

# RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. **TA 19-1209-43**

Date of Adoption **DECEMBER 9, 2019**

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

*Legislative Research Officer*

PRESENTED BY COUNCIL MEMBER **BURGESS** SECONDED BY **VICK**

WHEREAS, resolution number DF 19-0211-3 and DF 19-0311-5 awarded a contract for ambulance and dispatch services to First Response DBA Americare Ambulance in response to publicly advertised bids; and

WHEREAS, on June 19, 2019 Department of Health, Office of Emergency Medical services advised the Township that First Response DBA Americare Ambulance license to operate a basic life support/specialty care transport unit service in the State of New Jersey was suspended immediately; and

WHEREAS, this situation constituted a treat to public health, safety, welfare and the Administration awarded an emergency contract to Virgo Medical Services Inc. of 290 Sanford Street, East Orange, NJ 07018; and

WHEREAS, a dispute arose concerning the amount due to Virgo for services for the period of June through September 2019; and

WHEREAS, the Township of Irvington Administration and the Municipal Council deemed that it was in the best interest to bring this matter to a resolution thus saving the Township further expense in the defense thereof and curtailing any excessive liability that could result from this litigation; and

WHEREAS, the Office of the Township Attorney has reviewed, monitored and consulted with counsel and all relevant municipal officials and pursuant thereto recommend that this matter be concluded:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it hereby agrees to resolve this matter based upon the terms of attached settlement agreement; and

BE IT FURTHER RESOLVED that this matter is hereby concluded with absolutely no admission of liability on behalf of the Township of Irvington, its Police Department or any agents, officers or personnel; and

BE IT FURTHER RESOLVED that the settlement funds will be processed through D&H Alternative Risk Solutions, the Township third party liability administrator.

## RECORD OF COUNCIL VOTE

X = Indicates Vote N.V. = No Vote A.B. = Absent

| COUNCIL MEMBER               | YES | NO | N.V. | A.B. | COUNCIL MEMBER     | YES | NO | N.V. | A.B. |
|------------------------------|-----|----|------|------|--------------------|-----|----|------|------|
| BEASLEY                      | X   |    |      |      | INMAN              |     |    | X    |      |
| COX                          |     |    |      | X    | VICK               | X   |    |      |      |
| FREDERIC, 2ND VICE PRESIDENT | X   |    |      |      | BURGESS, PRESIDENT | X   |    |      |      |
| HUDLEY, 1ST VICE PRESIDENT   | X   |    |      |      |                    |     |    |      |      |

PRESIDENT OF COUNCIL Renee C. Burgess MUNICIPAL CLERK Holden DATE **December 9, 2019**

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK Holden

DATE **DEC 09 2019**

ADMINISTRATOR ☐ ASSESSOR ☐ BLDG ☐ CFO ☐ COLLECTOR ☐ COURT ☐ EDGO ☐ ENGINEER ☐ FIRE ☐ HEALTH ☐ HOUSING ☐ INIC ☐ JUDGE ☐ LEGAL ☐ LIBR ☐ LICEN ☐ MAYOR ☐ NPP ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☐ DIR ☐ PUBLIC WORKS ☐ PURCHASING ☐ SEC ☐ PB/ZBA ☐ TRAFFIC ☐ ZONING ☐ OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): \_\_\_\_\_

**RESOLUTION TO AUTHORIZE SETTLEMENT AGREEMENT FOR  
EMERGENCY CONTRACT FOR AMBULANCE SERVICES**

WHEREAS, resolution number DF 19-0211-3 and DF 19-0311-5 awarded a contract for ambulance and dispatch services to First Response DBA Americare Ambulance in response to publicly advertised bids, and;

WHEREAS, on June 19, 2019, Department of Health, Office of Emergency Medical services advised the Township that First Response DBA Americare Ambulance license to operate a basic life support/specialty care transport unit service in the State of New Jersey was suspended immediately, and;

WHEREAS, this situation constituted a threat to public health, safety, welfare, and the Administration awarded an emergency contract to Virgo Medical Services Inc. of 290 Sanford Street, East Orange, NJ 07018, and;

WHEREAS, a dispute arose concerning the amount due to Virgo for services for the period of June through September 2019; and

WHEREAS, the Township of Irvington Administration and the Municipal Council deemed that it was in the best interest to bring this matter to a resolution, thus saving the Township further expense in the defense thereof and curtailing any excessive liability that could result from this litigation; and

WHEREAS, the Office of the Township Attorney has reviewed, monitored and consulted with counsel and all relevant municipal officials and pursuant thereto recommend that this matter be concluded:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it hereby agrees to resolve this matter based upon the terms of the attached settlement agreement; and

BE IT FURTHER RESOLVED that this matter is hereby concluded with absolutely no admission of liability on behalf of the Township of Irvington, its Police Department or any agents, officers or personnel; and

BE IT FURTHER RESOLVED that the settlement funds will be processed through D&H Alternative Risk Solutions, the Township's third party liability administrator.

## SETTLEMENT AGREEMENT

THIS **SETTLEMENT AGREEMENT** ("Agreement") made this \_\_\_<sup>th</sup> day of December \_\_, 2019 between the TOWNSHIP OF IRVINGTON, hereinafter referred to as the "Township" with principal offices located at the Irvington Municipal Building, Civic Square, Irvington, New Jersey, 07111 and VIRGO MEDICAL SERVICES, ("Virgo") whose principal place of business is located at 290 Sanford Street, East Orange, NJ 07018, witnesseth:

**WHEREAS**, resolution number DF-19-0211-3 and DF-0311-5 awarded a contract for ambulance and dispatch services to First Response DBA Americare Ambulance in response to publicly advertised bids; and

**WHEREAS**, on June 19, 2019, Department of Health, Office of Emergency Medical services advised the Township that First Response DBA Americare Ambulance license to operate a basic life support/specialty care transport unit service in the State of New Jersey was suspended immediately; and

**WHEREAS**, resolution number DF-19-0624-11 (which is attached as Exhibit "A") awarded an emergency contract to Virgo to provide the Township with two basic life support ambulances for the amount of \$25,000.00 per month, plus additional fees for prisoner transportation starting on June 24, 2019; and

**WHEREAS**, Virgo advised the Township that the amount listed in resolution DF-19-0624-11 of \$25,000.00 per month was insufficient to cover the costs for the subject services per month and Virgo and the Township engaged in negotiations for increases to the contract; and

**WHEREAS**, Virgo performed emergency services to the satisfaction of the Township from June 6, 2019 through September 22, 2019, with such discontinuation of services being approved by the Department of Health; and

**WHEREAS**, Virgo has not been paid to date for any of the emergency serviced it has rendered to the Township; and

**WHEREAS**, there remains a dispute between Virgo and the Township as to the monies due to Virgo for the performance of its services; and

**NOW, THEREFORE**, for the purpose of resolving all disputes and avoiding the risk, expense and delay associated with litigation, and in consideration of the various representations and agreements contained in this Agreement, constituting good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties, by and through their undersigned authorized representatives, intending to be legally bound, hereby agree as follows:

1. The Township shall pay Virgo the amount of \$15,554.44 plus \$300 per prisoner transport, subject to verification of proof of each prisoner transport, that is due from the Americare contract for the period before June 24, 2019 as that is the only amount legally approved by the Municipal Council. Also, the bills for prisoner transport for the period *before* June 24, 2019 must be sent to Americare to permit the Township to pay for that service. Payment of the \$15,554.44 shall be released to Virgo upon execution of this Agreement.

2. The Township shall pay, subject to approval by the Irvington Municipal Council, \$51,500 plus \$300 per prisoner transport, subject to verification of proof of each prisoner transport, for the period of June 25, 2019 to July 24, 2019.
3. The Township shall pay, subject to approval by the Irvington Municipal Council, \$51,500 for July 25, 2019 - August 24, 2019.
4. The Township shall pay, subject to approval by the Irvington Municipal Council, at the rate of \$1,717 per day, which is based upon the monthly rate of \$51,500 as referenced in paragraphs 2 and 3 above for the period of August 25, 2019 to September 22, 2019. The total number of days for this period is twenty-nine (29) which amounts to \$49,793.
5. The Township must be provided with monthly invoices for the services listed in this Agreement and according to the terms set forth herein.
6. The parties agree that the amount due under paragraph 3 of \$15,554.44 shall be paid upon full execution of this Agreement. Reconciliation of the prisoner transport payments will not delay this \$15,554.44 payment.
7. The remaining amounts due amount under Paragraphs 2, 3 and 4 in the total amount of **\$152,793.00**, subject to reduction for payments due of \$6,153.84 to Sub-Contractor – Robert Wood Johnson Health Network – Mobile Health Service, plus costs for prisoner transport which must be verified as per paragraph 2 above, shall be paid no later December 26, 2019.
8. The Township, with full understanding of its legal rights and of its own free will, voluntarily, irrevocably and unconditionally releases and forever discharges Virgo, including its owners, investors, members, shareholders, officers, partners, affiliates, agents, employees, representatives, successors and assigns, past and present, jointly and individually (collectively referred to as the “Virgo Released Parties”), from any and all obligations under resolution number DF-19-0624-11 or otherwise, and any and all liabilities, claims, causes of action, charges, complaints, money, benefits, grievances, obligations, costs, losses, damages, injuries, attorneys’ fees, contracts, promises, agreements, and other legal responsibilities (collectively referred to as “Claims” as hereinafter used in this Agreement) regardless of whether such Claims are unknown, unforeseen, and/or unanticipated, which Township has or may have against the Virgo Released Parties regarding events predating the execution of this Agreement. Virgo, with full understanding of its legal rights and of its own free will, voluntarily, irrevocably and unconditionally releases and forever discharges the Township, including its officials, council members agents, employees, representatives, successors and assigns, past and present, jointly and individually (collectively referred to as the “Township Released Parties”), from any and all Claims (as defined above), regardless of whether such Claims are unknown, unforeseen, and/or unanticipated, which Virgo has or may have against the Township Released Parties regarding events predating the execution of this Agreement. The Parties expressly acknowledge that this mutual release of Claims does not include (a) the payments due Virgo for the prisoner transport which will be reconciled after execution of this Agreement and (b) any disputes arising due to either Party’s non-compliance with the terms of this Agreement.

9. Neither this Agreement nor anything contained herein shall be construed as an admission by either Party that they have in any respect violated or abridged any federal, state or local law or any right or obligation that they may owe or may have owed to the other Party. Rather, the Parties merely seek to amicably resolve all disputes between them predating this Agreement without litigation. Accordingly, this Agreement shall not be admissible as evidence against, or as an admission by, any Party except that the Agreement may be introduced in any proceeding to enforce the Agreement.
10. The Township agrees to not to make any statements that disparage, criticize or otherwise reflect adversely upon Virgo or its services, or which encourages any adverse action against Virgo.
11. The Parties agree that this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party. The Parties agree that the above "Whereas Clauses" are incorporated by reference as if set forth fully herein.
12. This Agreement and any documents referenced herein represents the entire Agreement and no changes or modifications thereto can be made without the written consent of both parties.
13. The Parties, by and through their signatures below, represent that they have read this Agreement, that they fully understand and voluntarily agree to be bound to its terms, that they were given the opportunity to negotiate its terms, and that they that they understand any rights they may have and sign this Agreement with full knowledge of any such rights.

**ATTEST:**

FOR TOWNSHIP OF IRVINGTON

FOR VIRGO MEDICAL SERVICES, INC.

Harold E. Wiener, Municipal Clerk

Tony Vauss, Mayor

By Edward Hassan, President

By Ramon E. Rivera, Township Attorney

\_\_\_\_\_  
Dated: December \_\_, 2019

\_\_\_\_\_  
Dated: December \_\_, 2019

\_\_\_\_\_  
(Notary)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Dated: \_\_\_\_\_