

RESOLUTION NO. 322

A RESOLUTION AUTHORIZING THE AGREEMENT and LEASE BETWEEN THE TOWN OF MOUNT CARMEL, TENNESSEE, AND CHURCH HILL EMS, INC.

WHEREAS, the fiscal year 2004/2005 General Fund Budget has appropriated certain funds to reimburse Church Hill EMS, Inc. for emergency services provided to the citizens of the Town of Mount Carmel; and

WHEREAS, Mount Carmel Municipal Code §1-202 authorizes the Mayor to enter into contracts; and

WHEREAS, the Town of Mount Carmel wishes to enter into an agreement with Church Hill EMS, Inc.;

WHEREAS, the Town of Mount Carmel wishes to enter into a lease agreement for the use of municipal facilities by Church Hill EMS, Inc., and

WHEREAS, it is the best interest of the citizens of the Town of Mount Carmel, Tennessee, to enter into such an agreement and to reimburse Church Hill EMS, Inc. for emergency services.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND
ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE,** as follows:

SECTION I. The Mayor for the Town of Mount Carmel, Tennessee, is authorized to execute on behalf of the Town the Agreement attached hereto as Exhibit A, and the Lease Agreement attached hereto as Exhibit B; and

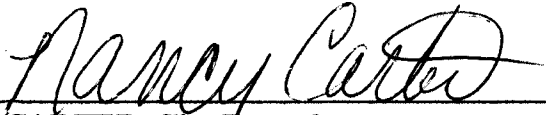
SECTION II. This Resolution shall take effect upon its passage as the law requires.

ADOPTED this the 31 day of May, 2005.



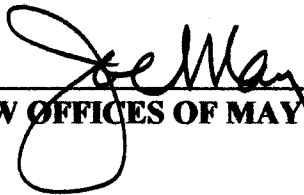
GARY LAWSON, Mayor

ATTEST:



NANCY CARTER, City Recorder

APPROVED AS TO FORM:



LAW OFFICES OF MAY & COUP

FIRST READING	AYES	NAYS	OTHER
Alderman Henry Bailey	✓		
Vice-Mayor Eugene Christian	✓		
Mayor Gary Lawson	✓		
Alderman Tresa Mawk	absent		
Alderman Thomas Wheeler	✓		
Alderman Carl Wolfe	✓		
Alderman Wanda Worley	✓		
TOTALS			

Passed first reading 5-31-05

AGREEMENT

between

THE TOWN OF MOUNT CARMEL, TENNESSEE

and

CHURCH HILL EMS, INC.

THIS AGREEMENT made and entered into as of the 30th day of June, 2004, by and between the Town of Mount Carmel, hereinafter called "TOWN", and Church Hill EMS, Inc., hereinafter called "EMS".

WITNESSETH:

WHEREAS, EMS is a not-for-profit agency as defined by *Tennessee Code Annotated* §§6-54-111 and 48-51-101 et seq., and is eligible to receive funds for this purpose; and

WHEREAS, TOWN is authorized by *Tennessee Code Annotated* §6-54-111 et seq. to provide financial assistance to nonprofit organizations and not-for-profit corporations; and

WHEREAS, EMS has requested financial assistance pursuant to said Sections which TOWN has approved; and

WHEREAS, the parties want to set forth the terms and conditions with respect to the use of funds to be provided.

NOW THEREFORE, in consideration of the premises, the parties agree as follows:

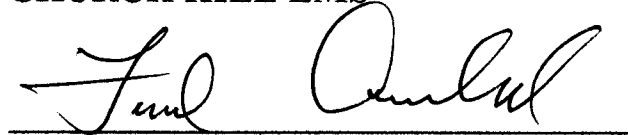
1. **PURPOSE OF THE AGREEMENT.** The purpose of this Agreement is to provide funds to pay the rent on premises leased from TOWN out of which EMS can provide Emergency Medical Services including "Advanced Life Support" ambulance service from a location within TOWN and the surrounding community.
2. **DESCRIPTION OF THE PROJECT.** EMS agrees as follows:
 - A. EMS shall lease premises from TOWN out of which EMS can provide Emergency Medical Services including "Advanced Life Support" ambulance service to the citizens and residents of TOWN and the surrounding community.
 - B. The Emergency Medical Services to be provided from said premises shall include but not be limited to:

- i. Authorized Personnel holding the appropriate license, permit and certificate; and,
 - ii. All equipment necessary or desirable to meet applicable standards for Emergency Medical Services; and,
 - iii. A written "*Standard Operating Procedure*" for "*Advanced Life Support*" ambulance service.
3. **MAXIMUM PAYMENT.** It is expressly understood and agreed that the total amount to be paid by TOWN to EMS under this Agreement shall not exceed TWELVE THOUSAND and 00/100's DOLLARS (\$12,000.00), or such lesser amount pursuant to the terms of a lease of even date herewith between EMS and TOWN.
4. **REQUEST FOR REIMBURSEMENT.** EMS shall bill TOWN for the actual Net Operating costs incurred on a quarterly basis using forms and procedures specified by TOWN.
5. **REIMBURSEMENT BY TOWN.** TOWN will honor all requests for reimbursement up to amount as stated in paragraph 3 provided that EMS is complying with its obligations provided herein. However, reimbursement of any cost pursuant to this Section shall not constitute a final determination by TOWN of the allowability of such costs and shall not constitute a waiver of any violation of the terms of the Agreement.
6. **AUDITS.** The final determination of the amount subject to reimbursement under the terms of this Agreement shall be based on an audit conducted by or acceptable to TOWN. EMS shall permit TOWN or its representatives to inspect all work, materials, payrolls, and other records with regard to the project, and to audit the books, records, and accounts of EMS with regard to the project. Such records shall be retained for this purpose for a period of not less than three years. Subsequent to the close of EMS fiscal year for which operating assistance is provided, EMS shall furnish a final audit report prepared by a governmental audit agency, or an independent public accountant, which shall include at minimum a statement of revenue, expense and any changes in financial position for EMS fiscal year.
7. **ACCOUNTING, RECORD KEEPING AND REPORTING REQUIREMENTS.** EMS shall maintain an accounting, record-keeping and reporting system consistent with generally accepted accounting principles and no less than those recommended in the Accounting Manual for Recipients of Grant Funds in Tennessee, published by the Comptroller of the Treasury, State of Tennessee. EMS further agrees to submit to TOWN a copy of its most recent audited report at the same time said report is submitted to the State government.
8. **CHANGES.** Any changes in this Agreement shall require a written amendment executed by all parties hereto.
9. **ASSIGNMENT AND SUBLETTING.** EMS shall not assign any rights to funds without prior written authorization from TOWN.

10. **TERMINATION.** This Agreement may be terminated by either party by giving written notice to the other at least 30 days before the effective date of such termination. In the event of termination, EMS shall be entitled to receive just and equitable compensation for any eligible operating expenses paid or incurred as of the termination date, but in no event shall this amount exceed TWELVE THOUSAND and 00/100's DOLLARS (\$12,000.00), or such lesser amount pursuant to the terms of a lease of even date herewith between EMS and TOWN.
11. **CHANGED CONDITIONS AFFECTING PERFORMANCE.** EMS shall immediately notify TOWN of any change in conditions or of any other event which may significantly affect its ability to perform the Project in accordance with the provisions of this Agreement.
12. **ASSURANCES.** EMS hereby assures TOWN that EMS is legally entitled to funds from TOWN.
13. **OPERATING INFORMATION.** EMS will provide any relevant information requested by TOWN concerning EMS Family Support Services including, but not limited to, contracts for third party financial arrangements, annual financial statements and audit reports, schedules and fees.
14. **PROJECT TERM.** TOWN and EMS have previously agreed that the project term for this contract is from July 1, 2004 to June 30, 2005. Accordingly, funds allocated by TOWN to EMS can be used to reimburse EMS for eligible project expenses beginning on July 1, 2004. In no event shall TOWN participate in project expenses incurred after June 30, 2005.

IN WITNESS WHEREOF, the signatures of the parties hereto as of the date and year first written in duplicate original form.

CHURCH HILL EMS



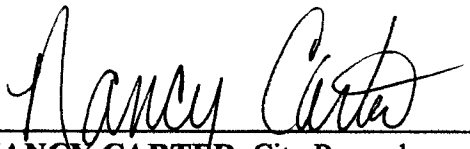
Director

TOWN OF MOUNT CARMEL



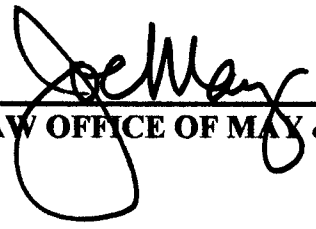
GARY LAWSON, Mayor

ATTEST:



NANCY CARTER, City Recorder

APPROVED AS TO FORM:



LAW OFFICE OF MAY & COUP

THIS LEASE, made and entered into as of the 30th day of June, 2004, by and between Town of Mount Carmel, a municipal corporation (herein called "Town"), and Church Hill Emergency Medical Services, Inc., a non-profit corporation (herein called "EMS").

WITNESSETH:

THAT, in consideration of the premises and the mutual covenants and agreements herein contained and other good and valuable consideration, the Parties do hereby agree as follows:

1. Premises. TOWN does hereby lease to EMS and EMS leases from TOWN that certain space in the building known as the Police/Fire Station. EMS shall have exclusive occupancy of certain floor areas, described in Exhibit A (herein called "Premises"). Said Premises are located in the Town of Mount Carmel, Hawkins County, Tennessee.

This Lease is subject to the terms, covenants and conditions herein set forth and EMS covenants as a material part of the consideration for this Lease to keep and perform each and all of said terms, covenants and conditions by it to be kept and performed.

2. Term. The term of this Lease shall commence to run on July 1, 2004, and continue until June 30, 2005, unless sooner terminated by TOWN for EMS's failure to perform each and all of the terms, covenants and conditions hereof to be kept and performed by EMS.

3. Use. EMS shall use the Premises to provide "*Advanced Life Support*" emergency medical services and related activities including EMS personnel uses, location of EMS vehicles, storage of EMS equipment, EMS office functions, classes, workshops, meetings, and fund-raising activities and shall not use or permit the Premises to be used for any other purpose without the prior written consent of TOWN.

4. Rent. EMS agrees to pay to TOWN as Rent, without notice or demand, the annual amount of Twelve Thousand and 00/100's Dollars (\$12,000.00) payable in monthly installments of One Thousand and 00/100's Dollars (\$1,000.00), in advance, on or before the first day of each and every successive calendar month during the term hereof. Payment in full is due by June 30, 2005. EMS may, from time to time and with TOWN's approval, use additional, available space, not included in Exhibit A, at a cost of Three and 00/100 (\$3.00) dollars per square foot – per year, payable at the time of such use.

In addition to the aforesaid payment of rent, EMS agrees to pay in a lump sum, one-third (1/3) of water, gas, electric telephone and any other utility bills for the premises, which lump sum shall be determined based on the prior year total for the premises.

5. Uses Prohibited. EMS shall not do or permit anything to be done in or about the Premises or bring or keep anything therein that is not within the permitted use of the Premises or that will in any way increase the existing rate of or affect any fire or other insurance upon the building in which the Premises are located, or any of its contents, or cause a cancellation of any insurance policy

covering said building or any part thereof, or any of its contents. EMS shall not do or permit anything to be done in or about the Premises that will in any way obstruct or interfere with the rights of other tenants or occupants of the Police/Fire Station, or injure or annoy them or use or allow the Premises to be used for any unlawful purpose. Building Policies, as set forth by the Board of Mayor and Aldermen of the Town of Mount Carmel, shall govern all building usage. EMS shall not cause, maintain or permit any nuisance in, on or about the Premises. Nor shall EMS commit, or allow to be committed, any waste in or upon the Premises.

6. Compliance with Law. EMS shall not use the Premises, or permit anything to be done in or about the Premises, that will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or that shall hereafter be enacted or promulgated. EMS shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or that may hereafter be in force relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by EMS's improvements or acts. The judgment or any court of competent jurisdiction or the admission of EMS in any action against EMS, whether TOWN be a party thereto or not, that EMS has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between the TOWN and EMS.

EMS shall comply with all employer requirements imposed upon it, including, but not limited to Sexual Harassment and Drug policies.

7. Repairs and Alterations. EMS shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof without first obtaining the written consent of TOWN and any alterations, additions or improvements to or of said Premises, including, but not limited to, wall coverings, paneling and built-in cabinet work, but excepting movable furniture and trade fixtures, shall at once become a part of the realty and belong to the TOWN and shall be surrendered with the Premises. In the event TOWN consents to the making of any alterations, additions or improvements to the Premises by EMS, the same shall be made by EMS at EMS's sole cost and expense. Upon the expiration or sooner termination of the term hereof, EMS shall, upon written demand by TOWN, given at least thirty (30) days prior to the end of the term, at EMS's sole cost and expense, forthwith and with all due diligence, remove any alteration, additions, or improvements made by EMS, designated by TOWN to be removed, and EMS shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

TOWN shall, at its sole cost and expense, keep the Premises and every part thereof in good condition and repair. However, any and all damage arising from other than normal wear and tear of premises shall be assessed against the responsible party, or, if the responsible party cannot be determined than EMS agrees that one-third (1/3) shall be paid by EMS.

EMS shall provide and pay for regular custodial services to maintain the premises in a clean condition on a daily basis.

8. Surrendered Premises. By entry hereunder, EMS shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair. EMS shall, upon the expiration or sooner termination of this Lease, surrender the Premises to the TOWN in good condition, broom clean, ordinary wear and tear excepted. Any damage to adjacent premises caused by EMS's use of the Premises shall be repaired at the sole cost and expense of EMS.

9. Liens. EMS shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of EMS.

10. Assignment and Subletting. EMS shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the said Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (employees, agents, servants, member, groups and invitees of EMS excepted) to occupy or use the said Premises, or any portion thereof, without first obtaining the written consent of TOWN, which consent need not be given and shall be at TOWN's sole and absolute discretion. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Consent to any such assignment or subletting shall in no way relieve EMS of any liability under this Lease. Any such assignment or subletting without such consent shall be void, and shall, at the option of the TOWN, constitute a default under the terms of this Lease.

11. Hold Harmless. EMS shall indemnify and hold harmless TOWN against and from any and all claims arising from EMS's use of the Premises or from the conduct of its business and from any activity, work, or other things done, permitted or suffered by EMS in or about the Premises, and shall further indemnify and hold harmless TOWN against and from any and all claims arising from any breach or default in the performance of any obligation on EMS's part to be performed under the terms of this Lease, or arising from any act or negligence of EMS, or any officer, agent, employee, guest, or invitee of EMS, and from all costs, attorneys' fees and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. In case any action or proceeding be brought against TOWN by reason of such claim, EMS upon notice from TOWN shall defend the same at EMS's expense by counsel reasonably satisfactory to TOWN. EMS, as a material part of the consideration to TOWN, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause; and EMS hereby waives all claims in respect thereof against TOWN. EMS shall give prompt notice to TOWN in case of casualty or accidents on the Premises.

12. Liability and Workers Compensation Insurance. EMS shall, at EMS's expense, obtain and keep in force during the term of this Lease a policy of comprehensive public liability insurance insuring TOWN and EMS against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) for injury or death of one person in any one accident or occurrence and in the amount of not less than SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) for injury or death of more than one person in any one accident or occurrence. The limit of any such insurance shall not, however, limit the liability of EMS hereunder. EMS shall further obtain and keep in force a policy of Workers compensation Insurance,

complying with all legal requirements under Tennessee law. Insurance required hereunder shall be in companies reasonably acceptable to TOWN.

13. Rules and Regulations. EMS shall faithfully observe and comply with any and all rules and regulations that TOWN shall from time to time promulgate and/or modify regulating use and occupancy of the Premises. The rules and regulations shall be binding upon EMS upon delivery of a copy of them to EMS.

14. Holding Over. If EMS remains in possession of the Premises or any part thereof after the expiration of the term hereof without the express written consent of TOWN, then EMS's occupancy subsequent to such expiration shall be deemed that of a EMS at will, and in no event a EMS from month to month.

15. Entry by TOWN. TOWN reserves, and shall at any and all times have, the right to enter the Premises to inspect the same, to repair the Premises and any portion of the building of which the Premises are a part that TOWN may deem necessary or desirable. For each of the aforesaid purposes, TOWN shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, and TOWN shall have the right to use any and all means which TOWN may deem proper to open said doors in an emergency, in order to obtain entry to the Premises without liability to EMS.

16. Parking and Common Areas. All parking and common areas and other common facilities made available by TOWN in or about the Police/Fire Station shall be subject to the exclusive control and management of TOWN, expressly reserving to TOWN, without limitation, the right to erect and install within said areas, improvements, or otherwise.

EMS, in the use of said common and parking areas, agrees to comply with such reasonable rules, and regulations as the TOWN may adopt from time to time for the orderly and proper operation of said common and parking areas.

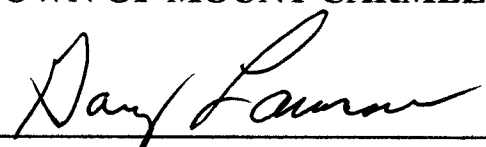
IN WITNESS WHEREOF, the Parties hereto executed this Lease on the day and date first above written.

CHURCH HILL EMS



Director

TOWN OF MOUNT CARMEL



GARY LAWSON, Mayor

ATTEST:



NANCY CARTER, City Recorder

APPROVED AS TO FORM:



LAW OFFICE OF MAY & COUP

DAVID A. JENNINGS, CPA
C. DON ROYSTON, CPA
JACK A. BONNER, JR., CPA
BILLY C. GILLIAM, CPA
CARL J. PUCKETT, CPA
JESSE A. JONES, CPA
GARY W. ANDERSON, CPA
C. LEE HILL, JR., CPA
JAMES H. LONG, CPA
NITA F. VOLLMER, CPA
DAVID E. FRIZZELL, CPA



DENT K. BURK ASSOCIATES, P.C.

Certified Public Accountants • Established 1932

CONSULTANTS

ROY F. MANESS, JR., CPA
F. STEWART MCCORKLE, JR., CPA
LEONARD C. BALL, CPA
JAMES M. TAYLOE, CPA
LUTHER C. STINNETT, CPA
ROBERT E. GILLION, CPA

DENT K. BURK, CPA (1932-1952)
R. CARL COUNTS, CPA (1938-1974)
JERRY B. CUNNINGHAM, CPA (1943-1979)
PAUL L. ROYSTON, CPA (1950-1988)
CARLTON B. LOWDER, CPA (1938-1999)
BENNY S. SHANKLE, CPA (1969-2001)

May 12, 2005

Board of Directors
Church Hill, EMS, Inc.
Church Hill, Tennessee

We are pleased to confirm our understanding of the services we are to provide for Church Hill, EMS, Inc. (the Organization) for the year ended December 31, 2004.

We will audit the statement of financial position of Church Hill, EMS, Inc. as of December 31, 2004, and the related statements of activities, functional expenses, and cash flows for the year then ended.

The objective of our audit is the expression of an opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit will be conducted in accordance with U.S. generally accepted auditing standards and will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinion. If our opinion is other than unqualified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, test of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Also, we will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the Organization or to acts by management or employees acting on behalf of the Organization. Because an audit is designed to provide reasonable, but not absolute, assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a

direct and material effect on the financial statements. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our audit will include obtaining an understanding of internal control sufficient to plan the audit and to determine the nature, timing, and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control or to identify reportable conditions, that is, significant deficiencies in the design or operation of internal control. However, during the audit, if we become aware of such reportable conditions, we will communicate them to you.

You are responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. We will advise you about appropriate accounting principles and their application and will assist in the preparation of your financial statements, but the responsibility for the financial statements remains with you. As part of our engagement we may propose standard, adjusting, or correcting journal entries to your financial statements. You are responsible for reviewing the entries and understanding the nature of any proposed entries and the impact they have on the financial statements. Further, you are responsible for designating a competent management-level employee to be responsible and accountable for overseeing these services.

Your responsibilities include the establishment and maintenance of adequate records and effective internal controls over financial reporting, the selection and application of accounting principles, and the safeguarding of assets. You are also responsible for adjusting the financial statements to correct material misstatements and for confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the organization involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. You are also responsible for informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Organization received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring the Organization complies with applicable laws and regulations.

We understand that your employees will prepare all cash, accounts receivable, and other confirmations we request and will locate any documents selected by us for testing.

We expect to begin our audit on approximately July 5, 2005 and issue your information returns and issue our report on approximately September 30, 2005. Issuance of our report by September 30, 2005 is dependent on you providing the information we request in a timely fashion.

We estimate that our fees for audit services will not exceed \$6,500.00. Any non-audit procedures will be based on the time required by the individuals assigned to the engagement, plus direct expenses. Individual hourly rates vary according to the degree of responsibility involved and the skill required.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

DENT K. BURK ASSOCIATES, P.C.

Billy C. Gilliam

Billy C. Gilliam, CPA

RESPONSE:

This letter correctly sets forth the understanding of
Church Hill, EMS, Inc.

Officer signature: *Fred Arnold*

Title: *President*

Date: *5-13-05*