

AMENDMENT TO FRANCHISE AGREEMENT FOR AMBULANCE SERVICES

THIS AMENDMENT to Franchise Agreement for Ambulance Services ("this Amendment") is executed to be effective the 1st day of June, 2009, by and between the City of Las Vegas, a municipal corporation of the State of Nevada (the "City"), and Mercy, Inc., d.b.a. American Medical Response ("Franchisee").

WHEREAS, the City and Franchisee entered into a Franchise Agreement for Ambulance Services dated December 1, 2005 ("the Agreement"), by which the City granted Franchisee a right to provide ambulance services within the City; and

WHEREAS, the City and Franchisee wish to modify certain provisions of the Agreement, on the terms and conditions set forth below, for purposes of clarification, improving patient care, and improving the City's ability to monitor Franchisee's compliance with its obligations under the Agreement.

NOW THEREFORE, the City and AMR hereby agree as follows:

SECTION 1. MODIFICATION OF SECTION 4 OF THE AGREEMENT

Section 4 of the Agreement is hereby deleted in its entirety, and a new Section 4 is hereby added to the Agreement, to read as follows:

4. TERM AND EFFECTIVE DATE OF AGREEMENT

4.1 This Agreement shall remain in full force and effect for a period of ten (10) years, commencing on December 1, 2005, subject, however, to Subsection 4.2 and the default and termination provisions herein.

4.2 For each calendar year, commencing January 1, 2009, that Franchisee does not achieve annual 90% response time compliance for B, C, D and E level calls as required by the Ambulance Service Ordinance and this Agreement, using the gross percentage calculation methodology established in Exhibit B, any remaining portion of the term of this Agreement will be reduced by one calendar year as of the 1st of January immediately following the calendar year of nonconformance.

4.3 The Director shall send the Franchisee written notice of its response time compliance or noncompliance during the preceding calendar year on or before January 31st each year in accordance with the notice procedures of this Agreement.

4.4 The Franchisee may appeal the Director's determination of noncompliance to the City Council by filing written notice of appeal with the Director not later than twenty (20) calendar days from the date of the Director's notice of noncompliance.

4.5 The Director shall schedule notices of appeal to be heard by the City Council within thirty days of receipt of a written request for appeal or as soon thereafter as the open meeting requirements of Nevada law will permit.

4.6 Decisions of the City Council on appeals filed pursuant to this Section are final.

SECTION 2. MODIFICATION OF SECTION 11 OF THE AGREEMENT

Section 11 of the Agreement is hereby deleted in its entirety, and a new Section 11 is hereby added to the Agreement, to read as follows:

11. RESPONSE TIME COMPLIANCE

11.1 Franchisee shall comply with the response time standards of the Ambulance Service Ordinance for all calls within Franchisee's Service Areas and Sub-Zones thereof identified in Exhibit "A" hereto and shall be subject to the penalties provided herein.

11.2 When determining compliance with the combined B, C, D and E level call 90% response time requirements of the Ambulance Service Ordinance and this Agreement, the gross percentage calculation methodology set forth in Exhibit "B" shall be used.

11.3 Deleted.

SECTION 3. MODIFICATION OF SECTION 12 OF THE AGREEMENT

Section 12 of the Agreement is hereby deleted in its entirety, and a new Section 12 is hereby added to the Agreement, to read as follows:

12. PENALTIES, DEFAULT AND TERMINATION

12.1 Penalties for failure to comply with this Agreement shall be assessed to Franchisee as follows:

12.1.1 Response Time Penalties.

(A) A penalty for failure to meet per-call response time requirements, as set forth in the Ambulance Service Ordinance, of 11:59 minutes for each B, C, D or E level call and of 19:59 minutes for each A level call, and for calls canceled after the applicable 11:59 or 19:59 response time requirement has expired but before an ambulance has arrived on scene, shall be assessed to Franchisee in the following amounts, subject to the on-time performance discounts for B, C, D and E level calls as specified in Exhibit "C":

- (1) \$12.00 per call for all B, C, D or E level calls; and
- (2) \$8.00 per call for all A level calls.

(B) In addition to any penalty assessed in Subsection 12.1.1(A), a penalty for failure to meet the excess time requirement of 14:59 minutes, as set forth in the Ambulance Service Ordinance, for each C, D and E level call, and for C, D or E level calls canceled after the 14:59 excess time requirement has expired but before an ambulance has arrived on scene, will be assessed to Franchisee in the amount of \$100.00 per call, subject to gross on-time performance discounts for C, D and E level calls, as specified in Exhibit "C."

(C) A penalty per call in the amount of \$175.00 will be assessed when Franchisee fails to report that it is on scene of an incident to which it was dispatched and, as a result, no official response time can be established, unless the call was canceled prior to the expiration of the response time requirement; provided that a penalty under this Subsection will not be assessed when Franchisee substantiates the on-scene time through usage of AVL/GPS data reports, and as such, an official response time can be calculated. Valid AVL/GPS data reports will be CAD or AVL gateway generated and will include, at a minimum, the following data points: date of service, GPS coordinates consistent with the call location, vehicle number, vehicle speed of zero miles per hour, and time of data transmission.

(D) A penalty of \$175.00 will be assessed when AVL/GPS data (if available) confirm that Franchisee was not on scene when Franchisee reported that it was on scene; provided that a penalty under this Subsection will not be assessed in cases where: (i) prior to arriving on scene, the button in the ambulance that indicates the ambulance unit is on scene is accidentally pushed; (ii) such occurrence is documented in the electronic notes of the CAD, or Franchisee substantiates the on scene time through usage of AVL/GPS data reports, and as such, an official response time can be calculated; and (iii) such response time complies with the response time requirements set forth in LVMC 6.08.150. Valid AVL/GPS data reports that will be used to determine response time will be CAD or AVL gateway generated and will include, at a minimum, the following data points: date of service, GPS coordinates consistent with the call location, vehicle number, vehicle speed of zero miles per hour, and the time of data transmission.

(E) A penalty of \$175.00 will be assessed when the Franchisee fails to dispatch an ambulance at the ALS level, except as allowed in Subsection 7.4 herein, within the applicable 11:59 or 19:59 response time standard specified in this Section, either by Franchisee or by another ambulance service provider through a mutual aid agreement, and the call was not canceled by the FAO dispatch before expiration of the response time requirement.

(F) A penalty per call in the amount of \$175.00 will be assessed when Franchisee's dispatcher places an ambulance on scene of an incident to which it was dispatched but does not document a technological failure; provided that a penalty under this Subsection will not be assessed if Franchisee is able to report that it is on scene through MDT transmissions, AVL/GPS data reports, or other methods as may be approved by the AOC (such as crews that come across the scene of a medical emergency prior to call transmission through the FAO).

(G) In addition to the other remedies provided in the Ambulance Service Ordinance and this Agreement, failure of Franchisee to meet the monthly 90% response time requirements set forth in the Ambulance Service Ordinance within the Service Area or any Sub-Zone thereof, as defined in Exhibit "A" of this Agreement, will result in a \$10,000 penalty for

that particular month. Failure to meet the monthly 90% response time requirement for any four months during any period of twelve consecutive calendar months will be grounds for corrective action against Franchisee, including without limitation readjustment of the Service Area defined in this Agreement or any other appropriate action as may be determined by the City Council in its sole discretion, including action authorized by Section 6.08.290 of the Ambulance Service Ordinance.

12.1.2 Ambulance Personnel, Equipment and Reporting Penalties.

(A) Whenever Franchisee's ambulance arrives on scene and is not properly staffed or equipped pursuant to Health District regulations and this Agreement, Franchisee shall be assessed a penalty for each violation in the amount of \$260.00.

(B) Whenever Franchisee fails to operate according to the protocol standards of the Ambulance Service Ordinance or this Agreement, Franchisee shall be assessed a penalty for each violation in the amount of \$260.00.

(C) Whenever it is determined by the AOC that Franchisee called for emergency response resources (i.e., ambulances, air ambulances, power, gas, etc.) without prior notification and approval of the Incident Commander, Franchisee shall be assessed a penalty for each violation in the amount of \$260.00.

(D) Whenever Franchisee uses a nonexistent ambulance identifier as a dispatched or diverted ambulance, Franchisee will be assessed a penalty for each violation in the amount of \$260.00.

(E) Whenever Franchisee's ambulance personnel are in the immediate proximity of a patient but do not have with them at said location the necessary equipment to provide ALS level of care, the Franchisee shall be assessed a penalty for each violation in the amount of \$260.00.

12.1.3 Whenever Franchisee fails to provide any report required by the Ambulance Service Ordinance or this Agreement within five days of the due date for that report, Franchisee shall be assessed a penalty for each violation in the amount of \$105.00 per day thereafter until that report is received by the City.

12.1.4 All penalty amounts listed in this Subsection 12.1 will apply to penalties assessed from the effective date of this Agreement through March 31, 2006, and may be adjusted annually, as approved by the City Council, up to the percentage of change in the CPI-U between the most recent 12-month period ending on December 31 as compared with the prior 12-month period ending on December 31. If the City Council chooses to adjust penalty amounts following one or more years during which no adjustment was made, the adjustment will be for only the percentage of the prior year's CPI-U.

12.1.5 Franchisee shall, within 14 days of receipt of penalty assessments, make payment of the total amount of penalties assessed or provide a written appeal of the penalties assessed, or

any portion thereof, to the Director. Within 30 days of receipt of a written appeal, the Director will provide Franchisee a written letter of determination on the appeal. Within 14 days of receipt of the Director's determination, Franchisee shall make payment of the total amount of the Director's penalty assessments. The Director's decision is final.

12.1.6 The penalties paid to the City shall be used to pay for EMS-related expenses, including but not limited to public education programs and administrative oversight of this Franchise.

12.2 In addition to any penalties assessed pursuant to Subsection 12.1, the City Council may, in its sole discretion, impose other economic or non-economic sanctions, including, but not limited to:

12.2.1 Reducing the Service Area;

12.2.2 Requiring the Franchisee to provide specified community services; or

12.2.3 Any combination of the above.

12.3 At all times during the term of this Agreement or extension thereof, Franchisee shall be subject to all default and termination provisions of the Ambulance Service Ordinance.

12.4 Franchisee shall be entitled to notice, opportunities to cure, and appeal as provided in the Ambulance Service Ordinance.

SECTION 4. MODIFICATION OF EXHIBIT "B" OF THE AGREEMENT

Exhibit "B," as attached to the Agreement, is hereby deleted in its entirety and is hereby superseded by a new Exhibit "B," in the form attached hereto as Exhibit "B."

SECTION 5. MODIFICATION OF EXHIBIT "C" OF THE AGREEMENT

Exhibit "C," as attached to the Agreement, is hereby deleted in its entirety and is hereby superseded by a new Exhibit "C," in the form attached hereto as Exhibit "C."

(Remainder of page intentionally left blank)

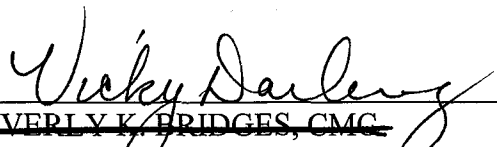
SECTION 6. CONFIRMATION OF REMAINDER OF THE AGREEMENT

Except to the extent that the Agreement has been expressly modified above, the parties hereby confirm that the terms and conditions of the Agreement as originally executed remain in full force and effect.

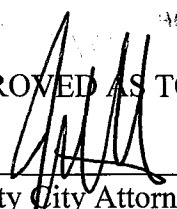
EXECUTED to be effective on the date specified above.

ATTEST:

CITY OF LAS VEGAS


~~BEVERLY K. BRIDGES, CMC~~
~~City Clerk~~ **Vicky Darling, CMC**
Acting City Clerk

By: 
OSCAR B. GOODMAN, Mayor

APPROVED AS TO FORM:

Deputy City Attorney

4/1/09
Date

MERCY, INC.,
d.b.a. AMERICAN MEDICAL RESPONSE

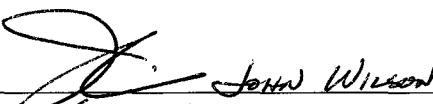
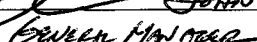
By: 
Its: 

EXHIBIT "B"

911-DISPATCHED AMBULANCE SERVICE RESPONSE TIME STANDARDS AND ON-TIME PERFORMANCE CALCULATIONS

1. GROSS MONTHLY CALLS

- (A) Gross monthly calls (EMS Priority Dispatch B/C/D/E level calls on which the 90% on-time performance standard is based) means: All B/C/D/E level 911-Dispatched Ambulance Service calls sent during a calendar month by FAO to Franchisee for incidents located in Franchisee's Service Area, with a response time requirement as defined in Sections 2, 3, 4, 5 and 6 below.
 - (1) B/C/D/E level calls that Franchisee turned back to FAO to be dispatched to another franchisee under the terms of a mutual aid agreement are included in the count of gross monthly calls.
 - (2) Calls not included in the count of gross monthly calls:
 - (a) "A" level calls;
 - (b) Calls for a second or additional ambulance dispatched to an incident for which no response time was required;
 - (c) Calls to incidents located outside Franchise Service Area (includes accepted mutual aid calls, and calls that were in the Franchise Service Area of another franchisee and thus should have been transferred back to FAO for dispatch to that franchisee);
 - (d) 7-digit calls that were required to be transferred to FAO for dispatch but were not.

2. ON-TIME CALLS

- (A) On-time calls means:
 - (1) B/C/D/E level calls when time from which Franchisee receives notice of call from FAO until time ambulance is on scene, staged to hold short, or canceled does not exceed 11:59 minutes.
 - (2) A level calls when time from which the Franchisee receives notice of call from FAO until time ambulance is on scene, staged or canceled does not exceed 19:59 minutes.

3. ON-TIME UPGRADED CALLS

- (A) An on-time upgraded call, for which an initial response time requirement has not expired, is defined as A level to B/C/D/E level, when time from which Franchisee receives notice of upgraded call from FAO until time ambulance is on scene, staged or canceled does not exceed 11:59 minutes.
- (B) If initial response time requirement has expired prior to upgrade, the initial call will be assessed a late penalty, and the upgraded call will be assessed a separate penalty if upgraded response time requirement has expired prior to the time unit is on scene, staged or canceled. (See Exhibit "C")
 - (1) The call will be counted as only one call, at the level in which the penalty was assessed, for both the gross monthly calls count and the late calls count;
 - (2) If the call is assessed penalties in both the initial and upgraded level of service, the call will be counted at the upgraded level in which the ambulance was on scene, staged or canceled;
 - (3) If no penalty was assessed for either the initial or upgraded call, the call will be counted at the upgraded level for the gross monthly calls count.

4. ON-TIME DOWNGRADED CALLS

- (A) An on-time downgraded call, for which an initial response time requirement has not expired, is defined as B/C/D/E level to A level, when time from which Franchisee receives notice of downgraded call from FAO until time ambulance is on scene, staged or canceled does not exceed 19:59 minutes.
- (B) If initial response time requirement has expired prior to downgrade, the initial call will be assessed a late penalty, and the downgraded call will be assessed a separate penalty if downgraded response time requirement has expired prior to the time ambulance is on scene, staged or canceled. (See Exhibit "C")
 - (1) The call will be counted as only one call, at the level in which the penalty was assessed, for both the gross monthly call count and the late call count;
 - (2) If the call is assessed penalties in both the initial and downgraded level of service, the call will be counted as only one call, at the downgraded level in which the ambulance was on scene, staged or canceled, for both the gross monthly call count and the late call count.
 - (3) If no penalty was assessed for either the initial or downgraded call, the call will be counted at the downgraded level for the gross monthly call count.

5. MISINFORMATION CALLS

Calls for which Franchisee was unable to locate an incident due to incorrect or inaccurate dispatch information from FAO will be considered on-time when the time from which Franchisee receives notice of corrected address or other information on the call from FAO until time ambulance is on scene, staged or canceled does not exceed 11:59 minutes for B/C/D/E level calls or 19:59 minutes for A level calls.

6. REOPENED CALLS

A call that is closed by the FAO and subsequently reopened by the FAO will be considered a new call, and the applicable response time requirements and related penalties apply to both calls.

7. LATE CALLS

Calls that did not meet the response time requirements defined in Sections 2, 3, 4, 5 or 6 above will be considered late calls.

8. NINETY PERCENT (90%) ON-TIME PERFORMANCE CALCULATION

The gross percentage calculation for 911-Dispatched Ambulance Service response time compliance purposes shall be as follows:

- (a) Combine all gross monthly B/C/D/E level calls = total gross monthly calls.
- (b) Deduct the total B/C/D/E level late calls determined in Section 7 above (gross late calls) from total gross monthly calls = total gross monthly on-time calls.
- (c) Divide total gross monthly on-time calls by total gross monthly calls to determine percentage of gross on-time performance.

EXHIBIT "C"

LATE RESPONSE TIME PENALTIES

Penalties will be assessed as follows when Franchisee fails to meet response time requirements of 11:59 minutes for B/C/D/E level calls (the gross total of B/C/D/E calls must meet the monthly 90% response time requirement in the Service Area and in each Sub-Zone thereof), 19:59 minutes for A level calls, and 14:59 minutes for C/D/E level excessive late calls, including upgraded and downgraded calls:

1. Monthly Response Penalty. In any month in which Franchisee fails to meet combined B/C/D/E level response time requirements at least 90% of the time based on gross percentage calculation in any Service Area or Sub-Zone thereof, a penalty of \$10,000 will be assessed.
2. 12-Month Response Penalty. If Franchisee fails to meet combined B/C/D/E level response time requirements 90% of the time in any Service Area or any Sub-Zone thereof for any four months during any period consisting of twelve consecutive calendar months, the City Council may, in its sole discretion, take whatever action it deems appropriate, including but not limited to readjustment of the Service Area or action authorized by Section 6.08.290 of the Ambulance Service Ordinance.
3. Individual Call Penalty.
 - (A) An A level late call = \$8 each call
 - (B) B/C/D/E level late calls = \$12 each call, subject to Section 6 below
 - (C) C/D/E level excessive late calls = \$100 each call, subject to Section 6 below
4. Upgraded Calls. If the initial response time requirement expired prior to being upgraded and the upgraded call response time requirement expired prior to the time the ambulance is on scene, staged or canceled, the initial call and the upgraded call are each subject to the late call penalties of Section 3 above.
5. Downgraded Calls. If the initial response time requirement expired prior to being downgraded and the downgraded call response time requirement expired prior to the time the ambulance is on scene, staged or canceled, the initial call and the downgraded call are each subject to the late call penalties of Section 3 above.
6. Monthly Discount. A penalty discount from those penalties set forth in Section 3 above for B/C/D/E level late calls and C/D/E level excessive late calls in a Service Area or Sub-Zone therein will be given during a month in which the gross on-time performance in a Service Area or Sub-Zone thereof was over 90.99%, as follows:

GROSS ON-TIME
PERFORMANCE

PER-CALL
PENALTY

EXCESSIVE LATE
CALL PENALTY

91.00% - 92.99%

\$11

\$90

93.00% - 94.99%

\$10

\$80

95.00% - 96.99%

\$9

\$70

97.00% - 98.99%

\$8

\$60

99.00% - 100%

\$7

\$50