

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** EL PASO FIRE DEPARTMENT

**AGENDA DATE:** 1/13/2015

**CONTACT PERSON/PHONE:** SAMUEL PEÑA, FIRE CHIEF, 485-5605  
BRUCE D. COLLINS, PURCHASING DIRECTOR, 212-1181

**DISTRICT (S) AFFECTED:** ALL

**SUBJECT:**

The El Paso Fire Department recommends that the City Manager be authorized to sign the Independent Contractor Agreement between the City of El Paso, Texas and Berumen, PLLC, for the latter to provide Medical Director services to the emergency medical staff of the City of El Paso; from January 13, 2015 through August 31, 2015, with the City Manager being authorized to administratively extend the Agreement for an additional twelve (12) month period.

**BACKGROUND / DISCUSSION:**

The contract in effect with Kenneth A. Berumen is for the supervision of the El Paso Fire Departments Emergency Medical Services advanced and basic life support services. This is required by the Texas Health and Safety Code Title 9, Subtitle B, Chapter 773 Emergency Medical Services, Subchapter A, Section 773.007. Dr. Kenneth A. Berumen is now operating as a business entity through a Professional Limited Liability Company (PLLC) and would like to be recognized as such for tax and limited liability reasons. The intent is not to change the contract term or conditions other than the title used to identify Dr. Kenneth A. Berumen.

**SELECTION SUMMARY:**

This is Consent to change contractor title to Berumen, PLLC, of Contract HR-IC-2014-Kenneth A. Berumen-Fire Matter #13-1014-046-Doc. #205016.v2-EMR.

**PRIOR COUNCIL ACTION:**

Independent Contractor Agreement was executed on August 27, 2013 between City of El Paso, Texas and Kenneth A. Berumen, R.N., M.D., D.A.B.E.M. to provide medical consulting, training and advisory services to the El Paso Fire Department.

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$5,500.00/Month (Jan.-Aug./2015)

Dept: 322; Division: 22070; Fund: 1000; Program: P2212; Account: 521120; Program: P2212; Funding Source: Health Care Providers Services

\*If option to extend agreement is exercised by the City of El Paso -

Amount: \$5,500.00/Month (Additional 12 Months)

Same Source of Funding

**BOARD / COMMISSION ACTION:**

N/A

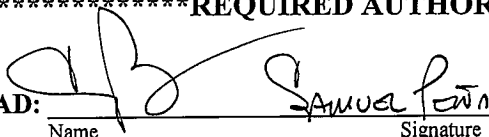
\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

Name

Signature

Date

 Samuel Peña

1/6/15

## RESOLUTION

### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

**THAT** the City Manager be authorized to sign an Independent Contractor Agreement (the "Agreement") between the City of El Paso, Texas ("City of El Paso") and Berumen, PLLC, for the latter to provide Medical Director services to the emergency medical staff of the City of El Paso, for the monthly amount of \$5,500 from January 13, 2015 through August 31, 2015, with the City Manager being authorized to administratively extend the Agreement for an additional twelve month period.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2015.


CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser  
Mayor


ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Samuel Peña, Fire Chief  
El Paso Fire Department

STATE OF TEXAS            )  
                                  )  
COUNTY OF EL PASO        )        **INDEPENDENT CONTRACTOR AGREEMENT**

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 201\_, between the **CITY OF EL PASO**, (the "City") and **BERUMEN, PLLC**, (the "Contractor").

**WITNESSETH:**

**WHEREAS**, the El Paso Fire Department provides basic and advanced life support service for the citizens of El Paso; and

**WHEREAS**, the state of the art delivery of basic and advanced life support by Texas State Certified Paramedics and Emergency Medical Technicians (EMTs) requires intravenous administration of emergency resuscitative drugs, the performance of sophisticated technical emergency and basic life support procedures, as well as intravenous catheterizations, electrical defibrillations and other invasive procedures; and

**WHEREAS**, Texas Health and Safety Code Title 9, Subtitle B, Chapter 773, Emergency Medical Services, Subchapter A, Section 773.007 states that the provision of advanced life support must be under medical supervision and a licensed physician's control, and that the provision of basic life support may be under medical supervision and a licensed physician's control.

**WHEREAS**, Contractor employs a physician, Dr. Kenneth A. Berumen, capable of performing the duties of the Medical Director as governed by Texas Administrative Code, Title 22, Part 22, Part 9, Chapter 197 Rule 197.3 "Off-line Medical Director."; and

**WHEREAS**, Contractor's employee, Dr. Berumen has been appointed as the Medical Director by the Fire Chief of the El Paso Fire Department; and

**WHEREAS**, it is necessary and appropriate for the City to enter into this Agreement with Contractor to set the compensation and establish such other necessary and appropriate provisions for the Contractor's services during the term of this Agreement.

**NOW, THEREFORE**, the City and Contractor do hereby mutually agree as follows:

1. **DUTIES AND RESPONSIBILITIES OF CONTRACTOR:** Contractor will provide medical consulting, training and advisory services to the El Paso Fire Department and shall be directly responsible to the Chief of the El Paso Fire Department for the performance of services specified herein in the terms of this contract.

2. **TERM OF CONTRACT:** The term of this Agreement shall be valid commencing January 13, 2015, and ending on August 31, 2015, with the City Manager having the authority to administratively extend the Agreement for an additional twelve month period without the need to seek Council approval, by giving written notice to the Contractor not less than thirty (30) days prior to the date upon which this Agreement would otherwise terminate. Written notice shall be provided as set forth in this contract.

3. **SCOPE OF SERVICES:** Contractor shall provide the services outlined in the attached scope of duties. Contractor shall coordinate at reasonable times with the Deputy Chief of the Fire Rescue Division on all issues relating to the provisions of medical services being provided by the City of El Paso.

4. **COMPENSATION AND METHOD OF PAYMENT:** Contractor shall be compensated in the amount of FIVE THOUSAND FIVE HUNDRED DOLLARS AND NO/100 (\$5,500) per month, during the term of the Agreement, including any extension, with the combined total compensation amount for the term of this Agreement and any extensions to not exceed a total of ONE HUNDRED TEN THOUSAND DOLLARS AND NO/100 (\$110,000). This is a part-time

position and is not exclusive. The City will not pay any fringe benefits. Contractor understands that as an independent contractor, taxes will not be withheld from the Contractor's payment, and consequently Contractor assumes all liability for payment of taxes on its earnings.

5. LOCATION OF PERFORMANCE: The place where such services are to be performed is the City of El Paso, State of Texas, or as otherwise necessary in conjunction with the performance of Contractor's statutorily required duties.

6. OWNERSHIP OF DOCUMENTS: All documents developed by Contractor under this Agreement shall be delivered to the City by said Contractor upon completion of the services required pursuant to paragraph 3 hereof and shall become the property of the City, without restriction or limitation on its use. Contractor agrees that all documents maintained and generated pursuant to this contractual relationship between the City and Contractor shall be subject to all provisions of the Texas Public Records Act. It is further understood by and between the parties that any information, writings, maps, contract documents, reports or any other matter whatsoever which is given by the City to Contractor pursuant to this Agreement shall at all times remain the property of the City and shall not be used by Contractor for any other purposes whatsoever without the written consent of the City.

7. AUDIT RIGHTS: The City reserves the right to audit the records of Contractor, relating to this agreement, at any time during the performance of this Agreement and for a period of one (1) year after final payment is made under this Agreement. Such audit shall be conducted at such time and in such matter so as to cause the least amount of disruption to Contractor's normal business activities.

8. INDEPENDENT CONTRACTOR RELATIONSHIP: Nothing herein shall be construed as creating the relationship of employer and employee between the parties. Neither the

City nor its agent the El Paso Fire Department shall be subject to any obligations or liabilities of the Contractor incurred in the performance of this contract, unless otherwise herein authorized.

9. PROOF OF LAWFUL WORK STATUS: Contractor agrees to comply with the Immigration Reform and Control Act. Contractor agrees to complete all necessary forms or documents including Form I-9 and to provide proof of United States citizenship of Dr. Berumen's lawful residency and work status within three (3) days of the execution of this Agreement.

10. INSURANCE: Contractor agrees to carry its own professional liability insurance and to provide proof of such insurance to the El Paso Fire Department prior to commencement of Dr. Berumen's services as Medical Director. The City agrees to provide \$10,833.00 per year towards such insurance coverage. Contractor agrees to invoice the City for such amount yearly. The policy shall list the City of El Paso, as an additional insured. Said professional liability insurance policy limits shall be in accordance with the accepted standards of the local medical community, but in no event, less than in an amount of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) combined single limit for injury or death to one or more persons, whichever amount is greater. Contractor will be responsible for the tail end coverage.

Contractor shall maintain said insurance with a solvent insurance company authorized to do business in Texas. Contractor shall file a copy of the policy binder and a certificate of insurance with the City within ten (10) days of execution of this Agreement. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage decreased without thirty (30) days prior written notice to the City.

11. INDEMNIFICATION: As a condition of the granting of this Agreement, the Contractor will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION,

LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT AND/OR CONTRACTOR'S SERVICES AS MEDICAL DIRECTOR ONLY TO THE EXTENT COVERED BY CONTRACTOR'S PROFESSIONAL LIABILITY INSURANCE POLICY. Without modifying the Contractor's obligation to preserve and assert any defense available to the City, the City will promptly forward to the Contractor every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. The Contractor will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Contractor may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. The City, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to the Contractor's property from any cause.

12. LAW GOVERNING CONTRACT: For purposes of determining the place of the Agreement and the law governing the same, it is agreed that this Agreement is entered into the City of El Paso, State of Texas, and shall be governed by the laws of the State of Texas.

13. TERMINATION: The City retains the right to terminate this Agreement at any time prior to the completion of the services required pursuant to this Agreement without penalty to City. In that event, notice of termination of this Agreement shall be in writing to Contractor, who shall be paid for those services performed prior to the date of its receipt of the notice of termination. In no case, however, will City pay Contractor an amount in excess of the total sum provided by this

Agreement. It is hereby understood by and between the City and Contractor that any payment made herein to Contractor shall be made only if said Contractor is not in default under the terms of this Agreement. If Contractor is in default, the City shall first deliver written notice of such default to Contractor. Contractor shall have a period of thirty (30) days within which to cure such default or if such cure cannot be completed within such period, Contractor shall have a reasonable period within which to commence and complete such cure before Contractor is determined to be in default. Contractor may terminate this agreement, without cause, within thirty (30) days prior written notice.

14. CONTINGENCY CLAUSE: Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and for change in regulations. In such event, Contractor shall be entitled to terminate this Agreement immediately upon written notice to the City.

15. NOTICES: Notices required herein shall be either hand-delivered or mailed, postage pre-paid, to the following addresses:

CITY: City of El Paso  
El Paso Fire Department  
Attn: Chief Samuel Peña  
416 N. Stanton, 2nd Floor  
El Paso, Texas 79901

CONTRACTOR: Berumen, PLLC  
Attn: Kenneth A. Berumen  
6112 Laguna Vista Drive  
El Paso, Texas 79932

16. ENTIRE AGREEMENT: This Agreement constitutes and expresses the entire agreement between the parties in reference to the services of the Contractor for the City of El Paso, and to any of the matters herein provided for, or hereinbefore discussed or mentioned in reference to the hiring of such services, all promises, representations and understandings relative thereto herein



being merged.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF EL PASO

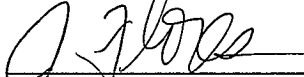
\_\_\_\_\_  
Tomás González  
City Manager

BERUMEN, PLLC

\_\_\_\_\_  
By:

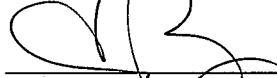
Its:

APPROVED AS TO FORM:



\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:



\_\_\_\_\_  
Samuel Peña, Fire Chief  
El Paso Fire Department



CITY OF EL PASO  
Established Date: May 3, 2010  
Revision Date: Nov 7, 2013

# Medical Director

Class Code:  
10 - Unclassified

**FLSA:**  
Exempt

**MINIMUM QUALIFICATIONS:**

**Education and Experience:** Graduation from a college or university accredited by the American Medical Association with a Doctor of Medicine or Doctor of Osteopathic Medicine degree. Must be a physician licensed in the State of Texas and be familiar with the Medical Practice Act and the Texas Medical Board rules regarding Emergency Medical Service at Title 22 of the Texas Administrative Code (TAC), Chapter 197, with the Department of State Health Services EMS statute at Chapter 773 of the Texas Health and Safety Code, and with EMS rules at Title 25 TAC, Chapter 157. Must have experience in the evaluation and management of acutely ill and injured patients in the out-of-hospital environment.

**Licenses and Certificates:** Texas Class "C" Driver's License or equivalent from another state.

**GENERAL PURPOSE:**

Responsible for clinical oversight of pre-hospital treatment rendered by the City of El Paso Emergency Medical Services System personnel currently practicing under the physician license of the Medical Director. Responsible for performing professional level work in planning and training activities and programs with health and medical components; providing direction for fire service medical issues; providing medical consultation to major support functions; and providing on-scene medical oversight and patient care on selected incidents.

**TYPICAL DUTIES:**

In consultation with the Fire Rescue Division Deputy Chief, provides medical oversight and expertise to EMS Operations, to include providing medical oversight and information to planning and operations personnel.

Responsible for all aspects of patient care to ensure maintenance of accepted standards of EMS medicine practice. This includes credentialing of certified and licensed emergency medical technicians and nurses employed by the El Paso Fire Department, as well as the responsibility to recommend suspension or local decertification of any El Paso Fire Department Personnel and report the incident to the Texas Department of State Health Services. Define scope of responsibility to credentialed emergency medical technicians and nurses and provide policy and procedures authority for control of medical services provided at the scene of a medical emergency.

Assist Training Division on all training topics with EMS, medical and health components; provides medical oversight and assists Nurse/Educators with EMS education curriculum development; provides direct EMS classroom and skills instruction and indirect education and briefings.

Provide medical oversight and expertise to continuous quality improvement (CQI) programs by reviewing and analyzing EMS effectiveness, system trends, and needs in an effort to ensure EMS system excellence; develop and assist in the formulation of policies and procedures; and participate in call reviews with nurse/educators, firefighter/paramedics, and firefighter/EMT's; assist in problem solving in field clinical decision making. Conduct system audits and quality assurance of programs. Develop, implement, and monitor management of patient care, incidents of complaints, and deviations from established protocols.

Assists Fire Rescue Division Deputy Chief with decisions involving risk assessment, postexposure prophylaxis and treatment of occupational infectious disease exposures; assists Risk Management/Safety Officer with medical and health components of OSHA Respiratory Protection Standard; provides input to Safety Committee with regard to firefighter safety and health issues.

Provides guidance and information to the Hazardous Materials Response Team and Special Operations Division on issues of environmental and clinical toxicology in administration, planning, training and operations.

Serves as a liaison with medical directors and administrators of the City Health Department, EMS providers, base hospitals, regional trauma centers, paramedic receiving hospitals, acute care facilities, paramedic training institutions and professional medical groups; attends EMS administrative and oversight committee meetings. Serves as a liaison with various local, regional, state and national medical communities regarding emergency medical service system by reviewing and responding to community needs.

Assists Communications/911District on Emergency Medical Dispatch (EMD) training, education and CQI; is liaison with Communications/911District administration on issues of medical dispatch strategies and pre-arrival instructions.

Assists Public Information Officer (PIO) as a technical specialist on emergency services medical and health issues.

**Please Note:**

The above duties are intended to represent only the key areas of responsibilities; specific position assignments will vary depending on the needs of the department. The Medical Director must meet requirements of the Texas Administrative Code, Title 22, Part 22, Part 9, Chapter 197 Rule 197.3 "Off-line Medical Director."

**KNOWLEDGE, SKILLS, AND ABILITIES:**

- Application of considerable knowledge of the principles and practices of pre-hospital care.
- Application of considerable knowledge of the practices and principals of leadership, management and supervision.
- Application of considerable knowledge of Incident Command practices and principals.
- Application of some knowledge of City of El Paso, local, state and federal laws pertaining to pre hospital care.

- Application of some knowledge of City of El Paso inter local agreements.
- Application of some knowledge of City of El Paso EMS Clinical Practice System Standards of Care and System Credentialing process.
- Application of some knowledge of radio and personal communications equipment use and application.
- Knowledge of computer aided dispatch systems, their use and application.
- Skill in establishing and maintaining good working relationships with support agencies.
- Skill in the application of training, supervisory and management practices.
- Skill in technical writing.
- Skill in operations forecasting and grand strategy design and implementation.
- Skill in communicating effectively with various customers including patients, EMS personnel, City of El Paso boards and commissions, executives, managers, personnel, and general public.
- Skill in establishing and maintaining effective working relationships with patients, EMS personnel, City of El Paso boards and commissions, executives, managers, personnel, and general public.
- Ability to handle conflicts and provide resolutions.

**CLASSIFICATION STATUS:**

(HR 05/03/2010), (HR 10/18/10)