

**ORDINANCE NO. 20230209-007**

**AN ORDINANCE WAIVING CITY CODE CHAPTER 14-11 (*USE OF RIGHT OF WAY*) AND SECTION 10-2-60 OF CHAPTER 10-2 (*MEDICAL TRANSFER SERVICES*); AND AUTHORIZING NEGOTIATION AND EXECUTION OF A LICENSE AGREEMENT WITH ACADIAN AMBULANCE SERVICE, INC. FOR A LIMITED TERM AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. FINDINGS.** Council finds the following:

1. Acadian Ambulance Service, Inc. (Acadian) has held a non-emergency medical transfer franchise with the City since October 2007.
2. On December 7, 2017, Council approved Ordinance 20171207-063, granting a renewal of the franchise for a five-year term.
3. On February 6, 2018, the five-year term began.
4. On March 11, 2022, Council approved the FY2022 Austin-Travis County EMS (ATCEMS) Interlocal Agreement, which disbanded the ATCEMS Advisory Board, preventing delaying compliance with City Code Section 10-2-62 (*Review of Application, Public Hearing*), where the Section requires receiving a recommendation from ATCEMS Advisory Board for the renewal of the franchise for an additional five-year term.
5. On June 1, 2022, in accordance with the terms of the then-current franchise, the City received an application from Acadian requesting a renewal of the franchise for another five-year term. Acadian fully complied with the requirements for submitting the application and paid the required fee.
6. On February 6, 2023, the franchise under which Acadian operated for five years expired.
7. City Code Section 10-2-62 (*Review of Application, Public Hearing*) requires Council hold a public hearing and approve an ordinance on first reading granting a renewal of the non-emergency medical franchise for a five-year term.
8. Section 3 of Article XI of the City Charter (*Franchises and Public Utilities*) requires that an ordinance granting or renewing a franchise be read at three

regular meetings of Council, and the final action cannot occur until at least 30 days after the first reading of, and action on, the ordinance.

9. Section 3 of Article XI of the City Charter (*Franchises and Public Utilities*) stipulates that no ordinance granting a franchise shall become effective until the expiration of 60 days following the date of Council's last action on the ordinance.
10. Acadian transports approximately 700 patients each month. Acadian customers include nursing homes, assisted living facilities, and similar facilities that house elderly and disabled individuals. These customers rely on Acadian to transport residents who require basic life support systems when they are transported to doctors' appointments or to other locations in order to receive care. Acadian makes non-emergency transports for local hospitals, which rely on this service when discharging certain patients. Acadian customers include individual patients who require basic life support services when traveling to and from doctors' appointments for services such as kidney dialysis. ATCEMS depends on the Acadian to provide these services so that ATCEMS can commit all of its resources to providing emergency services to the population of Austin and Travis County.
11. A public convenience will be served by granting Acadian a license agreement to operate a non-emergency medical transfer service upon the public streets of the City for a limited term until such time as the ordinance granting renewal of the franchise becomes effective.

**PART 2. LICENSE AGREEMENT - AUTHORIZATION.** Council authorizes the City Manager to negotiate and execute a license agreement with Acadian that will grant Acadian the right to operate a non-emergency medical transfer service upon the public streets and other public rights-of-way of the City for a limited term.

**PART 3. TERM OF LICENSE AGREEMENT.** The term of the license agreement shall begin on February 9, 2023, and end at midnight on August 9, 2023. Council directs that the license agreement includes a provision to permit the City to terminate the license agreement for convenience if the ordinance granting the renewal of the franchise is not finally approved by Council.

**PART 4. OBLIGATIONS AND RESPONSIBILITIES OF ACADIAN UNDER LICENSE AGREEMENT.** Council directs that the terms of the license agreement that describe the obligations, responsibilities, and requirements of Acadian, especially but not limited to the requirement that Acadian indemnify and hold harmless the City, its officers, agents and employees from any and all claims or losses which may result from



any negligent or intentional act or omission of Acadian, its agents, employees or representatives, be substantially similar to the franchise that expired on February 6, 2023.

**PART 5.** For purposes of negotiating and executing the license agreement with Acadian for a limited term, Council waives all requirements related to granting a license agreement in Chapter 14-11 (*Use of Right of Way*) and the requirement that Acadian operate a non-emergency medical transfer service pursuant to a franchise under Section 10-2-60 of Chapter 10-2 (*Medical Transfer Services*).

**PART 6.** The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance.

**PART 7.** Based on the recitals in Part 1 of this ordinance, Council finds that the February 6, 2023, termination of the franchise held by Acadian to operate a non-emergency medical transfer service constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage on February 9, 2023, for the immediate preservation of the public peace, health, and safety.

**PASSED AND APPROVED**

<p>February 9, 2023</p>	<p>§ § § _____ Kirk Watson Mayor</p>
<p><b>APPROVED:</b> _____ Anne L. Morgan City Attorney</p>	<p><b>ATTEST:</b> _____ Myrna Rios City Clerk</p>