ORIGINAL

RES0LUTION NO. 2008-58

A RESOLUTION GRANTING AN EXCLUSIVE FRANCHISE FOR THE OPERATION OF AMBULANCE SERVICE WITHIN THE BOUNDARIES OF WEAKLEY COUNTY, TENNESSEE

WHEREAS, the Weakley County Board of Commissioners deems that it is in the interest of the health, safety and welfare of the citizens and residents of Weakley County, Tennessee, that the County Commission provide for and regulate ambulance services within the boundaries of Weakley County, Tennessee; and,

WHEREAS, the Weakley County Board of Commissioners desires to insure that effective and efficient ambulance service is provided to all citizens and residents of Weakley County, Tennessee, regardless of their geographic location within the County; and,

WHEREAS, it is the best interest of the taxpayers of Weakley County, Tennessee, that the Weakley County Board of Commissioners regulate and restrict the provision of ambulance service within the County to insure that the cost of providing ambulance service to all citizens and residents of the County does not become overly burdensome; and,

WHEREAS, Weakley County, Tennessee, entered into a contract with Weakley County Ambulance Service, Inc., a Tennessee not for profit corporation, on July 18, 1983, to provide ambulance service within the boundaries of Weakley County, Tennessee; and,

WHEREAS, Weakley County Ambulance Service, Inc. has satisfactorily provided ambulance service for the past twenty-five (25) years and is currently licensed by the State of Tennessee, Division of Emergency Medical Services, as a Class A service; and,

WHEREAS, the Weakley County Board of Commissioners feels that is in the best interest of the citizens and taxpayers of Weakley County, Tennessee, to grant an exclusive franchise to Weakley County Ambulance Service, Inc. to provide ambulance service within the boundaries of Weakley County, Tennessee, subject to the following terms and conditions, to wit:

AMBULANCE FRANCHISE AGREEMENT

Section 1. Purpose.

In the public interest and for the promotion of the public health, safety, welfare and convenience and pursuant to statutory authority contained in Tennessee Code Annotated 7-61-101 et. seq. and other applicable laws, the following terms and conditions are

adopted, which set forth the conditions, limitations, restrictions, and requirements under which Weakley County Ambulance Service, Inc. shall operate and provide ground ambulance service for both emergency and non-emergency transportation services within the boundaries of the County of Weakley, State of Tennessee, under an exclusive franchise granted by the Weakley County Board of Commissioners.

Section 2. Definitions.

For the purposes of this exclusive franchise agreement, the following words, phrases, terms, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine, feminine or neuter gender include each of the other genders. The word "shall" is always mandatory and not merely directory.

(a). "Ambulance" shall mean any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation of patients on the streets or highways, waterways, or airways of Tennessee, in accordance with Tennessee Code Annotated § 68-140-501 et. seq., known as the Emergency Medical Services Act of 1983.

(b). "Ambulance Provider" shall mean Weakley County Ambulance Service, Inc., which is licensed by the State of Tennessee to engage in the business or service of transporting patients in an ambulance.

(c). "Approved" shall mean approved by the Tennessee Department of Health and Environment, Division of Emergency Medical Services, pursuant to its rules and regulations.

(d). "Board" shall mean the Weakley County Board of County Commissioners.

(e). "County" shall mean Weakley County, Tennessee.

(f). "Licensed Personnel" shall mean an individual who holds a valid certification from the state that allows them to practice at any of the following levels: First Responder, Emergency Medical Technician and/or EMT-Paramedic, as defined in Tennessee Code Annotated and any rules promulgated pursuant thereto.

(g). "Department" shall mean the Tennessee Department of Health and Environment, Division of Emergency Medical Services.

(h). "Dispatcher" shall mean a person who is available at all times to receive requests for emergency services, to dispatch emergency services, to any existing or threatened emergency.

(i). "Emergency" and "Emergency Transportation Service" shall mean the use of an ambulance, the equipment and personnel to provide medical care transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

(j). "Non-emergency Transportation Services" shall mean the operation of an ambulance for any purpose other than transporting emergency patients."

(k). "Owner" shall mean any person or entity who owns an ambulance or ambulance service.

(l). "Patient" shall mean an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated,

(m). "Person" shall mean any individual, firm, partnership, corporation, association, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency of the United States.

(n). "State" shall mean the State of Tennessee.

Section 3. <u>Standards</u>.

(a). Standards for licensed personnel shall be as established and set out by the Tennessee Department of Health and Environment, Division of Emergency Medical Services, and the Tennessee Emergency Medical Services Board, and shall be applied to the same as if incorporated herein by reference.

(b). Standards for approved vehicles and equipment shall be as established and set out by the Tennessee Department of Health and Environment, Division of Emergency Medical Services and the Tennessee Emergency Medical Services Board, and shall be applied to the same as if incorporated herein by reference.

(c). Standards for the operation of an ambulance service shall be as established and set out by the Tennessee Department of Health and Environment, Division of Emergency Medical Services, and the Tennessee Emergency Medical Services Board, and shall be applied to the same as if incorporated herein by reference.

Section 4. <u>Ambulance Stations, Number of Ambulances, Cost of Operations</u>

(a). Weakley County Ambulance Service, Inc. shall provide three stations for the location of ambulances within one (1) mile of the city limits of the cities of Dresden, Greenfield, and Martin. The Service shall operate a minimum of one approved ambulance out of each station staffed with personnel licensed by the State of Tennessee. Said stations shall operate 24 hours a day, seven days a week.

(b). The Service shall maintain at a minimum three (3) additional licensed ambulances to serve as back-up units that may be placed in service in the event one of the primary units is removed from service for mechanical repairs or in the event that additional personnel are required to be called in to meet the demand for services within the county in times of emergency or disaster.

(c). The Service may staff additional ambulances and stations provided the service has sufficient financial resources to do so while adequately maintaining the minimum number of stations and ambulances set out above. The Service shall not reduce the minimum number of stations or ambulances required herein without the prior approval and amendment of this agreement by the parties.

(d). It shall be the responsibility of Weakley County Ambulance Service, Inc. under this agreement to provide and pay the cost of all personnel, ambulances, stations, utilities, equipment and supplies, repairs, maintenance, employee benefits, insurance, and such other costs and/or expenses associated with the operation of the Service.

Section 5. <u>Communications and Dispatch Requirements.</u>

(a). Each ambulance shall be equipped with VHF two-way radio communications in compliance with the specifications approved by the Tennessee Department of Health and Environment, Division of Emergency Medical Services.

(b). Ambulances shall be capable of communicating via radio with dispatch centers within Weakley County, Tennessee, and with the emergency departments of hospitals.

(c). Assigned emergency calls will have priority over scheduled non-emergency calls.

Section 6. <u>Insurance.</u>

(a). The franchisee shall at all times keep in force and effect insurance coverage issued by an insurance company licensed to do business in the State of Tennessee.

(b). This coverage shall provide:

(1). Workmen's Compensation Insurance as required by state law.

(2). Auto Liability Coverage in an amount equal to or greater than the minimum coverage required by the Emergency Medical Services Act of 1983 or any subsequent amendments thereto.

(3). General Liability Coverage in an amount equal to or greater than the minimum coverage required by the Emergency Medical Services Act of 1983 or any subsequent amendments thereto.

(4). Medical Malpractice Coverage in an amount equal to or greater than the minimum coverage required by the Emergency Medical Services Act of 1983 or any subsequent amendments thereto.

(c). The franchisee shall annually provide the County with a copy of the Certificate of Insurance for the above. The insurance policy must list the County as a party to be notified in the event that the applicant's insurance is revoked, withdrawn, canceled, or allowed to lapse, or in the event that there is any change whatsoever in the above-described coverage amounts.

(d). **Save Harmless Provision.** The franchisee agrees and binds itself to save the County harmless and to defend and pay any and all damages occurring as a result of the operation of the ambulance service in Weakley County, Tennessee.

Section 7. <u>County Subsidy</u>

Weakley County, Tennessee shall pay to Weakley County Ambulance Service, Inc. the initial sum of $235,000 per fiscal year as a county subsidy for the operation of ambulance services within Weakley County, Tennessee. Said sum may be either increased or decreased by agreement of the parties based upon the revenues and expenses of Weakley County Ambulance Service, Inc. The revenues and expenditures of the service may be periodically reviewed by the Public Safety Committee to determine whether any adjustments in subsidy are appropriate. Any request by the franchisee for a change in the amount of the county subsidy shall be first submitted to the Public Safety Committee for review prior to being submitted with a recommendation to any other appropriate committees of the Weakley County Board of Commissioners. Any changes in the amount of county subsidy shall be approved by the Weakley County Board of Commissioners.

Section 8. <u>Rates and Charges</u>.

The franchisee is authorized to charge for services rendered to patients a sum equal to the maximum amount of the Medicare approved rate established for the State of Tennessee as may be from time to time amended. The Medicare approved rate is published annually by the United States Department of Health and Human Services. Rates or charges in excess of the maximum approved Medicare rate for Tennessee may be established with the approval of the Public Safety Committee of the Weakley County Board of Commissioners.

The franchisee is further authorized to negotiate and enter into agreements with third parties for the provision of ambulance services within and outside the County at such rates as the parties may agree.

Section 9. Provision of Services

Weakley County Ambulance Service, Inc. shall exercise its best efforts to provide services to the citizens and residents of Weakley County in a prompt, efficient, and professional manner and further shall work and cooperate with other public safety agencies within the county to formulate and carry out disaster response plans to protect the health, safety, and welfare of the citizens of this county.

Section 10. Franchise Required.

(a). It shall be unlawful for any person to provide ambulance services in Weakley County, Tennessee, or to operate an ambulance in the County, unless such person shall have first obtained a valid franchise granted by the Weakley County Board of Commissioners.

(b). No franchise shall be required for:

(1). Any entity rendering assistance to the franchised ambulance service in the case of a major catastrophe, mutual aid or emergency with which the service 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 to facilities located within the County, or to pick up patients within the County for transporting to locations outside the County;

(3). Any ambulance owned and operated by an agency of the United States Government;

(4). Any air ambulance service that provides services at the request of the franchisee or in accordance with an agreement reached with the franchisee.

(5). Any ambulance service providing service within the county at the request of the franchisee or in accordance with an agreement reached with the franchisee.

Section 11. Term and Renewal of Franchise.

(a.). This exclusive franchise shall be valid for a term of ten (10) years from the date of its approval by the Weakley County Board of Commissioners.

(e). The exclusive franchise may be renewed by the submission of a written request by the franchisee within sixty (60) days of the expiration date of the franchise. After approval of said request by the Board of County Commissioners, the franchise shall be renewed for additional terms.

Section 12. Termination.

(a). Either party, at its option, may terminate the franchise granted upon one hundred twenty (120) days prior written notice to the other party. After a notice of termination is given, the ambulance provider may reapply for a franchise if continued service is desired.

(b). The acceptance of a franchise by an operator constitutes an agreement to comply with required standards at all times. The franchised ambulance service shall comply at all times with the requirements of this agreement, the franchise granted hereby, and all applicable federal, state, and local laws relating to health, sanitation, safety, equipment, and ambulance design. Failure to comply may result in the revocation of the franchise by the County.

(c). Upon suspension, revocation, or termination of the franchise granted hereby, such franchised ambulance service shall immediately cease operations.

(d). Upon any change in ownership of the franchised ambulance service made without prior written approval by the County, the County shall have the option to terminate the franchise effective immediately.

(e). The franchise shall not be sold, assigned, mortgaged, or otherwise transferred, in whole or in part, without the prior written approval of the County. The County shall have the option to terminate the franchise, in either case, requiring a new application to be submitted, and a finding of conformance with all requirements of this agreement as upon original franchising.

Section 13. Enforcement and Revocation of Franchise.

(a). Upon acquiring reasonable and substantial evidence that the franchised ambulance provider, or an owner, officer, or employee of such ambulance provider, has violated any provision of this agreement, the Public Safety Committee of the Weakley County Board of Commissioners shall then determine if there is sufficient danger to the morals, public health, safety, or general welfare of the citizens and residents of the County to warrant revocation of the ambulance provider's franchise.

(b). Upon a determination that there is probable cause for revocation and after notification to the ambulance provider of such determination and the reasons therefor, the Public Safety Committee shall schedule a hearing at which the ambulance provider or its representative shall be afforded the opportunity to show good cause why the franchise should not be revoked. Upon the ambulance provider's failure to show such good cause, the Public Safety Committee shall recommend to the Weakley County Board of Commissioners that the franchise be revoked. The Weakley County Board of Commissioners shall vote to either adopt or reject the recommendations of the Public Safety Committee with a majority vote of the members of the County Commission being required to revoke the exclusive franchise of the ambulance provider.

BE IT FURTHER RESOLVED, that this resolution shall take effect upon passage by a majority of the members of the Board of County Commissioners of Weakley County, Tennessee.

Pursuant To The Rules Of The Commission, This Resolution Is Sponsored By The Following Members Of The Weakley County Board Of County Commissioners:

SPONSORED BY:

SPONSORED BY:

Earl Wright

Motion by Commissioner Salmon
Second by Commissioner Stewart
Upon being put to a Roll Call
Vote the Motion carried by
17 Ayes, 0 Nays, 0 Pass and
1 Absent.

ACKNOWLEDGED AND APPROVED:

Jack Vincent., Chairman Public Safety Committee

ATTESTED:

Pat Scarbrough, County Clerk

APPROVED:

Richard Phebus, Chairman

This the 26th Day of June 2008.

APPROVED:

Houston Patrick, County Mayor

DATE: 06/27/08

VETOED:

Houston Patrick, County Mayor

DATE: _____

Executed this 26th day of June, 2008.

Weakley Co. Director of Finance

Weakley County Mayor

President, Weakley Co. Ambulance Service, Inc.