

Faye Hughes

From: McCollum, Anna R <Anna.McCollum@airmethods.com>
Sent: Friday, June 15, 2018 8:45 AM
To: cookGov@windstream.net
Subject: AirMethods Advantage Membership
Attachments: AMA Membership Agreement - Cook County GA - draft 6-13-18.docx

Good Morning!

Thanks for the opportunity to meet with you regarding AirMethods Advantage county wide membership. I wanted to give you the draft of the contract that we use for these so you all can have this as you work through this opportunity for your county. A couple of things to keep in mind, this is a draft and we are open to make changes as you all see fit to best serve your county. Secondly, I have attached a reference for one of our current customers who has had the membership for a year already and is renewing with us. Please feel free to call Rose who is the county administrator and would be happy to speak with you.

Rose Elliot (Hampton County SC): rdelliott@hamptoncountysc.org, (803)943-8051

Again, I am always available for any questions that you may have and am excited for this opportunity should you decide to advocate for your county and move forward with the agreement.
Successful Together,

Anna McCollum, RN, BSN, NREMT-P | Regional Business Manager LifeNet SC

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AIR METHODS ADVANTAGE MEMBERSHIP AGREEMENT

This AIR METHODS ADVANTAGE MEMBERSHIP AGREEMENT (the "Agreement") is made and entered into effective as of August 1, 2018 (the "Effective Date") by and between Cook County, Georgia, having its principal place of business at 1200 South Hutchinson Avenue, Adel, Georgia 31620 ("County"), and Air Methods Corporation, a Delaware corporation having its principal place of business at 5500 S. Quebec Street, Suite 300, Greenwood Village, Colorado 80111 ("AMC"). County and AMC are sometimes referred to in this Agreement individually as a "Party," and collectively as the "Parties."

WHEREAS, AMC is engaged in the business of providing emergency air medical transportation services and maintains a membership program called "Air Methods Advantage" through which it provides certain benefits to its members; and

WHEREAS, County and AMC desire to enter into this Agreement with respect to AMC's provision of emergency air medical transportation services to the County's residents.

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **TERM.** This Agreement shall be in effect for a period of one (1) year commencing on the Effective Date (the "Term").
2. **SCOPE OF SERVICES.** This Agreement only covers medically necessary air medical transports by AMC of County residents to the closest appropriate hospital in AMC's service area. Medical necessity is determined by a patient's Insurance carrier, based on information from the attending physician. Patients are responsible for the cost of any transports that are determined not to be medically necessary. Furthermore, AMC is under no obligation to provide specific transport services as part of this Agreement. County understands that under some circumstances AMC may not be available to provide transport services due to weather conditions, maintenance, commitment of the aircraft to another transport, governmental market restrictions, FAA restrictions, AMC's absence from the applicable local market, weight and balance restrictions, or other factors. In addition, this Agreement does not cover the cost of any transports rendered by air or ground providers other than AMC.
3. **SERVICES.**
 - a. During the Term of this Agreement, AMC agrees to provide emergency air medical transportation services to County residents. In exchange for providing such services, AMC agrees to accept the amount paid by Insurance as payment in full for any medically necessary transport of a County resident.
 - b. If an AMC wholly owned subsidiary renders a medically necessary air medical transport to a County resident, AMC shall bill the patient's health insurance and any other responsible third party payer, including, but not limited to, automobile insurance (collectively, "Insurance"). AMC will accept the amount paid by Insurance as payment in full for any medically necessary transport. Patients transported by AMC are responsible for providing AMC with a valid assignment of benefits and for assisting AMC in its efforts, on the patient's behalf, to secure sufficient payment from the patient's Insurance.

Subject to the foregoing, patients are still responsible for payment of any ground ambulance services rendered.

4. COUNTY OBLIGATIONS.

- a. In the event AMC transports a County resident, the County shall promptly notify AMC of such transport and provide sufficient documentation to confirm the County resident's residence in the County on the date such transport was performed.
- b. County shall make the Payment specified in Section 5 below.
- c. As of the Effective Date, the County's membership group consists of 17,277 residents. County shall immediately notify AMC, in writing, upon a material change in the number of members. Upon AMC's receipt of such notice, the Parties shall renegotiate the annual Payment to account for the material change.

5. PAYMENT. County agrees to pay AMC Fifty-One Thousand Eight Hundred Thirty-One Dollars (\$51,831.00) (the "Payment") in exchange for the provision of membership benefits for the Term. The Payment shall be payable in four (4) equal quarterly installments of \$12,957.75 each, which shall be due on August 1, 2018, November 1, 2018, February 1, 2019, and May 1, 2019. Payment shall be sent to AMC at the address provided in Section 14 below. The Parties recognize that this annual amount was determined by an independent actuarial analysis in accordance with relevant guidance on such membership program rates.

6. PUBLICITY. County may generally describe the membership benefits provided by AMC under this Agreement in its brochures, websites, marketing collateral and other materials. Notwithstanding the above, County shall not use AMC's tradenames, service marks, logos, or any other intellectual proprietary property related thereto, for advertising or any other purposes, without the prior, express written consent of AMC.

7. DEFAULT AND TERMINATION. A material breach by either Party of any representation, warranty or covenant contained in this Agreement, or the failure of either Party to comply with any material terms or conditions set forth in this Agreement, shall constitute an event of default (a "Default"). In the event of Default, this Agreement may be terminated by the non-defaulting Party and, except as otherwise set forth herein, shall be of no further force and effect thirty (30) days after the non-defaulting Party provides the defaulting Party with written notice of a Default (the "Cure Period"), unless the defaulting Party cures the Default prior to the expiration of the Cure Period.

8. LIMITATION OF LIABILITY. In no event, whether as a result of contract, tort, strict liability or otherwise, shall either Party be liable to the other for any punitive, special, indirect, incidental or consequential damages, including without limitation loss of profits, loss of use or loss of contract.

9. RELATIONSHIP OF THE PARTIES. The relationship of the Parties, as set forth in this Agreement, is that of independent contractors. Nothing in this Agreement is intended or shall be construed as creating any kind of partnership, joint venture, or agency relationship between the Parties. Neither AMC nor its employees, agents or subcontractors, if any, shall in any way be deemed to be employees, agents or subcontractors of County. Likewise, neither County nor its employees, agents or subcontractors, if any, shall be deemed to be employees, agents or

subcontractors of AMC.

10. **NO REFERRAL CONTINGENCY.** The Parties agree that the benefit to each Party hereunder do not require, are not payment for, and are in no way contingent upon the admission, referral, or any other arrangement for the provision of any item or service offered by either Party in any facility, controlled, managed, or operated by any Party. Each of the Parties expressly acknowledges and agrees that it has been and continues to be its intent to comply fully with all federal, state, and local laws, rules, and regulations. It is not the purpose nor is it a requirement of this Agreement to offer or receive any remuneration or benefit of any nature or to solicit, require, induce, or encourage the referral of any patient, the payment for which may be made in whole or in part by Medicare, Medicaid or other payor. No payment made or received under this Agreement is in return for the referral of patients or in return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any goods, service, item, or product for which payment may be made in whole or in part under Medicare, Medicaid or other payor. No Party shall make or receive any payment that would be prohibited under state or federal law.

11. **MODIFICATION TO COMPLY WITH LAWS.** In the event that any one or more of the terms of this Agreement is determined to be unlawful or invalid under, or is otherwise inconsistent with state or federal law, as the result of an enforcement action brought against any Party hereto, or an audit or examination of any Party hereto by the Office of Inspector General of the Department of Health & Human Services, the Internal Revenue Service, the United States Justice Department, or any other agency of the state or federal government having jurisdiction over the subject matter of the Agreement, the Parties hereto agree to negotiate in good faith to reform this Agreement and shall reform the same to eliminate the illegality, invalidity, or infeasibility. In the event that an enforcement action is brought or threatened against any Party hereto, or an audit or examination is commenced with respect to any Party hereto by any of the aforementioned agencies, and reformation of this Agreement shall facilitate the resolution of the enforcement action or threatened enforcement action, or shall facilitate the resolution of the audit or examination in favor of the Party being examined or audited, the Parties hereto agree to negotiate in good faith to reform this Agreement and shall reform the Agreement to eliminate or revise its term or its terms in a manner to favorably resolve the enforcement action, threatened enforcement action, audit or examination; "favorably resolve" means that it shall be resolved in such a manner that the agency of state or federal government which is bringing or threatening the enforcement action, audit, or examination does not conclude or find that a term of this Agreement is unlawful or invalid under state or federal law. In the event that a change or further interpretation of state or federal law that either of the Parties reasonably believes would render any one or more of the terms of this Agreement unlawful, invalid, or infeasible as provided herein, the Parties hereto agree to negotiate in good faith to reform this Agreement and shall reform the same to eliminate the illegality, invalidity, or infeasibility, and to comply with such change or interpretation. In the event that the Parties do not agree to reform this Agreement as provided herein, this Agreement shall terminate ten (10) days from the date of the negotiations contemplated herein. The terms of this Section shall survive the termination of this Agreement.

12. **SEVERABILITY.** Subject to Section 11, in the event that any provision of this Agreement is determined to be unlawful or contrary to public policy, such provision shall be severed herefrom, shall be deemed null and void, but shall in no way affect the remaining provisions outlined herein.

13. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regards to conflict of laws principles thereof.

14. **NOTICES.** Any notices, demand or communication required or permitted to be given hereunder shall be deemed effectively given when personally delivered, when actually received by facsimile or email transmission or by guaranteed overnight delivery service, or five (5) business days after being deposited in the United States mail, with postage prepaid thereon, sent certified or registered mail, return receipt requested, and in all such cases addressed as follows:

If to County:

Cook County, Georgia
1200 South Hutchinson Avenue
Adel, GA 31620
Attn: Dwight Purvis, Chairman

If to AMC:

Air Methods Corporation
5500 South Quebec Street, Suite 300
Greenwood Village, CO 80111
Attn: Vice President, Southeast Region

with a copy (which shall not constitute notice) to:

Air Methods Corporation
5500 South Quebec Street, Suite 300
Greenwood Village, CO 80111
Attention: Legal Department

15. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between the Parties, and supersedes all prior written agreements, arrangements and understandings and all prior and contemporaneous oral agreements, arrangements and understandings between the Parties with respect to the subject matter of this Agreement.

16. **AMENDMENT AND MODIFICATION.** This Agreement may not be amended, modified or supplemented except by an instrument in writing signed on behalf of each Party and otherwise as expressly set forth herein.

17. **NO PRESUMPTION AGAINST DRAFTING PARTY.** Each of County and AMC acknowledges that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting Party has no application and is expressly waived.

18. **COUNTERPARTS; FACSIMILE OR ELECTRONIC SIGNATURE.** This Agreement may be executed in counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party. Any executed counterpart to this Agreement may be delivered by facsimile, PDF or other electronic means, and any counterpart so delivered shall constitute an original for all purposes.

IN WITNESS HEREOF, the Parties, through their respective undersigned authorized officers, have duly executed this Agreement to be effective as of the Effective Date.

AIR METHODS CORPORATION

COOK COUNTY, GEORGIA

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____