

(Published in the Topeka Metro News December 21, 2020)

ORDINANCE NO. 20275

AN ORDINANCE introduced by City Manager Brent Trout, providing for a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka until December 31, 2021, and replacing the franchise ordinance codified at City Code Appendix B, Article XI that will expire December 31, 2020.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. Authority.

This Franchise Ordinance is passed and approved by the Governing Body of the City of Topeka, Kansas, and enacted pursuant to K.S.A. 12-2001 and the authority found and provided for in Chapter 5.25 TMC.

Section 2. Satisfactory qualifications.

The Governing Body of the City of Topeka, Kansas, has considered the legal, character, financial, and other qualifications of the applicant and has found Medevac MidAmerica, Inc., doing business as American Medical Response, hereinafter "AMR," to be qualified in all respects to own, maintain and operate an ambulance service in the City of Topeka, Kansas hereinafter "City." The Governing Body of the City of Topeka finds that public convenience will be promoted and public necessity requires such ambulance service under the terms and provisions of Chapter 5.25 TMC.

Section 3. Service.

The maintenance and operation of an ambulance service by AMR in the City shall be in accordance with these terms and conditions and performance standards set forth in the current ambulance service contract entered into by AMR and the Board of County Commissioners of Shawnee County, Kansas. Said contract is identified as Shawnee County Contract C207-2016. In

30 addition, AMR agrees to provide to the City Manager of the City copies of documents which are
31 required to be filed pursuant to Shawnee County Contract C207-2016.

32 In the event that AMR intends to work toward implementing a community paramedicine
33 program/service, it is the goal of AMR and TFD to jointly participate and collaborate in such
34 implementation.

35 **Section 4. Franchise grant.**

36 Pursuant to the provisions of TMC 5.25.040, a nonexclusive franchise is granted to AMR,
37 to own, maintain, and operate an ambulance service within the City. Said nonexclusive franchise
38 is granted through and including December 31, 2021, and shall vest all rights, privileges and
39 immunities of an ambulance service franchise with AMR; however, said nonexclusive franchise
40 shall be subject to and conditioned upon all of the terms, duties and obligations found in the laws
41 of the State of Kansas, Chapter 5.25 TMC, and this Franchise Ordinance.

42 **Section 5. Payments to the City.**

43 Consideration for the rights, privileges, and immunities granted to AMR includes the
44 benefits to be derived by the citizens of the City of Topeka from the maintenance and operation of
45 an ambulance service under the terms and conditions of this Franchise Ordinance.

46 (a) The ambulance service franchise application fee prescribed by TMC 5.10.040 has
47 been paid to the City Clerk.

48 (b) On or before April 1 of each year within the term of this Franchise Ordinance, the
49 fees set forth in TMC 5.10.040(b) are due, including the business fee and an ambulance fee for
50 each AMR ambulance in operation in the City. An ambulance fee for each additional ambulance
51 placed into operation after the initial fee payment is due at the time the additional ambulance is
52 licensed.

(c) Within thirty (30) days of the presentation of an invoice to AMR by the City, AMR shall make payments to the City Treasurer for the following types of assistance:

(1) For each Topeka Fire Department (“TFD”) response to AMR’s request for a non-emergency lift assist of any patient due to the patient’s weight, AMR shall pay a fee of \$200.00 per patient receiving the lift assist. For purposes of this subsection, non-emergency means any request that was not initiated by a 911 call.

Section 6. Other AMR responsibilities.

(a) Upon written request from the Fire Chief, the Chief of EMS, or their designees, AMR shall provide certain data elements. These data elements may include Contract Zone, ALS/BLS Response, Response times, unit and triage. AMR shall respond to such requests within thirty (30) business days.

(b) AMR and the Fire Chief, the Chief of EMS and/or their designees shall meet no less than monthly for call review and quality assurance/improvement of selected calls to include, but not be limited to, severe trauma, cardiac arrest, or similar types of calls occurring in the City of Topeka limits. The intent is to look at the entirety of the call for improvements to address training, equipment needs and general system improvements.

(c) AMR agrees to provide notification through the County Protocol Committee to the Fire Chief and Chief of EMS concerning anticipated or desired changes to protocol, equipment, or medications that are not a result of National Supply Shortage or emergency. Further AMR agrees that all proposed protocol changes that are not a result of a National Supply Shortage or emergency will be submitted for review to the County Protocol Committee prior to submission to the Medical Director. After submission to the Medical Director, the Fire Chief , Chief of EMS and/or their County Protocol Committee member shall be given the opportunity to attend meetings to discuss

76 proposed protocol changes in the event the Medical Director changes the proposed protocols
77 submitted to him/her. Notice of such meeting shall be provided as soon as reasonable based on the
78 schedule of the Medical Director.

79 (e) In January of each calendar year, AMR shall provide copies of all written mutual aid
80 agreements for ambulance service in the City of Topeka or provide written notice that no such
81 agreements exist.

82 (f) AMR agrees to the use of designated dispatch radio channels for EMS operations
83 within the City of Topeka. Further AMR agrees that AMR units and dispatch are responsible for
84 monitoring the designated channel while on scene.

85 **Section 7. Insurance.**

86 Upon the effective date of this Franchise Ordinance, AMR shall file with the City Clerk an
87 insurance policy as required by TMC 5.25.140 and the same shall be approved as to form by the
88 City Attorney's office. During the term of this Franchise Ordinance, AMR shall maintain paid
89 insurance coverage according to TMC 5.25.140.

90 **Section 8. Acceptance by AMR.**

91 Operation of an ambulance service within the City by AMR on or after the effective date
92 of this Franchise Ordinance constitutes acceptance of the provisions of the Franchise Ordinance.

93 **Section 9. Remedies of City.**

94 Nothing herein shall limit or preclude the City from seeking remedies at law or equity in a
95 court of competent jurisdiction for any violation by AMR of the laws of the State of Kansas or any
96 ordinance of the City.

97 **Section 10. Forfeiture.**

98 Any material and substantial fraud, misrepresentation or default of the terms, duties and

obligations imposed upon AMR by the laws of the State of Kansas, Chapter 5.25 TMC or by this Franchise Ordinance shall constitute grounds for forfeiture of this nonexclusive Franchise Ordinance. The City shall notify AMR in writing of any allegation of a material and substantial fraud, misrepresentation or default and shall hold a public hearing before the Governing Body of the City of Topeka on the merits of such allegations. Said public hearing shall be held within thirty (30) days after the notification to AMR and shall be adjudicative in character but shall not bar the rights of any parties to pursue judicial review. Within ten (10) days following the conclusion of such hearing, the Governing Body of the City of Topeka shall act with respect to such forfeiture and shall submit a written statement to AMR. This Franchise Ordinance shall not be forfeited unless the Governing Body of the City of Topeka finds that there has been a material and substantial fraud, misrepresentation or default on the part of AMR so as to justify a forfeiture. In such case a notice of forfeiture shall be provided to AMR. In the event this Franchise Ordinance is forfeited, AMR shall, within one hundred eighty (180) days of its receipt of notice of forfeiture, cease operation of an ambulance service hereunder.

Section 11. Surrender.

If, during the term of this Franchise Ordinance, AMR does not earn a fair rate of return upon the value of property used and useful in providing such ambulance service for a period of six (6) months; and it is determined by AMR that it would not be practical, possible or in the public interest to cure the deficiency by an increase in rates and/or a reduction in service; and AMR has complied with all applicable procedures as prescribed by the Board of County Commissioners of Shawnee County, Kansas including the giving of notice of surrender to the City; then AMR upon one hundred eighty (180) days written notice to the City Clerk may elect to surrender this Franchise Ordinance and cease operation of the ambulance service hereunder. Fair rate of return means

receipt of revenues for patient charges and public funds, if any, to include the sum of operating costs, depreciation reserves, growth and development costs and management fees.

Section 12. Transfer.

Only upon written approval of the Governing Body of the City of Topeka may the rights and obligations of AMR, pursuant to this Franchise Ordinance, be transferred to a person meeting the requirements for an ambulance service, as determined by the laws and regulations of the State and the City at the time of the contemplated transfer. Any approved transferee shall, without limitation, assume all the duties and obligations of AMR and AMR shall be released of all future rights, duties, and obligations arising from this Franchise Ordinance.

Section 13. Hold harmless.

AMR shall hold the City harmless for all liability, damages, costs and expenses of every kind for the payment of which the City may become liable to any person by reason of the rights and privileges herein granted and, if any action either at law or in equity, be brought against the City for damages or for any cost to the City for any fault of AMR, its servants, agents, or employees, in the operation of its ambulance service, AMR shall pay all costs, damages and expenses including costs of defense for which the City may be held liable.

Section 14. Effective date.

This Franchise Ordinance shall take effect and be in force from January 1, 2021, and after its passage, approval and publication in the official City newspaper in the manner prescribed by law, and shall be binding upon AMR upon the conditions set forth herein.

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PASSED AND APPROVED by the Governing Body on December 15, 2020.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk