Except for the workers' compensation policy and professional liability, said policies shall also name the Department as an additional insured of Provider. All policies shall contain a provision requiring a thirty (30) day written notice to be given to the Department prior to cancellation, modification, or reduction in limits.