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ORDINANCE NO. 20561

AN ORDINANCE introduced by City Manager Dr. Robert M. Perez, providing for a nonexclusive franchise to Event Medical Solutions Unlimited, LLC to operate an ambulance service within the City of Topeka until December 31, 2026.

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 Event Medical Solutions Unlimited, LLC, doing business as EMS Unlimited, hereinafter "EMS," 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 EMS in the City shall be in accordance with prevailing standards of care in the ambulance industry. All EMS personnel and ambulances shall be fully licensed or certified as required by law. EMS shall comply with all applicable federal, state, and City laws, rules, regulations, codes, and other requirements in connection with the operation of the ambulance service.

30 **Section 4. Franchise grant.**

31 Pursuant to the provisions of TMC 5.25.040, a nonexclusive franchise is granted
32 to EMS to own, maintain, and operate an ambulance service within the City. Said
33 nonexclusive franchise is granted through and including December 31, 2026 and shall
34 vest all rights, privileges and immunities of an ambulance service franchise with EMS;
35 however, said nonexclusive franchise shall be subject to and conditioned upon all of the
36 terms, duties and obligations found in the laws of the State of Kansas, Chapter 5.25 TMC,
37 and this franchise ordinance.

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

39 Consideration for the rights, privileges, and immunities granted to EMS includes
40 the benefits to be derived by the citizens of the City of Topeka from the maintenance and
41 operation of an ambulance service under the terms and conditions of this franchise
42 ordinance.

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

45 (b) On or before July 1, 2025 after passage of this franchise ordinance, the fees
46 set forth in TMC 5.10.040(b) are due, including the business fee and an ambulance fee
47 for each EMS ambulance in operation in the City of Topeka. An ambulance fee for each
48 additional ambulance placed into operation after the initial fee payment is due at the time
49 the additional ambulance is licensed.

50 (c) On or before January 1st of each year within the term of this franchise
51 ordinance, the fee set forth in TMC 5.10.040(c) for each ambulance to be renewed is due.

52 (d) Within 30 days of the presentation of an invoice to EMS by the City, EMS shall
53 make payments to the City Treasurer for the following types of assistance:

(1) For each Topeka Fire Department response to EMS's request for a nonemergency assist of any patient, EMS shall pay a fee of \$250.00 per transport. For purposes of this subsection, "nonemergency" means any request that was not initiated by a 911 call. Any time that such fee is incurred, Topeka Fire Department shall make written request for payment that includes the date, address, and Topeka Fire Department incident number.

Section 6. Reporting.

(a) In January of each calendar year, EMS shall provide to the City copies of all written mutual aid agreements for ambulance service in the City of Topeka or provide written notice that no such agreements exist. Failure to submit this information by the last business day in January shall result in a penalty of \$100.00 per day until submitted.

(b) In January of each calendar year, EMS shall provide to the City copies of all written agreements EMS has entered into in which they are subcontracting for another ambulance service within the City of Topeka or provide written notice that no such agreements exist. Failure to submit this information by the last business day in January shall result in a penalty of \$100.00 per day until submitted.

(c) In January of each calendar year, EMS shall provide to the City documentation reporting the number of all ambulances owned and/or operated by EMS within City limits. Failure to submit this information by the last business day in January shall result in a penalty of \$100.00 per day until submitted.

(d) In January of each calendar year, EMS shall provide to the City a copy of all insurance policies as governed by TMC 5.25.140 and Section 7 of this franchise ordinance. Failure to submit this information by the last business day of January shall result in a penalty of \$100.00 per day until submitted.

(e) Should EMS no longer be in good standing with the State regarding licenses and certifications, EMS shall immediately notify the City as to their status and the reasons why they are no longer in good standing. Failure to submit this information shall result in a penalty of \$100.00 per day until submitted.

Section 7. Insurance.

Upon the effective date of this franchise ordinance, EMS shall file with the City Clerk an insurance policy as required by TMC 5.25.140 and the same shall be approved as to form by the City Attorney's office. During the term of this franchise ordinance, EMS shall maintain paid insurance coverage according to TMC 5.25.140 and may not cause any insurance to be cancelled, nor permit any insurance to lapse. City shall be named as an additional insured on any certificate of coverage issued by the insurer.

Section 8. Acceptance by EMS.

Operation of an ambulance service within the City by EMS on or after the effective date of this franchise ordinance constitutes acceptance of the provisions of the franchise ordinance. This franchise ordinance shall constitute the entire agreement between the City and EMS relating to this franchise, and the same shall supersede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof and shall be binding upon the parties, including their successors and assigns and shall not be amended or further obligations imposed without mutual written consent of the parties.

Section 9. Remedies of City.

Nothing herein shall limit or preclude the City from seeking remedies at law or in equity in a court of competent jurisdiction for any violation by EMS of the laws of the State of Kansas or any ordinance of the City. All conditions of the ambulance franchise shall

be governed by and construed in accordance with the laws of the State of Kansas.

Section 10. Forfeiture.

Any material and substantial fraud, misrepresentation or default of the terms, duties and obligations imposed upon EMS 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 EMS 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 30 days after the notification to EMS and shall be adjudicative in character but shall not bar the rights of any parties to pursue judicial review. Within 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 EMS. 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 EMS so as to justify a forfeiture. In such case a notice of forfeiture shall be provided to EMS. In the event this franchise ordinance is forfeited, EMS shall, within 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, EMS 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 months; and it is determined by EMS 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 EMS has given notice of surrender to the City; then EMS upon

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 EMS 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 EMS and EMS shall be released of all future rights, duties, and obligations arising from this franchise ordinance.

Section 13. Hold harmless.

EMS 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 EMS, its servants, agents, or employees, in the operation of its ambulance service, EMS shall pay all costs, damages and expenses including costs of defense for which the City may be held liable.

Section 14. Severability.

If any provision, section, sentence or clause of this franchise ordinance or its application to any person or set of circumstances is for any reason held unconstitutional,

void, or invalid, the validity of the remaining portions of this franchise ordinance shall not be affected.

Section 15. Effective date.

This franchise ordinance shall take effect and be in force after its passage, approval and publication in the official City newspaper in the manner prescribed by law, and shall be binding upon EMS upon the conditions set forth herein.

PASSED AND APPROVED by the Governing Body on May 20, 2025.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk