

**FIRST AMENDMENT TO
CLARK COUNTY MONORAIL FRANCHISE AGREEMENT**

GRANTED TO

MGM GRAND-BALLY'S MONORAIL LIMITED LIABILITY COMPANY

THIS FIRST AMENDMENT TO FRANCHISE AGREEMENT ("Amendment") dated this 20th day of October, 1999 ("Effective Date"), is entered into between Clark County, Nevada, a political subdivision of the State of Nevada, acting by and through its Board of County Commissioners which is its governing body ("County"), and MGM Grand-Bally's Limited Liability Company, a Nevada limited liability company ("Franchisee").

WITNESSETH:

WHEREAS, the Franchisee is engaged in the business of designing, constructing, financing and operating a Monorail for public transportation in Clark County; and

WHEREAS, the County is authorized, pursuant to Nevada Revised Statutes (NRS), to grant a franchise to install and operate a Monorail on County Rights-of-Way; and

WHEREAS, Chapter 5.04 of the Clark County Code provides for the issuance of Monorail franchises, and establishes the terms and conditions of Monorail franchise agreements, including amendments and assignments thereof; and

WHEREAS, after a public hearing on December 2, 1998, the County and the Franchisee entered into a "Clark County Monorail Franchise Agreement" dated as of December 2, 1998 (the "Franchise Agreement"), pursuant to which the County granted to the Franchisee a Monorail franchise on the terms and conditions set forth in the Franchise Agreement; and

WHEREAS, the defined terms used in the Franchise Agreement have the same meaning when used in this Amendment; and

WHEREAS, subsequent engineering analysis has enabled the Franchisee to relocate the monorail in several locations along the route, the Franchisee has modified its agreements with certain landowners regarding the location of portions of the Monorail and the Franchisee has reconfigured the location of the northerly terminus of the Monorail, including the operations and maintenance facility, as a result of which the Monorail route has changed in certain respects, said route deviations being outside the legal route description contained in the Franchise Agreement; and

WHEREAS, pursuant to Clark County Code Section 5.04.140, the Franchisee has filed an application with Clark County Current Planning for a new conditional use permit (UC-1170-99) ("New Use Permit") and an application with Clark County Administrative Services for an amendment to the Franchise Agreement to request approval of the deviations from the original route approved by the County; and

WHEREAS, the Franchisee proposes to form a non-profit, special purpose Nevada corporation for the sole purpose of developing, acquiring, constructing, operating and improving the Monorail (the "SPE"), and desires to provide for the assignment of the Franchise Agreement to the SPE; and

WHEREAS, Section 12 of the Franchise Agreement presently requires approval by the county commission of any transfer or assignment of the Franchise; and

WHEREAS, under Clark County Code, Section 5.04.210 the Franchise Agreement may provide for certain transfers and assignments that do not require the approval by the county commission; and

WHEREAS, following the giving of public notice as specified in Clark County Code, Section 5.04.100, at a public hearing on October 20, 1999, the Board of County Commissioners of the County of Clark, State of Nevada, approved the New Use Permit concurrently with an amendment to the Franchise Agreement in accordance with Clark County Code, Section 5.04.140.

NOW, THEREFORE, in consideration of the premises and of the mutual promises contained in the Franchise Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Franchisee agree that the Franchise Agreement is amended in the following respects:

1. Amendments.

- (a) Exhibit B. The Legal Route Description for Las Vegas Monorail Route, attached to the Franchise Agreement as Exhibit B is hereby deleted and replaced with revised Exhibit B, (Revised) Legal Description for Las Vegas Monorail Route, attached to this amendment and incorporated herein by reference ("Revised Exhibit B"). As of the Effective Date all references to Exhibit B in the Franchise Agreement are hereby amended to refer to Revised Exhibit B, and all references in the Franchise Agreement to the approved monorail route are hereby amended to refer to the route described on Revised Exhibit B.
- (b) Use Permit. The County hereby grants, contemporaneously with the Effective Date of this Amendment, a conditional use permit, in accordance with the New Use Permit, subject to the conditions imposed by the County Commission in accordance with Title 29 of the Clark County Code, as set forth in conditional use permit No. UC-1170-99. As of the Effective Date, the references in Section 4.1 of the Franchise Agreement and elsewhere in the Franchise Agreement to the conditional use permit and the related conditions of approval are hereby amended to refer to the New Use Permit No. UC-1170-99.
- (c) Transfers and Assignments. Section 12.1 of the Franchise Agreement is amended to read in its entirety as follows:

The Franchise shall be a privilege that is in the public trust and personal to the Franchisee. The Franchisee's obligations under its Franchise involve personal services whose performance involves personal credit, trust, and confidence in the Franchisee. No Transfer or Assignment of this Franchise shall occur except (i) as provided in Chapter 5.04 of the Clark County Code; or (ii) pursuant to Section 12.2.

- (d) SPE Transfers. A new Section 12.2 is added to the Franchise Agreement to read as follows:

The Franchisee shall be permitted to transfer and assign the Franchise, including the related monorail master business license, on a one time basis, to a special purpose Nevada corporation formed by the Franchisee for the sole purpose of developing, acquiring, constructing, operating and improving the Monorail (the "SPE"), provided the following conditions are satisfied: (i) the County's financial consultant shall have reviewed the SPE's financing plan for the Monorail and reported its findings to the County Manager; (ii) the County Commission shall have approved, subject to such conditions as the County Commission deems appropriate, the written findings made by the Director of the State of Nevada Department of Business and Industry pursuant to NRS 349.580 in connection with the proposed revenue bond financing of the Monorail for the SPE and such other matters related to the transfer and assignment as the County Commission deems necessary; and (iii) the County Commission shall have approved the Transfer and Assignment agreement by and between the Franchisee and the SPE.

2. Effective Date; Confirmation of Franchise Agreement. This Amendment shall become effective upon the execution hereof by both parties. Except as specifically modified herein, each and every term, covenant and condition of the Franchise Agreement is hereby ratified and shall remain in full force and effect.

3. Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, successors and permitted assigns.

4. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Amendment. Delivery of this Amendment may be accomplished by facsimile transmission of this Amendment. In such event, the parties hereto shall promptly thereafter deliver to each other executed counterpart originals of this Amendment.

5. Entire Agreement. This Amendment and the documents executed and delivered pursuant hereto constitute the entire agreement between the parties and may be amended only by signing in writing on behalf of each party.

6. Interpretation. The headings of the articles, sections, paragraphs and subdivisions of this Amendment are for convenience and reference only, are not to be considered a part hereof and shall not limit or expand or otherwise affect any of the terms hereof.

IN WITNESS WHEREOF the parties hereto have set their hands this 20th day of
October, 1999.

CLARK COUNTY BOARD OF COMMISSIONERS

BY: Bruce L. Woodbury
BRUCE L. WOODBURY, Chairman

ATTEST:

Shirley B. Parraguirre
SHIRLEY B. PARRAGUIRRE
County Clerk

APPROVED AS TO FORM
DISTRICT ATTORNEY

E. Lee Thomson
By: E. Lee Thomson
Deputy District Attorney

MGM GRAND-BALLY'S MONORAIL
LIMITED LIABILITY COMPANY

Robert N. Broadbent
ROBERT N. BROADBENT, General Manager