



# **Austin – Travis County**

## **Emergency Medical Services Department**

**Emergency Services, Emergency Communications, Shock Trauma Air Rescue**

**Preserve Life, Improve Health, Promote Safety**

### **SUMMARY**

#### **REVIEW OF FRANCHISE APPLICATION**

**ACUTE MEDICAL SERVICES L.L.C**

**dba AUSTIN MEDICAL SERVICES**

### **BACKGROUND**

The City of Austin established an ordinance in 1980 to regulate the non-emergency ambulance service within the city limits. This ordinance includes the criteria that must be satisfied, to award a franchise to an Applicant. Currently, the City of Austin has two franchised providers of non-emergency services. Per the City Ordinance, the department staff will review and verify the information submitted on franchise applications. The staff then submits a recommendation to the Chief. The Chief will make his recommendation to the Austin Travis County Advisory Board, who in turn submits a final recommendation to the City Council.

In September 2014, Austin Travis County EMS received a franchise application from Acute Medical Services L.L.C. (Applicant) requesting to obtain a non-emergency franchise. The initial review of the application identified deficiencies which are documented within this summary.

### **REGULATIONS**

#### ***§ 10-2-60 REQUIRED.***

No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation of medical transfer services upon the public streets of the City without having first obtained a franchise in accordance with the terms and provisions of this chapter and the City Charter. Medical transfer services provided and operated by a medical facility with no separate charge for such transport are not precluded by this section. Such medical transfer services must comply with Section 10-2-82(A)(8) (*Vehicles*).

#### ***§ 10-2-61 APPLICATION AND FEE.***

(A) Applications for a transfer vehicle franchise shall be filed with the director on the form provided by the director. The applicant shall furnish the following proof and information, which shall be subscribed and sworn to before a notary public:

- (1) That the applicant has not been convicted of a felony or of a misdemeanor involving moral turpitude within the last ten years.
- (2) A statement that the applicant has obtained or will obtain liability insurance in accordance with the requirements of this chapter.

(3) The full name, date of birth, telephone number, permanent residence and mailing address of the applicant. If the person submitting the application represents a partnership, then such information shall be given on all partners and persons having an interest in the business. If a corporation, the name and location of its principal place of business, the name, date of birth, telephone number and address of all the officers, directors and all stock holders of the organization. If the applicant's business is a corporation or association, a copy of the documents establishing the business and the name, address, and citizenship of each person with a direct interest in the business. Corporate applicants must provide a certified copy of the corporate charter, articles of incorporation, and a statement from the Secretary of State certifying that the corporation is in good standing.

(4) A certificate of assumed name, if such is required by state law to be filed.

(5) Documentary evidence from the city and county tax assessor-collector that ad valorem taxes on the property to be used in connection with the operation of the proposed medical transfer service have been paid.

(6) The number, make, model, and style of transfer vehicles proposed to be utilized.

(7) Description of any past business experience of the applicant, particularly in providing passenger transportation services; identification and description (of any revocation or suspension of) franchise or permit held by the applicant or business before the date of filing the application.

(B) The applicant shall deposit a fee as established by ordinance of the council with the director for part of the cost of publication of notices and reprinting of applications for review.

#### **§ 10-2-62 REVIEW OF APPLICATION; PUBLIC HEARING.**

(A) Copies of each application for a medical transfer services franchise shall be forwarded to the city manager for review and recommendation to the council. The Austin-Travis County EMS Advisory Board shall review applications for transfer service franchises and make recommendations to the council.

(B) The council will hold a public hearing on the application for a transfer service franchise at a time and place as specified in a notice to be published in a newspaper of general circulation 15 days before the hearing.

(C) The applicant shall not be granted a transfer franchise unless the council determines that the public convenience will be served by the issuance of the franchise. In all hearings, the burden of proof shall be upon the applicant to establish by clear, cogent and convincing evidence that the public convenience will be served by the granting of a transfer service franchise.

(D) In determining public convenience, the council shall consider the following:

(1) The distance from the permanent address at which the applicant proposes to operate the transfer service to hospitals and other medical facilities providing service to the public.

(2) In the event the applicant has previously participated in or is currently participating as an ambulance or transfer service, evidence as to whether the applicant performed or is performing in a satisfactory manner.

(3) The number of providers available to provide service in the area in which the applicant proposes to furnish service, and whether granting the franchise will adversely affect existing service so as to lower the standards of existing services and cause public inconvenience.

**§ 10-2-63 PREREQUISITES TO ISSUANCE.**

No medical transfer service franchise will be granted unless the council determines that the proposed operation of the transfer service will be in compliance with the Code, and all applicable state and federal statutes and regulations.

**§ 10-2-83 - PERSONNEL.**

- (A) Each vehicle shall be attended by at least two currently state-certified Emergency Medical Technicians (EMTs). Each EMT shall hold a valid Class A Texas driver's license.
- (B) A provider shall maintain a current personnel file at the local administrative office on each employee. Each EMT employed by the provider shall be state certified.

**DEFICIENCIES**

**1. Application Form Question 2 (based on § 10-2-62:D-1)**

*Permanent Address*

**Deficiencies**

The location of the permanent address as listed in the application is outside of the service area.

As submitted the Applicants permanent address does not support the Applicant's ability to provide a public convenience.

**2. Application Form Question 15 (based on § 10-2-61:A-6):**

*The number of vehicles to be used as transfer vehicles under the franchise.*

*Note; attach a list including year, make, model, style, mileage, license number, VIN, state registration and inspection expiration dates and owner of vehicle.*

The Applicant submitted a letter stating:

*"Acute Medical Services L.L.C. has a **plan in place to buy two (2) new or like new ambulances** for our Austin area franchise once we have the city of Austin approval and permit, Please let this suffice for number 15 of the application."*

**Deficiencies**

The Applicant does not have vehicles as required by the ordinance.

There is no way for staff to make a recommendation, since we are unable to verify that the vehicles to be used under a franchise are in compliance with **§ 10-2-82** which requires each vehicle to meet age, mileage, medical equipment stocking levels, and vehicle maintenance requirement. Also, since the vehicles are not owned there is no way verify that the vehicles to be used are in compliance with **§ 10-2-43** which requires the standards for liability insurance for every vehicle used to provide non-emergent transports.

**3. Application Form Question 21 (based on 10-2-62:C)**

*Attach a description of any past business experience of the Applicant, particularly in providing passenger transportation services, identification and description (of any revocation or suspension of) any franchise or permit held by the Applicant or business before the date of filing the application.*

**Deficiencies**

The Applicant submitted a one page memo describing past business experience. The Applicant also submitted a single letter from a physician indicating that his facility currently uses the Applicant to provide service.

The staff does not have any other information to make a recommendation concerning public convenience would be served.

**4. Application Form Question 22 (based on § 10-2-83: A, B)**

*Attach a statement describing the operation of the proposed service and how service will be improved to the City. Note: Include a staffing schedule to demonstrate 24-hour operations of the telephone communications center and a roster of all staff who will provide service under the auspices of the franchise. The staff roster should include each employee's full name, title, date of birth, date of hire, date of certification, certification expiration date and drivers' license number.*

**Deficiencies**

The Applicant submitted a letter stating:

*I have attached a copy of our current employee roster as well as an example of how we set up our units on a daily basis. However, the shifts may vary somewhat due to there being two units in the city of Austin. Also, once were are given a franchise permit and have the go ahead to do business in Austin, Texas we will proceed to find a permanent location to serve our contracts. We will then hire qualified personnel to staff our Austin division."*

The Applicant does not provide evidence that each vehicle will be attended by at least two currently state-certified Emergency Medical Technicians.

**Conclusion:**

As submitted, the Applicant does not have the location, personnel or vehicles required to become a franchise as described in the local ordinance. The Applicant has not provided evidence that the operation would be in place within 20 days of the passing of the ordinance.

The Applicant did not provide any information to staff to evaluate the evidence that the public convenience will be served by the granting of a transfer service franchise.

Finally, there is a concern that the Applicant does not fully understand the franchise regulations that they must respond to every call, not just for calls from contracted entities.

Staff recommends that the Applicant be given ten (10) business days resolve the deficiencies found in this summary. A final review will be conducted upon Applicant response or expiration of the 10 business days.