

AGREEMENT FOR SERVICES

THIS AGREEMENT, made this _____ day of _____, 2006, by and between ADPI EMS Billing, a Delaware Corporation, hereinafter referred to as "ADPI," and City of Overland Park, Kansas, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the City along with Johnson County, Kansas (hereinafter "County") and Lenexa, Kansas (hereinafter "Lenexa") caused to be prepared and published, Request for Proposals 2004-081 (RFP) for Medical Billing and Accounts Receivable Services for Ambulance Transports; and

WHEREAS, American Medibanc, Inc., a Colorado Corporation, dba and hereinafter referred to as "Medibanc," in response to the RFP, submitted to the County, Lenexa, and the City, in the manner and at the time specified, a sealed proposal in accordance with the requirements of the above referenced RFP; and

WHEREAS, the County, Lenexa, and the City, in the manner prescribed by law, publicly opened, examined and canvassed the proposals submitted; and

WHEREAS, the City, as a result of this canvass, in accordance with the law, determined and declared Medibanc to be the lowest price and best responsible respondent for the delivery of the specified services, and duly awarded to Medibanc a contract therefore; and

WHEREAS, on August 23, 2006, ADPI EMS Billing, a Delaware Corporation, purchased Medibanc; and

WHEREAS, the City desires to continue its relationship with the Corporation formerly known as Medibanc upon the same terms and conditions as the agreement with Medibanc and as set forth in this Agreement and the previously mentioned RFP and for the sum or sums named in Section II A of this Agreement.

NOW, THEREFORE, in consideration of the compensation to be paid ADPI, and of the mutual agreements herein contained, the parties hereto have agreed, and hereby agree, the City for itself and its successors, and ADPI for itself, himself/herself or themselves, its, his/her or their successors and assigns, or its, his/her or their executors and administrators, as follows:

I. ADPI'S PERFORMANCE

A. ADPI will provide for all accounts assigned to ADPI by the City:

1. Itemized statements of all transport EMS services to the guarantor or patient.
2. Medical coding.
3. Insurance finding and verification.
4. Billing of third party payers to include Medicare, Medicaid, PPO's, HMO's and commercial insurance companies.
5. Follow up with the patient and/or third party payer as necessary for payment of the services rendered.
6. Secondary insurance billing and follow up.
7. Customary reports and account information.
8. Customized reports and account information may be possible on a negotiated fee basis.

B. ADPI will provide the following additional services for the City:

1. If the City is not currently enrolled in the local Medicare part B or state Medicaid program, ADPI shall complete the enrollment applications for the City in the state where services are rendered. If the City provides services in states other than their place of business, ADPI will enroll the City in those state's Medicaid programs as well.
2. Complete the local Medicaid signature authorization forms for billing paper claims.
3. Complete yearly Medicare updates as required by the program. For example, if the state license of the City expires, ADPI will follow up with the City and provide the information needed to the carrier.
4. Re-enroll City every three years regardless of status changes, as required by Medicare.
5. If the City is not set up for electronic billing for their local Medicaid and Medicare carrier, ADPI will complete the EDI registration and application.
6. Enroll City in or update City's information for the Railroad Medicare program.

7. Obtain signatures, mailing, and follow up on all enrollment forms with the carriers.
 8. If the City changes its name, tax ID number or any other information during the contract period, ADPI will update the carriers by completing the appropriate forms.
- C. ADPI agrees to direct all payments to a lock-box account controlled by the City at a financial institution of the City's choice by way of a return address on all invoices and statements. All expenses associated with the lock-box are borne by the City. ADPI will then invoice the City for its fee on a monthly basis
- D. Within thirty (30) days of the execution of this agreement, ADPI shall provide an orientation session to City fire/ems personnel and any other necessary City personnel on correct information and trip sheet completion in order to facilitate a smooth transfer of information.
- E. ADPI shall provide any and all services whether or not specifically listed in this section consistent with the requirements enumerated in Section B SCOPE OF SERVICES of the RFP which is attached hereto and incorporated by reference herein as a part of Exhibit "A."
- F. All services shall be provided in compliance with the following Contract Documents:
1. This Agreement.
 2. Medibanc's written and signed proposal dated October 1, 2004, excluding Medibanc's Agreement for Services contained therein, and including Medibanc's signed acknowledgements of Amendments 1 and 2. This includes, but is not limited to the project understanding and approach and scope of services submitted in response to the RFP which is attached hereto and incorporated by reference herein as Exhibit "A."
 3. The Business Associate Agreement with the City attached hereto as Exhibit "B."
- G. ADPI shall provide additional services, upon request by the City.

II. PRICE AND PAYMENT TERMS

A. For complete compensation of all activities required by ADPI pursuant to this agreement, ADPI will charge fees on accounts assigned to ADPI for collection as follows:

6.25% of all monies collected on transport accounts

6.25% of all monies collected on transfer accounts

B. ADPI will invoice the City for its fee on a monthly basis

C. Should ADPI be requested to provide additional services for the City, ADPI shall be compensated for such services rendered and expenses reasonably incurred in the amount and rates mutually agreed to by the parties hereto.

III. CITY'S OBLIGATIONS

A. The City agrees to provide to ADPI the following:

1. A copy of all trip tickets and any medical and patient information in a timely manner for those accounts the City desires ADPI to handle.
2. Physician statement for all transfer accounts.
3. Any and all City numbers necessary for use in billing.
4. Any and all City information necessary to complete the aforementioned enrollment and start-up services.
5. Notification and documentation within seven (7) calendar days of all payments received directly by the City and for all contacts made on accounts assigned to ADPI.

IV. TERM AND TERMINATION

A. The term of this Agreement shall be for the period commencing with the effective date of this Agreement and ending May 1, 2007; provided, however, this Agreement will automatically renew annually unless either party provides the other a notice of intent to terminate within thirty (30) days of the existing contract term.

B. In the event of material breach of the contractual obligations by ADPI, the City may cancel the contract. At its sole discretion, the City may give ADPI an opportunity to cure the breach or to explain how the breach will

be cured. The actual cure must be completed within ten (10) working days from notification, or at a minimum ADPI must provide the City within ten (10) working days from the notification a written plan detailing how ADPI intends to cure the breach.

- C. If ADPI fails to cure the breach or if circumstances demand immediate action, the City will issue a notice of cancellation terminating this agreement immediately.
- D. If the City cancels this agreement for breach, the City reserves the right to obtain the services to be provided by ADPI pursuant to this agreement from other sources and upon such terms and in such a manner at the City deems appropriate and back charge ADPI for any additional costs incurred thereby.
- E. Any termination of the Agreement for alleged default by ADPI that is ultimately determined to be unjustified shall automatically be deemed a termination for convenience of the City.
- F. The City reserves the right to terminate this agreement at any time for the convenience of the City without penalty or recourse, by giving ADPI a written notice of such termination at least 30 calendar days prior to termination. ADPI shall be entitled to receive just and equitable compensation for the work completed pursuant to the contract prices in effect prior to the effective date of termination.
- G. Upon either expiration or termination of this Agreement, ADPI hereby agrees that it will assist and cooperate with the City in ensuring a smooth transition of services to a new provider. The parties agree that upon the occurrence of either expiration of the initial contract term, or any renewal term thereof, or upon termination of this Agreement pursuant to this section, ADPI shall continue servicing those accounts then existing and open for a period of up to four (4) months (hereinafter the “transition period”) following contract expiration or termination at the contracted fee. In servicing those accounts during the transition period, ADPI shall adhere to the requirements set forth in this Agreement. Upon conclusion of the four (4) month period, ADPI shall turn over all such account records serviced during the transition period to the City in a generic database format with complete field descriptions included. The rights and obligations of the parties shall survive expiration or termination of this Agreement and will remain in force during the transition period.
- H. Should adequate funding not be made available to the City to support or justify continuation of the level of services to be provided by ADPI under this Agreement, the City may terminate or reduce the amount of service to be provided by ADPI under this Agreement. In such event, the City

shall notify ADPI in writing at least thirty (30) days in advance of such termination or reduction of services for lack of funds, in which case, ADPI shall be reimbursed costs and expenses incurred prior to the date of such notice.

V. AFFIRMATIVE ACTION/OTHER LAWS

A. ADPI agrees that:

1. ADPI shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;
2. In all solicitations or advertisements for employees, ADPI shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the commission;
3. If ADPI fails to comply with the manner in which the ADPI reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, ADPI shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City;
4. If ADPI is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, ADPI shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City; and
5. ADPI shall include the provisions of subsections (1.) through (4.) in every subcontract or purchase order so that such provisions will be binding upon such Sub Vendor or vendor.
6. The provisions of this section shall not apply to an Agreement entered into by ADPI:
 - a. If ADPI employs fewer than four employees during the term of such contract; or
 - b. If ADPI's contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

B. ADPI further agrees that ADPI shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the

applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

VI. INDEMNITY

A. Definitions

For purposes of indemnification requirements as set forth throughout the Contract, the following terms shall have the meanings set forth below:

1. "ADPI" means and includes ADPI EMS Billing, Inc., all of its affiliates and subsidiaries, its sub vendors and material men and their respective servants, agents and employees; and
2. "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including attorney's fees and the reasonable cost of defense), in connection with any action, proceeding, demand or claim, whether real or spurious, for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with, or are claimed to arise out of or be connected with, the performance of this Agreement, whether arising before or after the completion of the performance required hereunder.

B. The Indemnity

For purposes of this Agreement, and without in any way limiting indemnification obligations that may be set forth elsewhere in the Agreement, ADPI hereby agrees to indemnify, defend and hold harmless the City from any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of ADPI.

ADPI shall defend, protect, indemnify and hold harmless the City, it's officers, agents and employees against all suits of law or in equity resulting from patent and copyright infringement concerning ADPI's performance or products produced under the terms of the agreement.

It is agreed as a specific element of consideration of this Agreement that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third

party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.

C. General Limitation

Nothing in this section shall be deemed to impose liability on ADPI to indemnify the City for loss when the City's negligence or other actionable fault is the sole cause of loss.

D. Waiver of Statutory Defenses

With respect to the City's rights as set forth herein, ADPI expressly waives all statutory defenses, including, but not limited to, those under workers compensation, contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purposes of this section.

VII. LAWS AND ORDINANCES

ADPI shall be fully familiar with all City, County, State and Federal laws, ordinances or regulations which would in any way control the actions or operations of those engaged in the performance of this Contract or which would affect the materials supplied to or by them. It shall at all times observe and comply with all ordinances, laws and regulations and shall protect and indemnify and defend the City and the City's officers and agents against any claims or liability arising from or based on any violation of same.

VIII. APPLICABLE LAW

This Agreement is entered into under and pursuant to the laws of the State of Kansas.

IX. TAXES

The City is tax exempt as a political subdivision under Section 4221(a) of the Internal Revenue Code and K.S.A. 79-3606(b).

X. HIPAA COMPLIANCE

The parties agree that they will comply with the Administrative Simplification provision of the Health Insurance Portability and Accountability Act of 1996, Public Law, 104-191 (HIPAA) and the Health and Human Services regulations implementing the Administrative Simplification. The parties agree they are entering a confidential relationship with respect to the disclosure by the City to

ADPI of certain protected health information. ADPI shall execute a Business Associate's Agreement with the City pursuant to the requirements of the HIPAA. The Agreement shall be attached hereto and incorporated by reference herein as Exhibit B. ADPI appreciates the confidential nature of the City's business and will not disclose clinical or financial information to third parties except in compliance with said Business Associate's Agreement.

XI. DISPUTE RESOLUTION

City and ADPI agree that disputes relative to the services shall first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute ADPI shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without the City's express written consent.

XII. INSURANCE

ADPI shall maintain and carry in force for the duration of the Agreement, insurance coverage of the types and minimum liability limits as set forth below:

A. Commercial General Liability

\$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Minimum \$1,000,000 aggregate.

B. Worker's Compensation and Employer's Liability

- 1. Worker's Compensation Statutory
 (includes allstates endorsement)

- 2. Employer's Liability \$100,000 each accident
 \$100,000 each accident – Disease
 \$500,000 policy limit – Disease

C. Crime Policy

ADPI shall maintain throughout the duration of this contract a Crime Policy in an amount not less than One Million Dollars (\$1,000,000), and shall provide the City with certification thereof. The City shall be named as an additional loss payee on the Certificate of insurance.

D. Professional Liability

ADPI shall maintain throughout the duration of this contract Professional Liability Insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000), and shall provide the City with certification thereof.

The City will only accept coverage from an insurance carrier who is licensed to do business in the State of Kansas and carries a rating by Best of not less than "A." ADPI shall provide certificates of insurance verifying this coverage on forms acceptable to the City.

XIII. ASSIGNMENT AND SUBCONTRACTING

ADPI shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, nor any of its rights and obligations hereunder without the prior written consent of the City which may be withheld at the City's sole and absolute discretion.

IX. AGREEMENT STATUS

This Agreement is and shall be deemed an independent contract for services and ADPI, and all persons providing services on behalf of ADPI under this Agreement, shall be deemed independent contractors and shall not be deemed under any circumstance employees of the City.

X. NOTICES

All notices, reports or correspondence required or permitted by or from one party to the other under this Agreement shall be made in writing, delivered personally, or by the United States mail, postage prepaid to the following addressees, or other location as either party may from time to time designate:

CITY: Kim Nemitz, Deputy Chief of Administrative Services
9550 W. 95th Street
Overland Park, Kansas 66212

ADPI: Brad Williams, Vice President-Finance
500 NW 165th Street, Suite 104
Miami, Florida 33169

XI. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the City and ADPI with respect to EMS billing services, and supersedes any and all prior understandings or promises, whether oral or written, between the parties pertaining to or in connection with this Agreement, or services required hereunder.

XII. CONTRACT DOCUMENTS

Should any ambiguity, inconsistency or conflict arise in the interpretation of the Contract Documents, the same shall be resolved by reference first to the terms and conditions of this Agreement, and then by reference to the provisions and representations contained within the documents enumerated in the order set forth in Section I F hereinabove.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

City of Overland Park, Kansas:

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

Tammy M. Owens
Senior Assistant City Attorney

ADPI, Inc.:

Doug Shamon, President

