

CITY CLERK ORIGINAL

C-8527
06/28/2013

AGREEMENT FOR OCCUPATIONAL HEALTH MEDICAL SERVICES

This Agreement for Occupational Health Medical Services ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and STRENGTH TRAINING, INC. ("STI" or "Contractor"), an Arizona Corporation, as of the 28 day of JUNE, 2013 ("Effective Date")

RECITALS

- A. City operates the Glendale Regional Public Safety Training Center located at 11550 West Glendale Avenue, which includes an approximately 6,000 square foot space known as the Glendale Regional Health Center ("Health Center") under the direction of the Glendale Fire Department and as generally depicted on **Maps A and B**; and
- B. City and various other public safety agencies are parties to an existing automatic aid agreement through the Central Arizona Life Safety Council System; and
- C. The City seeks to provide access to occupational health medical services, including pre-hire physical examinations, annual physical evaluations and examinations, rehabilitation and educational services as described below at the Health Center for public safety personnel of any automatic aid department, city township, fire district and/or tribal jurisdiction in the state of Arizona ("collectively "Occupational Health Medical Services" or "Project"); and
- D. The City seeks to provide access to Occupational Health Medical Services for City of Glendale employees; and
- E. City desires to retain the professional services of Contractor to provide Occupational Health Medical Services); and
- F. STI is able to provide such Occupational Health Medical Services at the Health Center to include the provision of medical staffing, i.e., physicians, nurses, physician assistants, physical therapists and technicians to provide drug and alcohol screening, pre-employment physical examinations; annual physical health evaluations and other medical evaluations and examinations on City employees and potential employees, incumbent fire fighters in compliance with NFPA 1582 2007 Edition and OSHA 1910-145 Respiratory Protection and police officers in accordance with AZPOST requirements; and on-going rehabilitation and nutrition, health and fitness education; and
- G. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. Purpose.

- 1.1 The Fire Service Joint Labor Management Wellness/Fitness Initiative is a historic partnership between the International Association of Fire Chiefs (IAFC) and the International Association of Firefighters (IAFF) to improve the wellness of fire department personnel. This initiative has been used as a guide to formulate a department's Wellness/Fitness Program. The Wellness/Fitness Initiative complies with both the NFPA Standards and OSHA regulation
- 1.2 Consistent with the Initiative, the purpose of this Agreement is to help ensure that public safety personnel receive medical health care and education on health, wellness, exposure to both hazardous and infectious materials and safety issues faced by firefighters and police officers throughout their careers.

1.3 To provide drug and alcohol screening, pre-employment physical examinations; annual physical health evaluations, hearing testing, and other medical evaluations and examinations and any other occupational medical services on City employees and potential employees, in compliance with NFPA 1582 2007 Edition, OSHA 1910-145 Respiratory Protection, Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA) and OSHA Regulations, as fmore fully described herein.

2. Facility.

2.1 City Obligations. City shall maintain the physical condition of the Health Center in good condition and repair, reasonable wear and tear excepted. City shall provide certain furniture, fixtures and equipment as described on **Exhibit A** ("Equipment") and maintain such furniture, fixtures and equipment in good condition and repair.

2.2 Use by STI. STI may use the Health Center to provide Occupational Medical Services under the terms and conditions provided in this Agreement

2.3. Hours of Operation. The Health Center hours of operation will be generally Monday through Friday 7:30 a.m. to 5:30 p.m.(City holidays excepted) and all services provided by STI or its subcontractors shall occur during these hours of operation, unless otherwise agreed to in writing by the City and STI.

3. Services by Contractor.

3.1 Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.

3.2 Physical Examination.

a. Contractor shall provide comprehensive medical examinations for public safety personnel that shall include at least the following:

- (1) Health Survey
- (2) Blood analysis consisting of CBC, Chem. 22, Urinalysis, and Hepatitis C
- (3) Hearing evaluation (done in an ANSI-approved soundproof booth)
- (4) Visual acuity evaluation
- (5) Pulmonary function evaluation
- (6) Stress test (treadmill)
- (7) Chest X-ray (done every three (3) years unless TB positive)
- (8) Functional movement screening
- (9) Skin fold measurements and body weight
- (10) Review immunization history
- (11) Up to 30 minute consult with physician or physician assistant to discuss health history and maintenance of personal health

b. Contractor shall provide comprehensive medical examinations for City of Glendale personnel that shall include at least the following:

- (1) Hearing evaluation in accordance with OSHA standards §1910.95
- (2) Pre-employment physicals
- (3) DOT and FMCSA Exams
- (4) Urine Drug Screening

- (5) Breath Alcohol Testing
- (6) Vision screening
- (7) Immunization/Vaccinations
- (8) Other services as requested

3.3 Staffing

- a. Contractor will provide and manage medical and administrative personnel to provide Occupational Health Medical Services and associated administrative support at the Health Center. Administrative and financial responsibility for all contract medical staff will be the sole responsibility of Contractor. Contractor's management responsibility includes, but is not limited to, contracting with, discipline, hiring, firing, compensation and/or benefits and other personnel-related matters with respect to the medical staff, vendors, contractors and sub-contractors.
- b. The City and contractor agree that the Health Center shall be staffed with a combination of full time and part time professionals as necessary to timely complete the workload of the Health Center, and that the staffing levels may be adjusted from time to time as needed to accomplish the Health Center's purpose and the scope of work to be completed. At a minimum, Contractor shall provide the staff as set forth on **Exhibit B** ("Staffing").

3.4 Supplies and Waste Disposal Contractor is responsible for the cost and procurement of medical consumables and supplies to perform Occupational Medical Services and also for the disposal of bio-hazardous waste in accordance with applicable laws and regulations

3.5 Payment and Billing. Contractor is responsible for the payment of any and all compensation and fees to sub-contractors, including medical staff. Contractor will be responsible for billing for all services provided and for collecting fees for medical services rendered, as more fully set forth in Section 5, below. Contractor will also be responsible for accounting, managing and disbursing funds as detailed in herein. Contractor will be responsible for maintaining accounting records and reports that are consistent with generally accepted accounting practices and shall make such records and reports available to the City upon request. Contractor will be responsible for the cost and procurement of medical consumables and supplies and also for the disposal of bio-hazardous waste in accordance with applicable laws and regulations.

3.6 Medical Records and Information Contractor is responsible for records management, data entry and medical transcriptions. Contractor agrees to maintain the confidentiality of all medical records and files in accordance with all laws, rules and regulations, including HIPAA. Contractor agrees to maintain all records and files in accordance with the State of Arizona records management and records retention guidelines.

3.7 Exposure Control Database. Contractor will track toxic exposure information and integrate this information with annual examinations and other medical records creating a comprehensive database and case management system.

3.8 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria as the Project identified in this Agreement.

3.9 Licensing Contractor warrants that:

- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

- (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
- (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.10 Compliance. Contractor shall furnish services in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

3.11 Travel Expenses. Contractor shall pay for business travel expenses for out-of-state training or conference attendance for the medical director or his designee. Travel expenses must be related to the current job function and shall not exceed \$5,000 per fiscal year.

4. Sub-contractors.

4.1 Contractor may engage specific professional, medical, and technical contractors (each a "Sub-contractor") to furnish certain Project services or functions

4.2 Contractor will remain fully responsible for Sub-contractor's services.

4.3 Sub-contractors must be approved by the City.

4.4 Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards, including but not limited to insurance, as set forth in this Agreement.

5. Independent Contractor.

5.1 Contractor is the City's independent contractor, not the City's employee, agent, joint venture, or partner. Contractor's employees and subcontractors are under Contractor's exclusive direction and control.

5.2 Liens. Contractor shall hold City harmless from any claims for supplying labor or materials to Contractor in the performance of work required under this Agreement.

6. Tax Responsibility Qualification.

6.1 Contractor may be required to establish, to the satisfaction of the City, that all fees and taxes due the City or the State of Arizona for any license, transaction privilege tax, use tax or similar excise tax are currently paid (except for matters under legal protest).

6.2 By executing this Agreement, Contractor agrees that the Agreement constitutes a waiver of the confidentiality provisions contained in the City of Glendale Finance Code, including Chapter 21.1 "Model City Privilege (Sales) Tax Code" and any similar confidentiality provisions in the Arizona Revised Statutes.

7. Billings and Payment.

7.1 Contractor will be solely responsible for billing each participating entity for services at the Health Center. Contractor will also be solely responsible for making payments to contractors and vendors for medical services, administrative support, supplies or materials rendered or utilized according to the terms of this Agreement.

7.2 For Occupational Health Medical Services provided to public safety personnel, Contractor, as specified in Section 7.3, will bill and collect the fees for services performed from the participating entity. Contractor shall deposit all collected funds in a separate bank account to be used for Health Center operations only.

7.3 Contractor will charge a base fee of \$720.00 for each firefighter physical exam conducted during any Term of this Agreement. Fees for tests and services other than those identified in Section 3.2,

above, may be charged as agreed to by the City and Contractor. The funds generated by each \$720.00 fee will be disbursed as follows:

- \$95.00 per exam will be allocated to the City for operation and maintenance of the Health Center; and
- \$625.00 per exam will be allocated to Contractor to pay for medical services

7.4 Occupational health services provided to city employees and pre-employment services for non-public safety personnel is billed in accordance with the agreed upon fee schedule. Scottsdale Health Care bills City directly for the services.

8. Fund Appropriation Contingency.

Contractor understands that the continuation of this Agreement after the close of the City's current fiscal year, which ends on June 30 is subject to City Council appropriation of the necessary expenditures required by this Agreement, including expenditures for the operation of the Health Center.. Should the appropriation required for funding this Agreement not be made or not be made in full, the City may terminate this Agreement as of the close of any fiscal year during the term of this Agreement or at the time appropriation or funding for the necessary expenditures is not available.

9. Termination.

9.1 For Convenience. City or Contractor may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.

- a. Contractor will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

9.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand, however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

10. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

11. Insurance.

11.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.
- b. Commercial General Liability. Contractor and Subcontractor must at all times relevant hereto carry commercial general liability limits of at least \$5,000,000 per occurrence and \$5,000,000 annual aggregate for bodily injury and property damage, including products-completed operations and personal and advertising injury with coverage as broad as ISO Form CG 00 01.
- c. Automobile Liability with coverage as broad as ISO Form CA 00 01 with limits no less than \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. Contractor and Sub-contractors shall provide workers' compensation insurance as required by State of Arizona with statutory limits and employer's liability insurance with limits no less than \$1,000,000 per accident for bodily injury and disease.
- e. Professional Liability insurance including medical malpractice and errors and omissions with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate. If the policy is written on a claims-made basis, the retroactive date must be shown and must be before the date of the contract. Insurance must be maintained for at least two years after termination of this contract. If coverage is canceled or non-renewed and not replaced with another claims made policy with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting coverage" for a minimum of two years after contract termination
- f. If Contractor or Sub-contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained.
- g. Notice of Changes. Contractor's and Sub-contractor must provide for not less than 30 days' advance written notice to City Representative of Cancellation or termination of Contractor or Sub-contractor's Policies.
- h. Waiver of Subrogation. Contractor and Sub-contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Sub-contractor may acquire against the City by virtue of the payment of any loss under such insurance Contractor and Sub-contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
1. Certificates of Insurance
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.

- j. Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- k. Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered and endorsed as additional insured's on the commercial liability and automobile liability policies.
- l. All insurance coverage must be primary and must not contribute with any insurance or self insurance policies or programs maintained by City.
- m. All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

11.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

11.3 Indemnification.

- a. Contractor shall indemnify, defend, save and hold harmless the City, and their officers, officials, agents, and employees (hereinafter referred to as "Indemnitees") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Laws or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court order/decre. It is the specific intention of the parties that the Indemnitees shall, in all instances, except for Claims arising solely from the negligent or willful act or omissions of the Indemnitees, be indemnified by Contractor from any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs where this indemnification applies.
- b. Contractor is not required to indemnify any Indemnitees for, from, or against any Claims, demand or expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party

12. Media Releases and Relations

Contractor agrees that the City has primary responsibility for press contact and interaction. Any release of information to the media regarding the Health Center or any of its activities will be coordinated by the Glendale Fire Department ("GFD") Public Information Officer ("Glendale PIO"), with input from the Contractor. News releases pertaining to the Health Center or any part of the services provided pursuant to

this Agreement shall not be made by Contractor without prior written approval of the Glendale PIO. Prior to release, a copy of all public record and media releases regarding the Health Center or its participating agencies and activities shall be forwarded to the Glendale PIO and to Contractor. Contractor will not reveal any investigative information or operational procedures of the Health Center outside the parties except as required by law or competent authority.

13. Immigration Law Compliance.

- 13.1 Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program
- 13.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 13.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 13.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 13.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 13.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 13.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

14. Foreign Prohibitions. Contractor certifies under A.R.S. §§ 35-391 *et seq.* and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutes, in the countries of Sudan or Iran.

15. Notices.

- 15.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
 - a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or

(2) As of the next business day after receipt, if received after 5:00 p.m.

- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

15.2 Representatives.

- a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

James ("Jim") Maher
c/o Strength Training, Inc.
17233 N. Holmes Blvd.
Phoenix, Arizona 85053
602-349-2545

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Fire Chief
5800 West Glenn Drive, Suite 350
Glendale, Arizona 85301
623-930-4401

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

16. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project

17. **Entire Agreement; Survival; Counterparts; Signatures.**

17.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties

17.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona

17.3 Survival Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement

17.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

17.5 Remedies All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

17.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.

17.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

18. **Term.** The term of this Agreement commences upon the effective date and continues for eight (8) months. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four months. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original Agreement period. No price adjustments will be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

19. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with **Exhibit C**. The final determination will be made by the City.

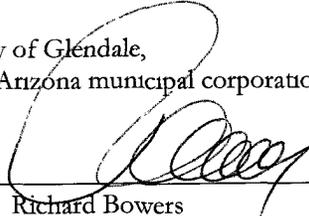
20. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Equipment
Exhibit B	Staffing
Exhibit C	Dispute Resolution
Map A	GRPSTC Layout
Map B	Health Center Floor Plan

(Signatures appear on the following page.)

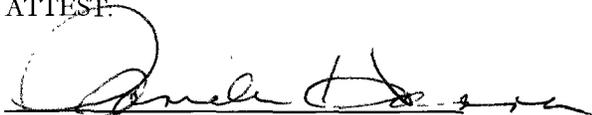
The parties enter into this Agreement as of the effective date shown above.

City of Glendale,
an Arizona municipal corporation



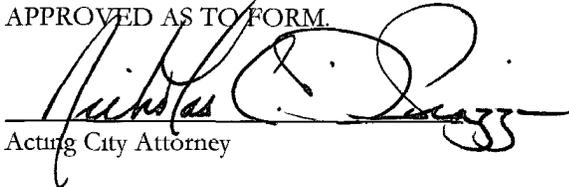
By: Richard Bowers
Its: Acting City Manager

ATTEST:



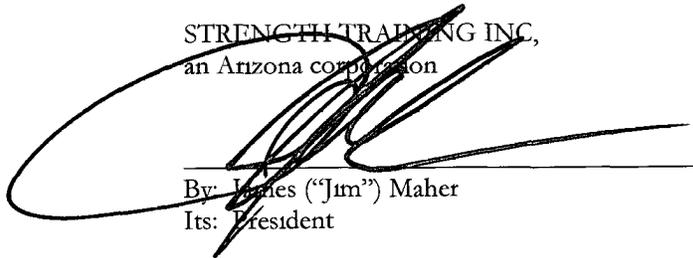
City Clerk (SEAL)

APPROVED AS TO FORM.



Acting City Attorney

STRENGTH TRAINING INC.,
an Arizona corporation



By: James ("Jim") Maher
Its: President

EXHIBIT A

Agreement for Occupational Health Medical Services

EQUIPMENT

The City will provide and maintain the following equipment:

Type of Equipment	<u>COG inv id</u>	<u>serial no</u>	<u>location id</u>
Copier	COG16559	TND03424	GRPSTC H-24
X-Ray Machine	COG25531	170-11893	GRPSTC H-7
Pulmonary Machine	COG23788	AJS01277	GRPSTC H-15
Hearing Test Machine	COG23779	BC 181 559	GRPSTC H-6
Treadmills 1	COG23780	Q5005279	GRPSTC H-4
Treadmills 2	COG23781	Q5005278	GRPSTC H-5
Vision testing 1		815600299	GRPSTC H-17
Scales 1		4020057900	GRPSTC H-18
Scales 2		4020057905	GRPSTC H-19
Microwave		801TAXT02098	GRPSTC H-32
Refrigerator 1		DR312701	GRPSTC H-13
Refrigerator 2		AR312536	GRPSTC H-32

EXHIBIT B

Agreement for Occupational Health Medical Services

STAFFING

The procedure for staffing physicians for the day-to-day medical operations of the Health Center shall be the responsibility of Contractor. Contractor shall provide staffing as follows:

1. At least one of the positions, physician/medical director or physician assistant, shall be full time; i.e., full time physician/medical director and part time physician assistant or part time physician/medical director and full time physician assistant.
2. A pool of no more than four (4) physicians will be assigned to provide coverage for peak work time or relief time, as needed and dictated by work flow. Contractor will seek to provide physicians with a current affiliation with a Level 1 Trauma Facility and access to toxicology referral within one (1) hour of request.
3. **PHYSICIAN: MEDICAL DOCTOR/DOCTOR OF OSTEOPATHY-MEDICAL DIRECTOR – FULL OR PART TIME (Permanently Assigned)**
 - a. A medical doctor/doctor of osteopathy will act as the medical director of the Health Center and must be qualified and capable of performing the following responsibilities:
 - 1) Director will act as the liaison between the contracted clinical staff and the Health Center Deputy Chief. In addition, the director/doctor will perform baseline physicals; infectious and hazardous exposure examinations; will implement ongoing wellness programs for fire department personnel and City employees; will evaluate industrial injuries, and will serve as the Certified Medical Review Officer (MRO) for the City's drug and alcohol testing program
 - 2) Responsible for performing all elements of physical examine in accordance with NFPA 1582 and AZ POST .
 - 3) Responsible for performing all elements of City's physicals, pre-employment physicals for City employees and potential employees in "non-safety" sensitive positions and in compliance with DOT and FMCSA
 - 4) Will perform consultations for fire fighters and City employees and potential employees with infectious exposure to HIV, hepatitis C and B, tuberculosis, and all other infectious exposures.
 - 5) Will interface with fire fighters and City employees and their primary care physicians to assure proper health care.
 - 6) Will develop, update and revise procedures with regard to medical monitoring, fitness maintenance, and stress management as needed
 - 7) Will participate in research projects in fire fighter health and fitness.
 - 8) Will prepare and present educational materials to fire fighters for training relating to health and wellness.
 - b. Minimum Qualifications:

Must be licensed M.D. or D.O. in the State of Arizona and have a valid ACLS certification. Must demonstrate substantial experience in the following areas: internal medicine, cardiovascular disease, medical toxicology, and occupational medicine. Must be familiar with and have experience working within the requirements of NFPA 1582, IAFF/IAFC Wellness/Fitness Initiative, AZ POST and OSHA regulations, as well as DOT collection and testing.
4. **PHYSICIAN ASSISTANT - FULL OR PART TIME (Permanently Assigned)**

- a. Must be qualified and capable of performing the following responsibilities:
- 1) Will perform baseline physicals; evaluate, treat and follow up on industrial injuries and infectious and hazardous exposures.
 - 2) Will support and implement on-going wellness program for fire department personnel.
 - 3) Will perform pre-placement physical exams for fire fighter applicants in accordance with NFPA 1582.
 - 4) Will evaluate lab assessments and stress treadmill to assess fitness for duty for fire fighters in accordance with NFPA 1582.
 - 5) Will perform pre-placement physical exams for police officer applicants in accordance with AZ POST.
 - 6) Will perform pre-employment physicals for City employees and potential employees.
 - 7) Will perform DOT exams and interface with city employees and their primary care physician to assure proper health care.
 - 8) Will perform Drug and Alcohol testing for city employees and potential employees in accordance with DOT and FMCSA.
 - 9) Will interface with fire fighters and City employees and their primary care physician to assure proper health care.
 - 10) Will develop, revise and update health care, policy, and other procedures at the Health Center, as needed.
 - 11) Will participate in research projects in fire fighter health and wellness.
 - 12) Will prepare materials a necessary to assist in the health care and fitness training of fire fighters.
- b. Minimum Qualifications.

Must be nationally certified through the NCCPA, hold a current Arizona license, have an established DEA number, and be ACLS certified. Must demonstrate substantial experience in the following areas: family practice, occupational medicine, preventive medicine, or sports medicine. Must be familiar with and have experience working within the requirements of NFPA 1582 and the IAFF/IAFC Wellness/Fitness Initiative, AZ POST, and OSHA Regulations.

5. CLINICAL MANAGER/REGISTERED NURSE - FULL TIME (Permanently Assigned)

- a. Must be qualified and capable of performing the following responsibilities:
- 1) Will assist with preparation of charts and management of the flow of patients.
 - 2) Will perform back office evaluations, vision, pulmonary function, hearing, and body composition examinations.
 - 3) Will perform first aid physicals, evaluate, treat and follow up on industrial injuries
 - 4) Will perform phlebotomy and administer medications as needed.
 - 5) Will perform resting 12-lead EKS's and stress tests.
 - 6) Will assist with infectious exposure consults and follow-ups.
 - 7) Will transcribe back office evaluations onto medical records.
 - 8) Will assist physicians with data collection for studies.
 - 9) Will assistant physicians with treatment of medical patients.
 - 10) Will assist with maintenance and stocking of medications and medical supply inventory.
- b. Minimum Qualifications.

Registered nurse in the state of Arizona with experience in occupational medicine, orthopedics, and infectious disease. Must be ACLS certified, having two years' experience in treadmill testing, immunizations, and schedules. Must be familiar with and have experience working within the requirements of NFPA 1582 and the IAFF/IAFC Wellness/Fitness Initiative, AZ POST, and OSHA Regulations.

6. MEDICAL TECHNICIAN - FULL OR PART TIME

- a. Must be qualified and capable of performing the following responsibilities:
- 1) Will conduct on-site x-rays for annual physicals and industrial injuries.
 - 2) Will assist with all aspects of physical exams, phlebotomy, vision, hearing, and patient flow.

b. Minimum Qualifications.

Must be Board-Certified in Arizona with a minimum of two years' experience

7. RECEPTIONIST - FULL OR PART TIME (Permanently Assigned)

- a. Must be qualified and capable of performing the following responsibilities:
- 1) Will be responsible for patient's medical and immunization record data entry
 - 2) Will answer telephones.
 - 3) Will maintain sign-in log for both medical and industrial patients.
 - 4) Will record all patients' visits in the computer.
 - 5) Will prepare computerized medical charge sheets.
 - 6) Will perform light typing for chart preparation.
 - 7) Will verify appointments and prepare charts for physical examines
 - 8) Will assist patients with industrial paperwork
 - 9) Will make call for Health Center staff as requested.

b. Minimum Qualifications.

Must have a minimum of one year of experience working in a medical office. Ability to type 30 wpm, basic computer skills, ability to handle up to three incoming phone lines and pleasant communications over the telephone. Must have medical back office skills and experience, and the ability to interact professionally with fire fighters and medical personnel.

EXHIBIT C

Agreement for Occupational Health Medical Services

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.
4. **Exceptions.**
- 4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

MAP A

Agreement for Occupational Health Medical Services

GRPSTC LAYOUT

[See attached]

MAP B

Agreement for Occupational Health Medical Services

HEALTH CENTER FLOOR PLAN

[See attached]