

AGREEMENT

THIS AGREEMENT is made as of January 1, 2011 (“Effective Date”) and is entered into between American Medical Response Ambulance Service, Inc. d/b/a American Medical Response, (“AMR”) and the City of Billings, Montana, a municipal corporation (“City”). AMR and the City shall be referred to collectively as “Parties” and each singularly as a “Party”.

RECITALS

Whereas, AMR desires to have the City render to its patients certain medical transportation communications and other related services through the City’s 9-1-1 Center, and the City has the experience and resources available to provide such services; and

Whereas, AMR desires to designate a single source 9-1-1 communications provider that is familiar with and able to provide various communication needs and manage all inbound calls associated with 9-1-1 ambulance transportation;

NOW, THEREFORE, in consideration of the foregoing recitals and for the other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **City Services.** The City will receive and process all 9-1-1 requests for emergency medical response received within the Yellowstone County 9-1-1 jurisdiction. For incidents that require an AMR response, the City will relay location and nature of call information to AMR dispatchers via radio and computer interface, and if necessary, by telephone. The City shall provide daily dispatch logs to assist AMR in reporting its monthly response time compliance to the City.

2. (a) **AMR Responsibilities.** AMR ambulance units in Billings will acknowledge receipt of 9-1-1 generated requests for service with the 9-1-1 dispatch, go en route, and go on-scene using the radio protocol established by the Billings Fire Department to enable the City dispatcher to input status information into the 9-1-1 computer aided dispatch (CAD) system.

(b) In the event of a delay in response, an AMR representative is responsible for immediately relaying an estimated time of delay to the City 9-1-1 dispatcher.

(c) AMR will ensure that all AMR crews will be capable of communicating with the City 9-1-1 Center and responding fire crews via 800 MHz radio.

(d) AMR will maintain a CAD-to-CAD interface between the City 9-1-1 Center and the AMR Communication Center. Any expenses associated with this interface will be borne by AMR. AMR will also assume any expenses associated with remote radio systems that allow AMR Communications to monitor City radio traffic. The City will

work cooperatively with AMR to troubleshoot any problems that develop with the CAD-to-CAD interface or remote radio systems.

3. **Compliance.** The parties will comply in all material respects with all applicable federal and state laws and regulations including the federal Anti-kickback statute. The City warrants and represents that the payments made by AMR to the City shall be less than or equal to the City's actual costs to provide the services outlined in this contract. No funds shall be used by the City in a manner that may violate 42 U.S.C. Section 1320a-7b, the federal Anti-kickback Statute.

4. **Standards.** The City's 9-1-1 services shall be provided in accordance with standards of quality and care applicable to an emergency communications center.

5. **Compensation to the City.** Compensation for services provided to AMR by the City shall be adjusted annually utilizing the following formula: A \$3.00 per call fee for services shall be paid by AMR for each AMR response that is initiated by the City 9-1-1 Center. The monthly fee shall be \$2,117.25 per month ("Monthly Fee") for January 2011 through December 2011 based on the 8,469 9-1-1 Center generated AMR responses from November 1, 2009, through October 31, 2010. In November of each contract year, the parties shall establish the Monthly Fee for the upcoming year based on actual call volume for the previous twelve (12) months (November 1 of the previous year through October 31 of the current year). Should the City set a higher per call fee based on increased costs, it shall give notice to AMR of its intent to do so by October 1st of each year.

6. **Insurance.**

(a) AMR shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to AMR, its agents or employees. AMR shall provide to the City an insurance certificate evidencing the required insurance prior to execution of this Agreement, and such insurance shall evident the following required coverage:

(1) Automobile Liability insurance for owned, non-owned and hired vehicles with limits no less than \$2,000,000 Combined Single Limit per accident for bodily injury and property damage; and

(2) Commercial General Liability insurance coverage, written on an occurrence basis with limits no less than \$750,000 per claim, \$1,500,000 per occurrence, and \$3,000,000 aggregate per occurrence. The City shall be named as a primary additional insured. AMR's insurance will be primary in a loss, and any City of Billings' insurance will be non-contributory. AMR shall also maintain a policy of Professional Liability insurance in an insurable amount of not less than \$1,500,000 per claim and \$3,000,000 aggregate. AMR shall demonstrate written proof of these mandatory minimum coverages and noncontributory endorsement by providing a Certificate of Insurance to the City evidencing such prior to execution of this contract. Coverage shall include premises, operations, independent contractors, products, completed operations, personal injury, and advertising injury. There shall be no endorsement or modification of

the Commercial General Liability insurance excluding liability arising from explosion, collapse or underground property damage.

(b) The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, or employees. AMR's insurance shall be primary. Any insurance, self insurance, or insurance pool coverage maintained by the City shall be in excess of AMR's insurance and shall not contribute with it. Coverage shall not be suspended, voided, or canceled by AMR, reduced in coverage or in limits except after AMR has provided thirty (30) days prior written notice to the City.

(c) AMR shall require its subcontractors related to this Agreement, if any, to carry insurance consistent with this section and shall provide evidence of such insurance to the City upon request.

7. Indemnification.

- A. AMR shall indemnify, defend, save and hold the City harmless from claims, lawsuits, judgments, demands, costs, litigation expenses or liability, including attorneys' fees and costs, arising from intentional or negligent acts, errors or omissions solely of AMR occurring during the course of or as a result of the performance of this Agreement.
- B. The City shall indemnify, defend, save and hold AMR harmless from claims, lawsuits, judgments, demands, costs, litigation expenses or liability, including attorneys' fees and costs, arising from intentional or negligent acts, errors or omissions solely of the City occurring during the course of or as a result of the performance of this Agreement.
- C. Where claims, lawsuits, judgments, demands, costs, litigation expenses or liability, including attorneys' fees and costs, arise from intentional or negligent acts of both the City and AMR, each party shall indemnify, defend, save, and hold the other party harmless from only that portion of claims, lawsuits, judgments, demands, costs, litigation expenses, or liability, including attorneys' fees and costs, which result from the indemnifying party's intentional or negligent acts related to the performance of this Agreement.

In the event of any such claim, the party to be indemnified shall provide notice to the other party as soon as reasonably possible.

8. **Term.** The initial term and all renewal periods shall be cumulatively referred to as the "Term". The term of this agreement shall begin on the effective date of the agreement and shall continue for a period of three (3) years. This agreement shall automatically renew for subsequent one (1) year periods.

9. **Termination.** Each party may terminate this Agreement: (1) at any time without cause and at its sole discretion upon sixty (60) days' written notice to the other party; or (2) upon the material breach of this Agreement by the other party if such breach is not cured within thirty (30) days' of notice thereof to the other party. Notwithstanding

the foregoing: (i) the City may terminate this Agreement upon a default by AMR in the payment monies due and owing to the City if such breach is not cured within ten (10) days of written notice thereof to AMR; (ii) AMR may terminate this Agreement upon the failure of the City to respond to requests by AMR for the provision of its services if such failure is not cured within ten (10) days of written notice thereof to the City; and (iii) the City may terminate this Agreement immediately upon notice of AMR's loss or suspension of licensure necessary for the provision of its services.

10. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgement of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

If to AMR:

General Manager
American Medical Response Ambulance Service, Inc.
711 4th Avenue North
Billings, MT 59102

With mandatory copy to:

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

If to City:

Chief of the Fire Department
City of Billings
PO Box 1178
Billings, MT 59103

With mandatory copy to:

City Attorney
City of Billings
PO Box 1178
Billings, Mt. 59103

11. **Relationship.** In the performance of this Agreement, each Party hereto shall be, as to the other, an independent contractor and neither Party shall have the right or authority, express or implied, to bind or otherwise legally obligate the other. Nothing

contained in this Agreement shall be construed to constitute either Party assuming or undertaking control or direction of the operations, activities or medical care rendered by the other. AMR and the City administrative staff shall meet on a regular basis to address issues of mutual concern related to the provision of services and the Parties' respective rights and obligations hereunder.

12. **Force Majeure.** Neither Party shall be responsible for any delay in or failure of performance resulting from acts of God, riot, war, civil unrest, natural disaster, labor dispute or other circumstances not reasonably within its control.

13. **HIPAA.** Each Party shall comply with the privacy provisions of the *Health Insurance Portability and Accountability Act of 1996* and the regulations there under ("HIPAA"), and with such other requirements of HIPAA that may become effective during the Term. Each Party acknowledges and agrees that it is considered a covered entity under HIPAA. Accordingly, both Parties are permitted to use and disclose Protected Health Information in accordance with HIPAA without an additional written authorization of the patient as long as both parties form a direct relationship with the patient. All patient medical records shall be treated as confidential so as to comply with all state and federal laws.

14. **Referrals.** It is not the intent of either Party that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either Party of patients to the other Party or its affiliated providers, if any, or the purchasing, leasing or ordering of any services other than the specific services described in this Agreement. Any payments specified herein are consistent with what the Parties reasonably believe to be a fair market value for the services provided.

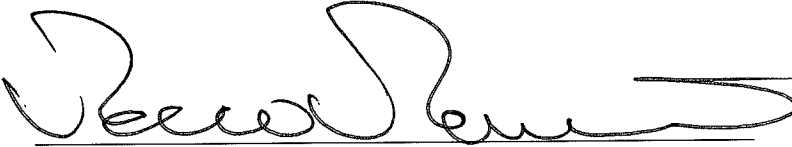
15. **Compliance Program and Code of Conduct.** AMR has made available to the City a copy of its Code of Conduct, Anti-kickback policies, and other compliance policies, as may be changed from time-to-time, at AMR's web site, located at: www.amr.net, and the City acknowledges receipt of such documents. AMR warrants that its personnel shall comply with AMR's compliance policies, including training related to the Anti-kickback Statute.

16. **Non-Exclusion.** AMR represents and certifies that neither it nor any practitioner who orders or provides Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C. 1320a-7(a) AMR further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other state or federal government payment program. AMR agrees that if DHSS/OIG excludes it, or any of its practitioners or employees who order or provide Services, from participation in Federal health care programs, AMR must notify the City within five (5) days of knowledge of such fact, and the City may immediately terminate this Agreement, unless AMR is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.

17. **Miscellaneous.** This Agreement: (a) constitutes the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior oral or written agreements with respect thereto; (b) may be amended only by written instrument executed by both Parties; (c) may not be assigned by either Party without the written consent of the other Party; (d) shall be binding on and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; (e) shall be interpreted and enforced in accordance with the laws of the State of Montana with venue in Yellowstone County, Montana, without regard to the conflict of laws provisions thereof, and the federal laws of the United States applicable therein.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date regardless of when actually signed.

American Medical Response Ambulance Service, Inc.
d/b/a American Medical Response

By: 
Rocco Roncarati, General Manager
5/10/11
Date

The City of Billings, Montana

By: _____
Mayor

Date

Attest: _____
City Clerk