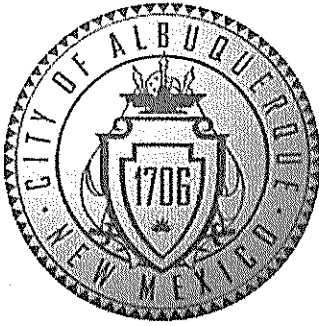


EC-21-373



Mayor Timothy M. Keller

# CITY OF ALBUQUERQUE


Albuquerque, New Mexico

Office of the Mayor

## INTER-OFFICE MEMORANDUM

April 30, 2021

**TO:** Cynthia Borrego, President, City Council

**FROM:** Timothy M. Keller, Mayor 

**SUBJECT:** Agreement with New Mexico Tactical Emergency Medical Support


This Executive Communication requests approval of a contract with New Mexico Tactical Emergency Medical Support for the purpose of providing oversight as the medical director to APD EMT's, APD Narcan Program, oversight to the implementation of training programs for several medical areas, will serve as subject matter expert on health related issues facing APD and will provide additional services as requested by the APD Chief of Police. The amount of the contract is \$125,000 per year for a possible total contract of \$375,000.

The Contractor has worked with APD over the years and is qualified and capable of providing their expertise to APD.

APD requests your acceptance of this Executive Communication.

Agreement with New Mexico Tactical Emergency Medical Support


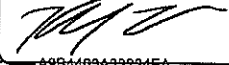
Approved:

 5/17/21  
\_\_\_\_\_  
Sarita Nair Date  
Chief Administrative Officer

Approved as to Legal Form:

DocuSigned by:  
Esteban A. Aguilar 4/30/2021 | 6:13 PM MDT  
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Esteban A. Aguilar, Jr. Date  
City Attorney

Recommended:

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DocuSigned by:  
 4/30/2021 | 3:15 PM PDT  
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Harold J Medina Date  
Chief of Police

## **Cover Analysis**

**1. What is it?** This Executive Communication is to approve an agreement with New Mexico Tactical Emergency Medical Support.

**2. What will this piece of legislation do?** This legislation will authorize the City of Albuquerque Police Department to enter into a two year agreement with the New Mexico Tactical Emergency Medical Support with the option of extending one more year for a total of three years. The New Mexico Tactical Emergency Medical Support will serve as medical director to provide oversight of APD's emergency medical technicians (EMT's), APD's Narcan Program, and the implementation of training programs. Contractor will also serve as APD's subject matter expert on all health related issues and provide additional services as requested by the Chief of Police.

**3. Why is this project needed?** A medical director oversight of EMT's is required under New Mexico Administrative Code 7.27.3 NMAC. The oversight of the Narcan Program is required under Section 7-7.6 NMSA 1978. The oversight and implementation of training programs is required under Section 29-7-7.7 NMSA 2978.

**4. How much will it cost and what is the funding source?** This request will approve the funding of \$250,000 for two years with the option of another \$125,000 for a total of \$375,000. The increase in funds for FY2021 and FY2022 are made available by the reduction of repairs and maintenance. Funding for FY2023 and FY2024 is contingent upon approval of the General Fund budget.

**5. Is there a revenue source associated with this Plan? If so, what level of income is projected?** No

FISCAL IMPACT ANALYSIS

TITLE: Contract with New Mexico Tactical Emergency Medical Support

R:  
FUND: 110

O:  
  
DEPT: Police

- ☒ No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- ☐ (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	Fiscal Years			
	2021	2022	2023 - 2024	Total
Base Salary/Wages				-
Fringe Benefits at	-	-	-	-
Subtotal Personnel	-	-	-	-
Operating Expenses	125,000	125,000	125,000	375,000
Property		-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ 125,000	\$ 125,000	\$ 125,000	\$ 375,000
<input type="checkbox"/> Estimated revenues not affected				
<input type="checkbox"/> Estimated revenue impact				
Revenue from program				-
Amount of Grant		-	-	
City Cash Match				
City Inkind Match				
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.  
\* Range if not easily quantifiable.

Number of Positions created 0

**COMMENTS:** The contract is to commence on signing date thru FY2023 with an option of a third year renewal ending FY2024 funding is for \$250,000 applied over the life of the contract expiring FY2023. Funding for the third year will be for \$125,000 leading to a total contract amount of \$375,000. Allocations listed above are estimates only and will not exceed in total the \$375,000 as usage varies year to year. The increase in funds will be offset by a reduction in repairs and maintenance for FY21 and FY22. Funding for additional years is contingent on approval of the General Fund budget.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

DocuSigned by:

Aubrey D. Thompson

4/30/2021 | 12:52 PM PDT

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FISCAL MANAGER

APPROVED:

DocuSigned by:

4/30/2021 | 3:15 PM PDT

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DIRECTOR (date)

REVIEWED BY:

DocuSigned by:

Emma U Romero

4/30/2021 | 4:23 PM MDT

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EXECUTIVE BUDGET ANALYST

DocuSigned by:

Lawrence L. Davis

4/30/2021 | 4:29 PM MDT

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BUDGET OFFICER (date)

DocuSigned by:

Christine Baumer

4/30/2021 | 4:51 PM MDT

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CITY ECONOMIST

## AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Albuquerque, New Mexico, a municipal corporation ("City"), and New Mexico Tactical Emergency Medical Support, a New Mexico limited liability corporation, 1210 US Route 66 Suite D, Moriarty, NM 87035 ("Contractor").

## RECITALS

WHEREAS, the City of Albuquerque Police Department ("APD") has a need for a board certified emergency medicine physician to serve as medical director; and

WHEREAS, the Contractor is an experienced agency and can complete the tasks that will be required; and

WHEREAS, the Services set forth herein are authorized under the Public Purchases Ordinance, Section 5-5-20(S) medical services; and

WHEREAS, because the cost for the Services are anticipated to exceed \$100,000, the Agreement requires City Council approval under the Public Purchases Ordinance, Section 5-5-19; and

WHEREAS, the City desires to engage the Contractor to render certain services in connection therewith and the Contractor is willing to provide such services.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

**1. Scope of Services.** The Contractor shall perform the following services ("Services") in a satisfactory and proper manner, as determined by the City:

A. Provide oversight of APD's emergency medical technicians (EMTs), as required under the New Mexico Administrative Code 7.27.3 NMAC. APD's EMTs care for sick or injured persons on high-risk call outs, utilize their skills and training to administer emergency medical care during regular street shifts, and provide medical standby and treatment to APD's law enforcement academy during high-risk academy activities;

B. Provide oversight of APD's Narcan Program as required under Section 29-7-7.6 NMSA 1978, and ensure the program's compliance with the City's current policies;

C. Provide oversight of and implementation of training programs for use of tourniquets and first aid as required under Section 29-7-7.7 NMSA 2978;

D. Serve as APD's subject matter expert on emerging infections, public health emergencies, pandemics, epidemics, and other health related issues facing APD; and

F. Provide additional services as requested by the APD Chief of Police.

**2. Time of Performance.** Services of the Contractor shall commence upon execution of Agreement, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement; provided, however, that in any event, all of the Services required hereunder shall be completed within two (2) years. The parties may by mutual written agreement extend this Agreement for another, one (1) year term.

**3. Compensation and Method of Payment.**

**A. Compensation.** For performing the Services specified in Section 1 hereof, the City agrees to pay the Contractor up to the amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00), which amount includes any applicable gross receipts taxes and which amount shall constitute full and complete compensation for the Contractor's Services under this Agreement, including all expenditures made and expenses incurred by the Contractor in performing the Services. In the event that this Agreement is extended pursuant to Section 2, the compensation shall be increased by up to One Hundred Twenty-Five Thousand and No/100 Dollars (\$125,000.00) for a total compensation of Three Hundred Seventy-Five Thousand and No/100 Dollars (\$375,000.00).

**B. Method of Payment.** Such amount shall be payable at the rate of One Hundred Fifty and No/100 Dollars (\$150.00) per hour, which rate includes any applicable gross receipt taxes. Payments shall be made to the Contractor monthly for completed Services upon receipt by the City of properly documented requisitions for payment as determined by the budgetary and fiscal guidelines of the City and on the condition that the Contractor has accomplished the Services to the satisfaction of the City.

**C. Appropriations.** Notwithstanding any provision in this Agreement to the contrary, the terms of this Agreement are contingent upon the City Council of the City of Albuquerque making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement may be terminated at the end of the City's then current Fiscal Year upon written notice given by the City to the Contractor. Such event shall not constitute an event of default. All payment obligations of the City and all of its interest in this Agreement will cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

**D. Responsibility to Monitor Contract.** The Contractor shall be responsible for ensuring that the Contractor does not bill for Services in an amount that exceeds the total contract amount. With each invoice submitted to the City, the Contractor shall include a ledger report that identifies the total amount the Contractor has billed for Services under this Agreement and any Supplements to this Agreement. If at any time the Contractor determines that payment for Services may or will exceed the total amount provided in this Agreement and any Supplements to this Agreement, the Contractor shall notify the City in writing, as soon as possible after making that determination. If the Contractor's billing exceeds the amount of this Agreement and any Supplements, the City may stop or delay payment, or the Services may be ceased or delayed at the

City's request.

**4. Independent Contractor.** Neither the Contractor nor its employees are considered to be employees of the City of Albuquerque for any purpose whatsoever. The Contractor is considered as an independent contractor at all times in the performance of the Services described in Section 1. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the City under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

**5. Personnel.**

A. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the City.

B. All the Services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

C. None of the work or the Services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or Services subcontracted hereunder shall be specified by written contract or Agreement and shall be subject to each provision of this Agreement.

**6. Indemnity.** The Contractor agrees to defend, indemnify and hold harmless the City and its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties because of any injury or damage received or sustained by any person, persons or property arising out of or resulting from the Services performed by the Contractor under this Agreement or by reason of any asserted act or omission, neglect or misconduct of the Contractor or Contractor's agents or employees or any subcontractor or its agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

**7. Insurance.** The Contractor shall procure and maintain at its expense until final payment by the City for Services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations under this Agreement, whether performed by it or its agents. Before commencing the Services and on the renewal of all coverages, the Contractor shall furnish to the City a certificate or certificates in form satisfactory to the City showing that it has complied with this Section. All certificates of insurance shall provide that thirty (30) days' written notice be given to the Risk Manager, Department of Finance and Administrative Services, City of Albuquerque, P.O. Box 470, Albuquerque, New Mexico 87103, before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. With respect to all coverages required other than professional liability or workers' compensation, the City shall be named an additional insured. All coverages afforded

shall be primary with respect to operations provided. Kinds and amounts of insurance required are as follows:

**A. Commercial General Liability Insurance.** A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$1,000,000	Per Occurrence
\$1,000,000	Policy Aggregate
\$1,000,000	Products Liability/Completed Operations
\$1,000,000	Personal and Advertising Injury
\$ 50,000	Fire - Legal
\$ 5,000	Medical Payments

Said policy of insurance must include coverage for all operations performed for the City by the Contractor, and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement.

**B. Automobile Liability Insurance.** An automobile liability policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. Said policy of insurance must include coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work.

**C. Professional Liability (Errors and Omissions) Insurance.** Professional liability (errors and omissions) insurance in an amount not less than \$1,000,000 combined single limit of liability per occurrence with a general aggregate of \$1,000,000.

**D. Workers' Compensation Insurance.** Workers' Compensation Insurance for its employees in accordance with the provisions of the Workers' Compensations Act of the State of New Mexico.

**E. Increased Limits.** If, during the term of this Agreement, the City requires the Contractor to increase the maximum limits of any insurance required herein, an appropriate adjustment in the Contractor's compensation will be made.

**8. Discrimination Prohibited.** In performing the Services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, physical handicap, or disability as defined in the Americans With Disabilities Act of 1990, as now enacted or hereafter amended.

**9. ADA Compliance.** In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the Americans With Disabilities Act of 1990, and all applicable rules and regulations (the 'ADA'), which are imposed directly on the Contractor or which would be imposed on the City as a public entity. The Contractor agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or



proceedings of any kind brought against said parties as a result of any acts or omissions of the Contractor or its agents in violation of the ADA.

**10. Conflict of Interest.** No officer, agent or employee of the City will participate in any decision relating to this Agreement which affects that person's financial interest, the financial interest of his or her spouse or minor child or the financial interest of any business in which he or she has a direct or indirect financial interest.

**11. Interest of Contractor.** The Contractor agrees that it presently does not have, and shall acquire no direct or indirect interest which conflicts in any manner or degree with the performance of the terms of this Agreement. The Contractor will not employ any person who has any such conflict of interest to assist the Contractor in performing the Services.

**12. No Collusion.** The Contractor represents that this Agreement is entered into by the Contractor without collusion on the part of the Contractor with any person or firm, without fraud and in good faith. The Contractor also represents that no gratuities, in the form of entertainment, gifts or otherwise, were, or during the term of this Agreement, will be offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view towards securing this Agreement or for securing more favorable treatment with respect to making any determinations with respect to performing this Agreement.

**13. Debarment, Suspension, Ineligibility and Exclusion Compliance.** The Contractor certifies that it has not been debarred, suspended or otherwise found ineligible to receive funds by any agency of the executive branch of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States. The Contractor agrees that should any notice of debarment, suspension, ineligibility or exclusion be received by the Contractor, the Contractor will notify the City immediately.

**14. Reports and Information.** At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information, as the City may request pertaining to matters covered by this Agreement. Unless otherwise authorized by the City, the Contractor will not release any information concerning the work product including any reports or other documents prepared pursuant to this Agreement until the final product is submitted to the City.

**15. Open Meetings Requirements.** Any nonprofit organization in the City which receives funds appropriated by the City, or which has as a member of its governing body an elected official, or appointed administrative official, as a representative of the City, is subject to the requirements of § 2-5-1 et seq., R.O.A. 1994, Public Interest Organizations. The Contractor agrees to comply with all such requirements, if applicable.

**16. Establishment and Maintenance of Records.** Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the City with respect to all matters covered by this Agreement. Except as otherwise authorized by the City, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.

**17. Audits and Inspections.** At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. The Contractor understands and will comply with the City's Accountability in Government Ordinance, §2-10-1 et seq. and Inspector General Ordinance, §2-17-1 et seq. R.O.A. 1994, and also agrees to provide requested information and records and appear as a witness in hearings for the City's Board of Ethics and Campaign Practices pursuant to Article XII, Section 8 of the Albuquerque City Charter.

**18. Ownership, Publication, Reproduction and Use of Material.** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

**19. Compliance With Laws.** In performing the Services required hereunder, the Contractor shall comply with all applicable laws, ordinances, and codes of the federal, state and local governments.

**20. Changes.** The City may, from time to time, request changes in the Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Agreement.

**21. Assignability.** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the City thereto.

**22. Termination for Cause.** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by the Contractor under this Agreement shall, at the option of the City, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the City from the Contractor is determined.

**23. Termination for Convenience of City.** The City may terminate this Agreement at any time by giving at least fifteen (15) days' notice in writing to the Contractor. If the Contractor is terminated by the City as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the Services actually performed bear to the total Services of the Contractor covered by this Agreement, less payments of compensation previously made. If this Agreement is terminated due to the fault of the Contractor, the preceding Section hereof relative to termination shall apply.

**24. Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

**25. Enforcement.** The Contractor agrees to pay to the City all costs and expenses including reasonable attorney's fees incurred by the City in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

**26. Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

**27. Applicable Law and Venue.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque. The venue for actions arising out of this Agreement is Bernalillo County, New Mexico.

**28. Force Majeure.** The City shall not be liable for failure to perform its obligations under this Agreement due to causes beyond the control and without the fault or negligence of the City which would render such performance impossible or hazardous. Such causes include, but are not restricted to, acts of God or the public enemy, acts of State or Federal governments, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above (hereinafter "Force Majeure Event"). If a Force Majeure Event causes any failure to perform, the City shall promptly inform the Contractor in writing of such event, indicating the expected duration thereof and the period for which suspension in performance is requested. The parties shall consult with each other in good faith with respect to modification of this Agreement to reflect such suspension or other changes (if any) desired by the City as a result thereof. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

**29. Electronic Signatures.** The parties agree that this Agreement may be electronically signed and that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

**30. Approval Required.** This Agreement shall not become binding upon the City until approved by the highest approval authority of the City required under this Agreement.