

# City of Calistoga

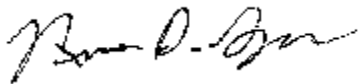
## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** Dan Takasugi, Public Works Director/City Engineer  
**DATE:** December 6, 2011  
**SUBJECT:** Consideration of a Resolution authorizing a Rental Agreement with American Medical Response

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APPROVAL FOR FORWARDING:



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Richard D. Spitler, City Manager

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2 **ISSUE:** Consideration of a Resolution authorizing the City Manager to negotiate  
3 the monthly rent and to execute a Rental Agreement with American Medical  
4 Response (AMR) to occupy a mobile home on public property below the Public  
5 Works Corporation Yard.

6  
7 **RECOMMENDATION:** Adopt Resolution.

8  
9 **BACKGROUND/DISCUSSION:** Approximately 20 years ago, individuals in the  
10 community desired to provide Calistoga residents with 24-hour ambulance  
11 service, and formed Calistoga Emergency Services Inc. (CESI), a non-profit  
12 organization. CESI acquired a donated mobile home, which was relocated to the  
13 south end of Washington Street on City property and made available to a private  
14 company for ambulance service office/residence. Mercy-St. Helena Ambulance  
15 and Piner Ambulance provided ambulance service to the Calistoga/St. Helena  
16 area for a number of years through a contract administered by Napa County.  
17 Both ambulance services utilized the mobile home in Calistoga as a base from  
18 which to provide 24-hour/day coverage to the community.

19  
20 In 2011 the County underwent a process to select new service providers in the  
21 UpValley and DownValley portions of the County. AMR was selected and an

22 agreement authorized by the Board of Supervisors. The new service agreement  
23 anticipates AMR's presence in Calistoga occupying the mobile home beginning  
24 in January 2012.

25 Staff has negotiated directly with AMR, and has prepared a rental agreement for  
26 the mobile home, which has been approved by the City Attorney. Staff  
27 recommends that Council review the five-year lease agreement and adopt the  
28 attached Resolution authorizing its execution.

29 **FISCAL IMPACT:** The lease will provide for rent in the amount of \$1,000 per  
30 month (utilities and maintenance are the responsibility of the tenant).

31

32 City staff has negotiated that no direct funding from the City is required in  
33 conjunction with the current ambulance service contract.

34

35 **ATTACHMENTS:**

36

- 37 1. Draft Resolution
- 38 2. Rental Agreement

39

1  
2 **RESOLUTION 20011 -**  
3

4  
5 **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,**  
6 **COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING A**  
7 **RENTAL AGREEMENT WITH AMERICAN MEDICAL RESPONSE (AMR)**  
8

9  
10 Authorizing Agreement No. \_\_\_\_\_  
11

12  
13 **WHEREAS**, in 2011 Napa County underwent a process to select new ambulance  
14 service providers in the UpValley and DownValley portions of the County; and  
15

16 **WHEREAS**, an agreement endorsed by the City of St. Helena and the City of  
17 Calistoga was authorized by the Board of Supervisors in 2011 granting a contract to  
18 American Medical Response (AMR) to provide service in the UpValley area; and  
19

20 **WHEREAS**, the proposed service agreement anticipates AMR's presence in  
21 Calistoga occupying the mobile home located at the south end of Washington Street on  
22 City property below the Public Works Corporation Yard; and  
23

24 **WHEREAS**, City staff has negotiated directly with AMR, and has prepared a rental  
25 agreement for the mobile home, which has been approved by the City Attorney.  
26

27 **NOW, THEREFORE BE IT RESOLVED**, that the Calistoga City Council hereby  
28 authorizes the City Manager to execute a five-year rental agreement between the City of  
29 Calistoga and American Medical Response (AMR).  
30

31 **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of  
32 Calistoga at a regular meeting held this **6th day of December 2011** by the following vote:  
33

34 **AYES:**

35  
36 **NOES:**

37  
38 **ABSTAIN/ ABSENT:**  
39

40  
41 \_\_\_\_\_  
42 **JACK GINGLES, Mayor**

43 **ATTEST:**

44  
45 \_\_\_\_\_  
46 **Amanda Davis, Deputy City Clerk**

## MOBILE HOME RENTAL AGREEMENT

Authorizing Agreement No. \_\_\_\_

This Rental Agreement is entered into effective January 1, 2012, between the CITY OF CALISTOGA, a California municipal corporation ("**City**"), and the AMERICAN MEDICAL RESPONSE WEST, a California corporation ("**Tenant**"), who agree as follows:

### 1. Background

A. City is the owner of that certain mobile home residence located at 406 Washington in the City of Calistoga within the City's Corporation Yard consisting of 2 bedrooms, 1 bathroom, and 388 square feet of double wide trailer (the "Mobile Home").

B. Tenant wishes to use the Mobile Home as an office, eating and sleeping area for its business activities.

C. On December 6, 2011, the Calistoga City Council adopted Resolution No.\_\_\_\_\_, authorizing the City Manager to execute an agreement providing for the rental of the Mobile Home by City to Tenant on the terms set forth herein.

D. City desires to rent to Tenant and Tenant desires to rent from City the Mobile Home, as hereinafter defined, on the terms and conditions set forth in this Rental Agreement.

### Section 1. Rental Agreement.

(a) Mobile Home. City rents to Tenant and Tenant rents from City that certain Mobile Home in the City of Calistoga, depicted in the Site Plan attached hereto as Exhibit A on the terms and conditions set forth herein. Tenant has no leasehold or possessory interest in the Property, and such rental arrangement is a license to use the Mobile Home and a limited license to cross the Property on marked driveways to gain access to the public street. The Mobile Home is owned by City, and City has granted a limited license for the Mobile Home to be located on the Property.

(b) Parking. Tenant shall have the exclusive right to use up to 3 parking spaces in the parking facilities located on the Property and marked on Exhibit A, so long as such parking does not unreasonably interfere with the City's use of the Property and the corporation yard.

### Section 2. Term of Rental Agreement; Extension Option; City's Option to Terminate.

(a) Term. The initial term of this Rental Agreement shall be five (5) years commencing on January 1, 2012 ("**Commencement Date**") and expiring on December 31, 2017 ("**Expiration Date**"), unless extended as provided in subsection (b) below or sooner terminated pursuant to the terms of this Rental Agreement.

(b) Extension. Tenant may extend the initial term of the Rental Agreement for a period of five (5) years on mutual agreement of City and Tenant, provided:

(i) At the time of the Expiration Date, Tenant shall not be in material default of the Rental Agreement; and

(ii) Tenant must give written notice given to City not less than six (6) months prior to expiration of the initial term of its desire to extend the Rental Agreement.

(c) City's Option to Terminate. Tenant acknowledges and agrees that the parties have entered into this Rental Agreement for the purpose of providing a site for Tenant's ambulance service delivery to the Calistoga area and that City may need to terminate the Rental Agreement and retake possession of the Mobile Home to accommodate future public projects. Tenant further agrees that City shall have an option to terminate this Rental Agreement on the following conditions:

(i) City may exercise its option to terminate by written notice delivered to Tenant not less than three (3) months prior to the effective date of termination specified in City's notice. If City exercises its option to terminate, (1) this Rental Agreement shall terminate on the effective date of termination set forth in City's notice as if such date were the Expiration Date set forth in Section 2(a) above; and (2) Tenant shall remove any trade fixtures, remove any tenant improvements designated by City for removal, repair any damage, restore the Premises to a clean and orderly condition, and surrender and deliver possession of the Mobile Home to City free of debris as provided in Section 10(a) below.

### **Section 3. Rent.**

(a) The rent shall be \$1,000 per month for the term of this Rental Agreement. Rent shall be paid on the first day of each month commencing on the Commencement Date, without deduction, set-off, prior notice or demand.

(b) Rent amount shall be increased annually each July 1<sup>st</sup> starting on July 1, 2012 by the annual percent change in the All Urban Consumer Price Index for San Francisco-Oakland-San Jose median measurement from June to April for the previous year.

### **Section 4. Use.**

Tenant shall use the Mobile Home for office facilities and sleeping and eating purposes. In no event shall the Mobile Home be used as a primary residence for any person(s). Tenant shall not allow the commission of any acts on the Mobile Home, nor allow use of the Mobile Home in any manner, that might cause the cancellation of any insurance covering the Mobile Home. Tenant shall not allow the commission of any waste or any public or private nuisance upon the Mobile Home. Tenant shall, at its expense, comply with all laws, rules, regulations and orders of all federal, state, and local governments or agencies that may be applicable to use of the Mobile Home, including but not limited to the General Plan and Zoning Ordinance of the City of Calistoga, in their current form or as they may hereafter be amended.

## **Section 5. Utilities; Personal Property Taxes.**

(a) Utilities. During the term, Tenant shall make arrangements for and pay, prior to delinquency, all utilities and services furnished to or used by it with respect to the Mobile Home, including without limitation electricity, natural gas, water, telephone, television cable services, and solid waste collection and all charges related thereto. Tenant acknowledges that the PG&E electric meter servicing the Mobile Home also serves the adjacent Little League field for minimal electric use. Tenant may seek proportional PG&E electric cost reimbursement from the Little League field lessee at their own coordination and cost.

(b) Personal Property Taxes. Tenant shall pay, prior to delinquency, any and all personal property taxes levied, if any, on the improvements and other personal property installed on the Mobile Home pursuant to this Rental Agreement.

## **Section 6. Condition of Mobile Home.**

Tenant acknowledges that it has inspected the Mobile Home and conducted all investigations of the Mobile Home which Tenant deems necessary or desirable. Tenant accepts the Mobile Home in its "AS IS" condition with no representations or warranties whatsoever from City as to its suitability for Tenant's intended purposes.

## **Section 7. Repairs and Maintenance.**

Tenant shall be responsible, at its sole expense, for maintenance and repair of the Mobile Home throughout the term of this Rental Agreement. If Capital maintenance is required due to Tenant's gross negligence or intentional misconduct, such repairs shall be at Tenant's sole expense. Capital maintenance shall include the renovation, repair or replacement of any building components of the Mobile Home or any mechanical or operating system contained in the Mobile Home and any work necessary to reasonably preserve the Mobile Home. Tenant waives the provisions of Civil Code sections 1941 and 1942 and any other law that would require City to maintain the Mobile Home in a tenantable condition or would provide Tenant with the right to make repairs and deduct the cost of those repairs from the rent.

## **Section 8. Tenant Improvements.**

Tenant may not construct any additional alterations or improvements to the Mobile Home without City's reasonable consent. City may reasonably withhold such consent if the improvements or alterations alter the structural portions of the Mobile Home or modify the external appearance.

## **Section 9. Entry.**

Tenant shall permit City and City's agents, representatives, and employees to enter upon the Mobile Home at all reasonable times and upon reasonable notice (except in an emergency in which case no notice shall be required) to inspect the Mobile Home, to determine whether Tenant is complying with the terms of this Rental Agreement and to do other lawful acts that may be necessary to protect City's interest in the Mobile Home.

## **Section 10. Surrender of Mobile Home; Holding Over.**

(a) Surrender. By the Expiration Date or earlier termination of the term, Tenant, at its expense, shall (i) at City's option, cause the tenant improvements and/or any subsequent alterations or improvements, utilities and trade fixtures installed by Tenant, to be removed from the Mobile Home; and (ii) promptly surrender and deliver possession of the Mobile Home to City free of debris, clean and in good repair.

(b) Holdover. In the event Tenant holds over with permission of the City for any reason beyond the Expiration Date, in the absence of a written agreement to the contrary, the tenancy shall be from month-to-month and the holdover rent shall be 150% of the rent in effect immediately prior to the expiration.

## **Section 11. Indemnity.**

As insurance is available to protect it, Tenant hereby waives all claims against City for damage to any Mobile Home or injury to or death of any person in, upon or about the Mobile Home arising at any time and from any cause, and Tenant shall hold City harmless from and defend City against all claims and liabilities for damage to any property or injury to or death of any person (i) arising from the use of the Mobile Home by Tenant, or (ii) arising from the negligence or willful misconduct of Tenant, its employees, agents or contractors in, upon or about the Mobile Home. The foregoing indemnity obligation of Tenant shall include reasonable attorneys' fees, investigation costs and all other reasonable costs and expenses incurred by City from the first notice that any claim or demand is to be made or may be made. The provisions of this Section 11 shall survive the termination of this Rental Agreement with respect to any damage, injury or death occurring prior to such termination.

## **Section 12. Insurance.**

(a) Liability; Worker's Comp; Employer's Insurance. Tenant shall obtain and maintain during the term of this Rental Agreement commercial general liability insurance with a combined single limit for personal injury and property damage in an amount not less than Two Million Dollars (\$2,000,000), and employer's liability and workers' compensation insurance as required by law, as well as medical malpractice insurance. Tenant's commercial general liability insurance policy shall be endorsed to provide that (i) it may not be canceled or altered in such a manner as adversely to affect the coverage afforded thereby without thirty (30) days prior written notice to City, (ii) City is named as additional insured, (iii) the insurer acknowledges acceptance of the waiver of claims by Tenant pursuant to Section 11 above, and (iv) such insurance is primary with respect to City and that any other insurance or self-insurance maintained by City is excess and noncontributing with such insurance. If, in the reasonable opinion of City's insurance adviser, based on a substantial increase in recovered liability claims generally, the specified amounts of coverage are no longer adequate, within fifteen (15) days following notice from City such coverage shall be appropriately increased.

(b) Property Insurance. Tenant shall also obtain and maintain insurance ("**Property Insurance**") covering the Mobile Home and all tenant improvements paid for by Tenant and Tenant's personal property and fixtures from time to time in, on, or at the Mobile Home, in an amount not less than 100% of the full replacement cost, without deduction for depreciation,

providing protection against events protected under "Fire and Extended Coverage," as well as against sprinkler damage, vandalism, and malicious mischief. Any proceeds from the Property Insurance shall be used for the repair or replacement of the property damaged or destroyed. Prior to the Commencement Date, Tenant shall deliver to City a duplicate of the policies required hereunder or a certificate thereof with endorsements, and at least twenty (20) days prior to the expiration of such policies or any renewal thereof, Tenant shall deliver to City a replacement or renewal binder, followed by a duplicate policy or certificate within a reasonable time thereafter. If Tenant fails to obtain such insurance or to furnish City any such duplicate policy or certificate as herein required, City may, at its election, following seven (7) days prior notice to Tenant (except where coverage has lapsed or threatens to lapse) and without any obligation so to do, procure and maintain such coverage and Tenant shall reimburse City on demand as additional rent for any premium so paid by City.

### **Section 13. Assignment and Subletting.**

Tenant shall not have any right to assign this Rental Agreement or sublease the right to use the Mobile Home.

### **Section 14. Default.**

Any of the following events or occurrences shall constitute a material breach of this Rental Agreement by Tenant and, after the expiration of any applicable cure period, shall constitute an event of default (each an "**Event of Default**"):

(a) The failure by Tenant to pay any amount in full when it is due under this Rental Agreement;

(b) The failure by Tenant to perform any other obligation under this Rental Agreement, if the failure has continued for a period of ten (10) days after City demands in writing that Tenant cure the failure. If, however, by its nature the failure cannot be cured within ten (10) days, Tenant may have a longer period as is necessary to cure the failure, in any event not to exceed thirty (30) days, but this is conditioned upon Tenant's promptly commencing to cure within the ten (10) day period and thereafter diligently completing the cure. Notwithstanding the foregoing, if Tenant has defaulted in the performance of the same obligation more than one time in any twelve (12) month period and notice of such default has been given by City in each instance, no cure period shall thereafter be applicable hereunder. Tenant shall indemnify, defend and hold harmless City against any liability, claim, damage, loss, or penalty that may be threatened or may in fact arise from that failure during the period the failure is uncured;

(c) The appointment of a trustee or receiver to take possession of all or substantially all of Tenant's assets; or the attachment, execution or other judicial seizure of all or substantially all of Tenant's assets located at the Mobile Home or of Tenant's interest in this Rental Agreement, unless the appointment or attachment, execution, or seizure is discharged within thirty (30) days; or the involuntary filing against Tenant, of (i) a petition to have Tenant declared bankrupt, or (ii) a petition for reorganization or arrangement of Tenant under any law relating to insolvency or bankruptcy, unless, in the case of any involuntary filing, it is dismissed within sixty (60) days;



- (d) The abandonment of the Mobile Home by Tenant; and

**Section 15. Remedies.**

Upon the occurrence of an Event of Default, City, in addition to any other rights or remedies available to City at law or in equity, shall have the right to terminate this Rental Agreement and all rights of Tenant under this Rental Agreement by giving Tenant written notice that this Rental Agreement is terminated.

Except where inconsistent with or contrary to any express provisions of this Rental Agreement, no right or remedy conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, or any right or remedy given or now or later existing at law or in equity or by statute.

**Section 16. Default Interest.**

If Tenant fails to pay any amount due under this Rental Agreement as and when due, that amount shall bear interest at the rate of ten percent (10%) per annum from the due date until paid, or at such lower rate as may be the highest rate legally permitted.

**Section 17. No Waiver of Breach.**

Any express or implied waiver of a breach of any term of this Rental Agreement shall not constitute a waiver of any further breach of the same or any other term of this Rental Agreement; and the acceptance of rent shall not constitute a waiver of any breach of any term of this Rental Agreement, except as to the payment of rent accepted.

**Section 18. Estoppel Certificates.**

At any time, with at least ten (10) days prior notice by City, Tenant shall execute, acknowledge, and deliver to City a certificate certifying: (a) the Commencement Date and the term; (b) the amount of the minimum annual rental; (c) that this Rental Agreement is unmodified and in full force and effect or, if there have been modifications, that this Rental Agreement is in full force and effect, as modified, and stating the date and nature of each modification; (d) that no notice has been received by Tenant of any default by Tenant that has not been cured, except, if any exist, those defaults as are specified by Tenant in the certificate; (e) that no default of City is claimed by Tenant, except, if any, those defaults as are specified by Tenant in the certificate, and (f) other matters as may be reasonably requested by City. Any certificate may be relied on by prospective purchasers, mortgagees, or beneficiaries under any deed of trust on the Mobile Home or any part thereof.

**Section 19. Attorneys' Fees.**

If any action at law or in equity is brought to recover any rent or other sums due under this Rental Agreement, or for or on account of any breach of, or to enforce or interpret any of, the covenants, terms, or conditions of this Rental Agreement, or for the recovery of the possession of the Mobile Home, the prevailing party shall be entitled to recover from the other party as part of prevailing party's costs reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

**Section 20. Notices.**

Except as otherwise expressly provided by law, all notices or other communications required or permitted by this Rental Agreement or by law to be served on or given to either party to this Rental Agreement by the other party shall be in writing and shall be deemed served when personally delivered to the party to whom they are directed, or three (3) business days after deposit in the United States Mail, first-class, postage prepaid, addressed as follows:

to Tenant at:

American Medical Response  

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Napa, CA 94558  
Attn: Bruce Lee, General Manager

with a copy to:

Legal Department  
American Medical Response, Inc.  
6200 South Syracuse Way, Suite 200  
Greenwood Village, CO 80111

to City at:

City of Calistoga  
1232 Washington Street  
Calistoga, CA 94515  
Attention: City Manager

with a copy to:

Burke, Williams & Sorensen, LLP  
1901 Harrison St, 9th Floor  
Oakland, CA 94612  
Attn: Michelle M. Kenyon, Esq.

Either party, Tenant or City, may change the address for the purpose of this Section by giving written notice of the change to the other party in the manner provided in this Section.

**Section 21. Successors in Interest.**

Subject to the provisions of this Rental Agreement prohibiting assignment or subletting by Tenant, this Rental Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of City and Tenant.

**Section 22. Severability.**

Should any provision of this Rental Agreement be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this Rental Agreement shall remain in effect to the fullest extent allowed by law.

**Section 23. Entire Agreement.**

This Rental Agreement constitutes the sole agreement between City and Tenant respecting the Mobile Home, the leasing of the Mobile Home to Tenant, and the specified term, and correctly sets forth the obligations of City and Tenant. Any other oral or written understandings, agreements or representations respecting the Mobile Home or the leasing thereof by City to Tenant not expressly set forth in this Rental Agreement are of no force or effect. All recitals are incorporated into the Rental Agreement by this reference.

**Section 24. Time of Essence.**

Time is of the essence in this Rental Agreement.

**Section 25. Amendments.**

This Rental Agreement may be modified only in writing and only if signed by the parties at the time of the modification.

**Section 26. Subordination.**

This Rental Agreement shall be subordinate to any ground lease, mortgage, deed of trust, security agreement or any other hypothecation for security now or later placed upon the Mobile Home and to any advances made on such security or City's interest in the Mobile Home, and to all renewals, modifications, consolidations, replacements, and extensions thereof. However, if any mortgagee, trustee, or ground lessor elects to have this Rental Agreement prior to the lien of its mortgage or deed of trust or prior to its ground lease, and gives notice of such election to Tenant, this Rental Agreement shall be deemed prior to the mortgage, deed of trust, or ground lease, whether this Rental Agreement is dated prior or subsequent to the date of the mortgage, deed of trust, or ground lease, or the date of recording thereof. If any mortgage or deed of trust to which this Rental Agreement is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, Tenant shall attorn to the purchaser at the foreclosure sale or to the grantee under the deed in lieu of foreclosure. If any ground lease to which this Rental Agreement is subordinate is terminated, Tenant shall attorn to the ground lessor. Tenant agrees to execute any documents, in form and substance reasonably acceptable to Tenant, required to subordinate this Rental Agreement, to make this Rental Agreement prior to the lien of any mortgage or deed of trust or ground lease, or to evidence the attornment.

**Section 27. Hazardous Materials.**

City and Tenant agree as follows with respect to the existence or use of Hazardous Materials on the Property.

(a) "**Environmental Laws**" shall mean all present and future applicable federal, state and local laws, ordinances or regulations or policies pertaining to Hazardous Materials (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof) or to industrial hygiene or the environmental conditions on, under or about the Property and to the protection of the environment or human or animal health and safety.

(b) "**Hazardous Materials**" shall mean any hazardous or toxic substance, material or waste the storage, use, or disposition of which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term Hazardous Material includes, without limitation, any material or substance which is (i) defined as hazardous or extremely hazardous pursuant to Article II of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ii) defined as a hazardous waste pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., (iii) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. or (iv) is listed or defined as a hazardous waste, hazardous substance, or other similar designation by any regulatory scheme of the State of California or the U.S. Government that is similar to the foregoing.

(c) Tenant shall not use, generate, manufacture, produce, store, release, discharge, or dispose of, on, under or about the Mobile Home or the Property or transport to or from the Mobile Home or the Property any Hazardous Material or allow its employees, agents, contractors, licenses, invitees or subtenants (collectively, "**Tenant's Agents**") to do so. Tenant shall comply with and shall cause Tenant's Agents to comply with, and shall keep and maintain the Mobile Home and cause Tenant's Agents to keep and maintain the Mobile Home in compliance with all Environmental Laws.

(d) Tenant shall give written notice to City promptly after Tenant receives notice of any of the following: (i) any proceeding or inquiry by, notice from, or order of any governmental authority (including, without limitation, the California State Department of Toxic Substances Control) with respect to the presence of any Hazardous Material on, under or about the Mobile Home or Property or the migration thereof from or to other property; and (ii) all claims made or threatened by any third party against Tenant or the Mobile Home or Property relating to any loss or injury resulting from any Hazardous Materials. Tenant shall give written notice to City promptly after Tenant becomes aware of any spill, release or discharge of Hazardous Materials with respect to the Mobile Home or Property by Tenant or Tenant's Agents.

(e) Tenant shall protect, defend, indemnify and hold harmless City, its directors, officers, partners, employees, agents, successor and assigns from and against any and all claims, fines, judgments, penalties, losses, damages, costs, expenses or liability (including reasonable attorneys' fees and costs) to the extent directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge or disposal of any Hazardous Material on, under or about the Property or the transportation of any Hazardous Material to or from the Mobile Home or Property by Tenant or Tenant's Agents including, without limitation, the costs of any investigation, monitoring, removal, restoration, abatement, repair, cleanup, detoxification or other ameliorative work of any kind or nature (collectively, "**Remedial Work**"). Tenant's obligations under this Section 27(e) shall survive the expiration or earlier termination of this Rental Agreement.

(f) Upon any spill or release of Hazardous Materials by Tenant or Tenant's Agents, Tenant shall promptly notify City of the spill or release of Hazardous Materials and shall, at its sole expense and promptly after demand by City, commence to perform and thereafter diligently prosecute to completion such Remedial Work as is required under Environmental Laws.

**Section 28. Governing Law.**

This Rental Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Calistoga.

**Section 29. Authority.**

If Tenant is a corporation, each individual executing this Rental Agreement on behalf of Tenant (not in his/her individual capacity, but only in his/her capacity as an officer of Tenant) represents and warrants that he is duly authorized to execute and deliver this Rental Agreement on behalf of the corporation in accordance with a duly adopted resolution of the Board of Directors and that this Rental Agreement is binding upon the corporation in accordance with its terms.

**Section 30. Joint & Several Liability.**

If more than one person or corporation is named as City or Tenant in this Rental Agreement and executes the same as such, then and in such event, the words "City" or "Tenant" wherever used in this Rental Agreement are intended to refer to all such persons or corporations, and the liability of such persons or corporations for compliance with and performance of all the terms, covenants and provisions of this Rental Agreement shall be joint and several.

**Section 31. Nondiscrimination**

Neither Tenant nor City shall discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this Rental Agreement.

**Section 32. Headings.**

The headings in the sections of this Rental Agreement are merely for the convenience of the parties.

**Section 33. Counterparts.**

This Rental Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Rental Agreement as of the date first above written.

**TENANT:**

AMERICAN MEDICAL RESPONSE WEST, a  
California corporation

By: \_\_\_\_\_  
Bruce Lee, General Manager

**CITY:**

CITY OF CALISTOGA, a California  
municipal corporation

By: \_\_\_\_\_  
Richard Spitler, City Manager

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**  
Burke, Williams & Sorensen, LLP

By: \_\_\_\_\_  
Michelle Marchetta Kenyon, City Attorney

**EXHIBIT A**

Site Plan

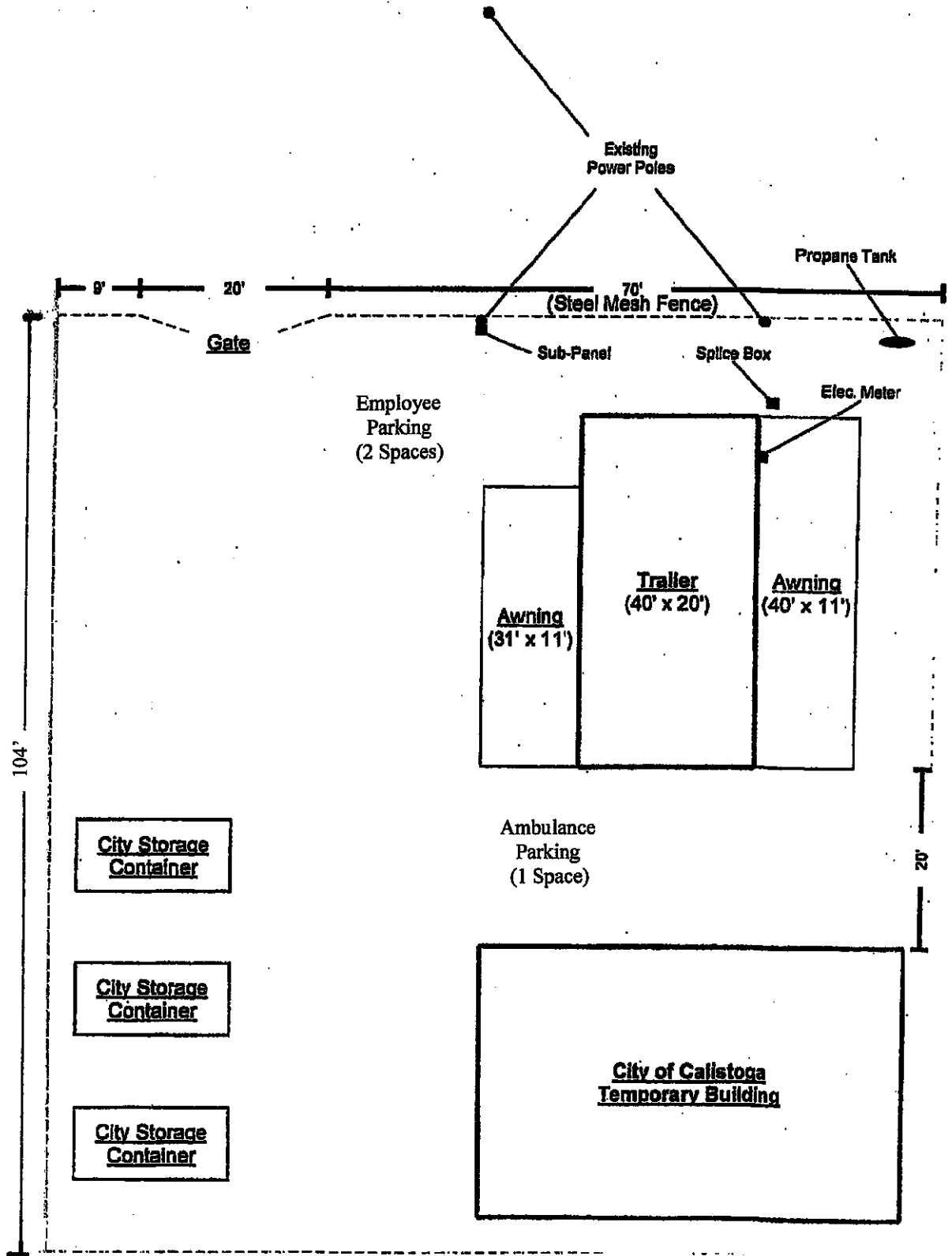
[To be Inserted]

# EXHIBIT A

Little League Field

(Steel Mesh Fence)

North



AMR Ambulance Station Project  
City of Calistoga DPW Site, 406 Washington Street  
APN No. 11-260-003

Scale: 1/16" = 1'