



Buncombe County Legal Department

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To: The Buncombe County Board of Commissioners

From: The Buncombe County Legal Department

Date: March 4, 2019

Re: *Medical Emergency Ambulance Transport, Inc's. Franchise Application Submitted 2/26/2019*

MEMORANDUM

On February 26, 2019, the County Legal Department received on behalf of the County an application for grant of emergency medical and convalescent transportation franchise pursuant to Buncombe County Code of Ordinances Sec. 22-41 *et seq.* (hereinafter the "Application") from Medical Emergency Ambulance Transport, Inc., (hereinafter the "Applicant").

In consultation with County EMS, the County Legal Department scheduled a hearing with the Applicant, by and through its president, Mr. Kermit Tolley, and held the same on February 26, 2019, at approximately 10:00 a.m. The aforementioned hearing revealed some deficiencies with the Application as submitted, which rendered the Application incomplete. The Applicant made note of said deficiencies and supplemented the Application with items meant to cure said deficiencies later that same day. Those supplemental item are attached to the Application as Exhibits A through C.

The Application includes an Independent Auditors' Report dated December 31, 2016. The County Finance Department's analysis of that Report is attached to this Memorandum.

The Application, as supplemented, includes elements responsive to the requirements of Buncombe County Code of Ordinances Sec. 22-43 (attached). In order for Buncombe County Board of Commissioners to grant a franchise, it must find that:

1. The public will be served by granting the applicant a franchise, consistent with the article.
2. The application is accurate and, complete.
3. The applicant has provided adequate evidence of its ability to provide safe, adequate and responsible service, and evidence that no owner, operator, agent or employee of applicant has been debarred from the Medicare or Medicaid program, or any other public benefit program of the United States or any state.
4. The applicant holds all necessary licenses and permits from OEMS, or will be fully qualified to obtain all necessary licenses and permits upon award of the franchise.

It is this Department's recommendation that any grant of franchise be conditional and subject to a successful inspection by OEMS of the Applicant's Premises and Equipment determining that the Applicant has the ability to provide safe, adequate and responsible service to Buncombe County.

Attachments (2): County Finance Department's Analysis of Applicant's Independent Auditors' Report

Buncombe County Code of Ordinances Sec. 22-41 *et seq.*

Ratios	FY16
Operations Ratio	1.07
Current Assets to Expenses	0.22
Quick Ratio	0.60
Fixed Assets Conditions	0.49
Debt Ratio	0.64
Change in Net Assets	NA
Salary to Revenue	0.39

The financial ratios for Medic Emergency Ambulance Transport Inc. are based on year-end 2016 financial statements, which is the only information available to the County at this time. Overall, the financial ratios of the organization are not a cause for significant concern. The Operations Ratio is 1.07 and a ratio of 1.00 or higher is considered favorable. The Current Assets to Expenses ratio of 0.22 indicates there is almost enough current assets available to fund about 3 months of expenses. The Quick Ratio is 0.60 and this indicates that for every \$1.00 of liabilities, there is \$0.60 to pay for it. In general, the higher the Quick Ratio, the better. The Fixed Asset Conditions ratio is 0.49 which indicates that the assets are about half way through their useful life. The Debt Ratio is 0.64, the closer the number is to 1.0, the more debt burden the organization has and a ratio greater than 1.0 would signal a significant problem. The Salary to Revenue ratio is 0.39 which indicates that salaries account for 39% of revenues. This ratio varies widely by industry, but in general, spending too much on employees can impair an organizations ability to reinvest and grow.

DIVISION 2. - FRANCHISE

Sec. 22-41. - Requirements of franchisees.

- (a) *Grant of franchise before provision of service.* No person either as owner, agent, employee or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business of emergency, nonemergency or convalescent transportation of patients within the county unless the person holds a valid permit for each ambulance used in such business issued by OEMS and has been granted a franchise for the operation of such business or service by the county pursuant to this article.
- (b) *For emergency transportation.* No person shall drive, operate or attend a vehicle being operated as an ambulance for emergency transportation purposes within the county unless such person holds all necessary and appropriate permits and licenses required by OEMS rules and statutes. No ambulance shall be operated for emergency transportation purposes unless the vehicle is staffed and/or operated in accordance with all applicable OEMS rules and statutes.
- (c) *For convalescent or nonemergency transportation.* No ambulance shall be operated for convalescent or nonemergency transportation service or purposes within the county unless the vehicle is staffed and operated in compliance with protocols consistent with OEMS rules and statutes.
- (d) *Exceptions.* No franchise shall be required, and the provisions of subsections (a), (b) and (c) of this section shall not apply to the following:
- (1) Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe or emergency with which the services franchised by the county are insufficient or unable to cope.
 - (2) Any entity operated from a location or headquarters outside of the county in order to transport patients who are picked up beyond the limits of the county, but no such entity shall be used to pick up patients within the county for transporting to locations within the county unless it is rendering assistance referred to in subsection (c) of this section.
 - (3) Law enforcement personnel.
 - (4) Volunteer fire departments, rescue squads or hospitals providing such services.
 - (5) The person that currently holds or is hereafter awarded the ambulance service contract by the Veterans Administration Hospital at Oteen, North Carolina, for transports to and from Veteran's Administration only.
 - (6) Medical air ambulances or helicopters which provide emergency medical transportation services.

(Ord. No. 14-11-11, § 1, 11-18-14)

Sec. 22-42. - Application; contents.

Application for a franchise to operate ambulances in the county shall be made upon such forms as may be prepared or prescribed by the county and shall contain:

- (1) The name and address of the applicant, who shall be the owner of the entity and any ambulances to be operated under the franchise.

- (2) The trade or other fictitious names, if any, under which the applicant does business, along with a certified assumed name certificate stating such name, or a certified copy of the articles of incorporation stating
- (3) A resume of the training and experience of the applicant in the transportation and care of patients.
- (4) A description of each ambulance owned or operated by the applicant, including make, model, vehicle identification number and OEMS permit number.
- (5) The location and description of the places from which it is intended to operate, including the address of the location in Buncombe County where the applicant will maintain a business office for transaction of business.
- (6) Audited financial statement of the applicant as the same pertains to the operations in the county, in such form and detail as the county may require.
- (7) A description of the applicant's capability to provide 24-hour coverage, seven days per week.
- (8) An official criminal record of the applicant if a sole proprietorship, of any partner if a partnership, or of any and all officers, directors or managers of the applicant if a corporation or other business entity.
- (9) A statement that the applicant will not discriminate as to any person with regard to race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC state law.
- (10) Any information the county shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance service in the county in accordance with the requirements of the state and the provisions of this article.
- (11) The application shall be tender with a fee to be determined by the board during the county's regular budget process.

(Ord. No. 14-11-11, § 1, 11-18-14)

Sec. 22-43. - Granting.

- (a) *Designation of franchise districts.* Prior to accepting applications from applicants for the operation of an ambulance service, the board of commissioners may designate specific service areas as franchise districts. The board of commissioners shall have the authority to redistrict or rearrange existing districts at any time, at their discretion.
- (b) *Hearing; investigation of applicant.* Upon receipt of an application for a franchise, the county, by and through the county EMS and county legal services shall schedule a time and place for hearing the applicant. Within 30 days after the hearing, the county shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.
- (c) *Conditions.* A franchise may be granted if the board finds that:
 - (1) The public will be served by granting the applicant a franchise, consistent with the article.
 - (2) The application is accurate and, complete.
 - (3) The applicant has provided adequate evidence of its ability to provide safe, adequate and responsible service, and evidence that no owner, operator, agent or employee of applicant has been

debarred from the Medicare or Medicaid program, or any other public benefit program of the United States or any state.

- (4) The applicant holds all necessary licenses and permits from OEMS, or will be fully qualified to obtain all necessary licenses and permits upon award of the franchise.

(Ord. No. 14-11-11, § 1, 11-18-14)

Sec. 22-44. - Term.

- (a) *Validity; termination; reapplication.* The county may issue a franchise under this article to an owner of an ambulance service, to be valid for a term not to exceed five years to be determined by the county, provided that either party, at its option, may terminate the franchise upon 60 days' prior written notice to the other party. After a notice of service termination is given, the ambulance service shall reapply for a franchise if continued service is desired.
- (b) *[Extension of term.]* A franchise may be extended for an additional term of the same number of years for which it was initially granted upon written application, submission of application fee, and certification that the applicant has been continuously in compliance with all county and OEMS requirements and retains all necessary licenses and permits from OEMS.
- (c) *Violation; civil penalty; suspension or revocation.* If any franchisee shall violate or fail to comply with any provision of this article, or a franchise issued under this article, the franchisee shall be cited by the county for such violation or failure to comply. The county, after a hearing pursuant to this citation, may impose a civil penalty of \$100.00 for each separate breach of the franchise, as provided in section 22-28 or may suspend or revoke the franchise. If, upon such hearing, the county shall find that the franchisee has corrected any deficiencies and has brought his operation into compliance with the provisions of this article, the franchise shall not be suspended or revoked, but a civil penalty as provided in section 22-88 may be imposed.
- (d) *Ceasing operations.* Upon suspension, revocation, or termination of a franchise granted under this article, such franchised ambulance service shall immediately cease operations. Upon suspension, revocation, or termination of a person's driver's license or OEMS license or permit, such person shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service, or attend an ambulance. No person shall employ or permit such individual to drive an ambulance or provide medical care in conjunction with an ambulance service.

(Ord. No. 14-11-11, § 1, 11-18-14)

Sec. 22-45. - Inspection of records.

The county may inspect a franchisee's records, premises and equipment at any time in order to ensure compliance with this article and any franchise granted under this article.

(Ord. No. 14-11-11, § 1, 11-18-14)

Secs. 22-46—22-55. - Reserved.