

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Administration	DATE: 05/17/2013
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SUBJECT: 2011 Emergency Medical Services (EMS) Agreement - Extension of term with Rural/Metro Ambulance

PRIMARY CONTACT (NAME, PHONE): Alyssa Ross, 619-533-4308, MS 603	SECONDARY CONTACT (NAME, PHONE): Nelson Hernandez, 619-236-5929
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COMPLETE FOR ACCOUNTING PURPOSES

FUND					
DEPT / FUNCTIONAL AREA					
ORG / COST CENTER					
OBJECT / GENERAL LEDGER ACCT					
JOB / WBS OR INTERNAL ORDER					
C.I.P./CAPITAL PROJECT No.					
AMOUNT	\$0.00	0.00	0.00	0.00	0.00

FUND					
DEPT / FUNCTIONAL AREA					
ORG / COST CENTER					
OBJECT / GENERAL LEDGER ACCT					
JOB / WBS OR INTERNAL ORDER					
C.I.P./CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE): The Fiscal Year 2014 budget includes EMS Operational Fee revenue of \$10,040,000.

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Environmental Analysis	ORIG DEPT.	Hernandez, Nelson	5/21/2013
Liaison Office	CFO		
Financial Management	DEPUTY CHIEF		
	COO		
	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Direct the City Attorney to prepare an amendment to the EMS Agreement, as described in this report, with Rural/Metro Ambulance for the provision of emergency medical and emergency medical transportation services in the City of San Diego.

2. Authorize the Mayor to execute the amendment to the EMS Agreement with Rural/Metro (Addendum One) for the provision of emergency medical and emergency transportation services for the term of one (1) year commencing on July 1, 2013 and expiring on June 30, 2014 and including the option to extend for an additional one year period which would conclude on June 30, 2015.

STAFF RECOMMENDATIONS:

Approve Requested Action

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S): Citywide

COMMUNITY AREA(S): Citywide

ENVIRONMENTAL IMPACT: This activity is not a "project" and therefore exempt from the CEQA pursuant to the State Guidelines Section 15060 (c)(3).

CITY CLERK INSTRUCTIONS: Please forward copy of final signed Reso to Alyssa Ross, MS 604-A. - Thank you.

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 05/17/2013

ORIGINATING DEPARTMENT: Administration

SUBJECT: 2011 Emergency Medical Services (EMS) Agreement - Extension of term with Rural/Metro Ambulance

COUNCIL DISTRICT(S): Citywide

CONTACT/PHONE NUMBER: Alyssa Ross/619-533-4308, MS 603

DESCRIPTIVE SUMMARY OF ITEM:

This action is to authorize a one year extension of the 2011 Emergency Medical Services (EMS) Agreement with Rural/Metro to provide emergency medical and medical transportation services in the City of San Diego. It also provides for an additional one-year option to June 20, 2015, if needed.

STAFF RECOMMENDATION:

Approve Requested Action

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

The City is required by State law (Health & Safety Code Section 1797.224) to undergo a competitive bidding process every 10 years for emergency medical and medical transportation services. The State of California Emergency Medical Services Authority (EMSA) and County of San Diego EMS are the regulatory agencies that oversee EMS delivery, and must approve the City's Request for Proposal (RFP) to ensure the Scope of Services meets with applicable EMS guidelines and the RFP is fair and competitive.

The City last conducted a RFP process for emergency medical services in 2009. At that time, the City received one bid response and it was from San Diego Medical Services Enterprise (SDMSE), a limited liability corporation formed between the San Diego Fire-Rescue Department (City) and Rural/Metro Ambulance (a private corporation). San Diego Medical Services Enterprise (SDMSE) had been the City's EMS Provider since 1997. Although the contract was awarded to SDMSE again as a result of the 2009 RFP process, the City chose to dissolve the public-private partnership in 2011 due to various financial and legal issues. As a result of the dissolution of the public-private partnership, Rural/Metro bought out the City's interests in the enterprise. Thereafter, the San Diego City Attorney issued a legal opinion that the City should undergo a new competitive bidding process for EMS and medical transportation services.

In 2011 the City entered into a two-year sole-source Emergency Medical Services (EMS) Agreement with Rural/Metro to continue providing ambulance services through June 30, 2013 while the City undertook a new RFP process. The EMS Agreement with Rural/Metro contains no holdover clause in the event the RFP process could not be completed within the two-year period.

The City's process is not complete and at this time there are no alternate provisions for ambulance services past the expiration date of June 30, 2013. Therefore, in order to continue the City's ambulance services without interruption, the City will need to extend our sole source EMS Agreement with Rural/Metro.

The City's Administration Department, in partnership with the Fire-Rescue Department, City Attorney, Purchasing and Contracting Department, and an independent EMS consultant, developed an RFP. The RFP was approved by the County and State regulatory agencies in October 2012. However, the City held off releasing this RFP in order to determine whether new EMS legislation could result in the City potentially receiving millions of Federal reimbursement dollars. Subsequent to the decision to not release the RFP in October, the new Mayor directed City staff to explore all the issues related to the provision of EMS, including the Federal reimbursement issues noted above.

The City has been advised by County EMS staff (County EMS Chief Metz) that if the City amends the RFP for any reason, new County and State approvals will be required. However, regardless of whether the RFP is amended, staff remains convinced that a one-year contract extension with a one-year option is the prudent decision. It is advisable to have a one-year contract and a one-year option because the RFP process, in general and certainly for EMS, is complex and time consuming. Staff acknowledges the complexity of the issues and therefore we must build time into the process to address the issues, receive County and State approvals and of course allow time for possible vendor protest.

Amendment Terms and Conditions:

The City and Rural/Metro have agreed that the Amendment to the EMS Agreement will continue the same terms as the 2011 sole source EMS Agreement including the same level of services and response time requirements.

The following are the only changes:

1. Effective July 1, 2013, a Consumer Price Index formula adjustment of 3.35% to be applied equally to the annual EMS Operational Fee which Rural/Metro pays the City, and to the Average Patient Charge (APC) Rural/Metro can charge (an increase from \$1,761 to \$1,820).
2. The City will apply a reimbursement credit of \$295,000 to the annual operating fee for Rural/Metro's costs to replace City Single-Role medics who are no longer working on ambulances. Due to single-role medics being a terminal job class, the City cannot replace these positions on its side when attrition occurs. The total EMS fee paid to the City will be \$10,040,000.

The City and Rural/Metro have also come to agreement in principle in regard to an electronic Patient Care Record (ePCR) system. The final details can be found in the attached proposed First Amendment and will be presented at the Committee hearing.

The City and Rural/Metro have agreed to a contract extension for the term of one (1) year commencing on July 1, 2013 and expiring on June 30, 2014, including the option to extend for a

period of up to one (1) year after the initial extended term expires. Should the parties exercise the right to further extend the term the Parties shall agree on a City Operational Fee for that extended period prior to any extension.

Attached is a letter dated May 31, 2013 from County EMS Chief Marcy Metz which states the County's approval for this extension period.

FISCAL CONSIDERATIONS: The Fiscal Year 2014 budget includes revenue of \$10,040,000 in the way of an EMS Operational Fee paid by Rural/Metro.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708 and Non-Discrimination in Contracting Ordination (San Diego Municipal Code Sections 22.3501 through 22.3417).

PREVIOUS COUNCIL and/or COMMITTEE ACTION: This item will be heard at PS&NS prior to the full City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

State of California, County of San Diego, citizens and visitors in the City of San Diego's Exclusive Operating Area for 911/EMS are key stakeholders. With the extension of this contract, emergency medical transportation services will continue to be provided.

Hernandez, Nelson
Originating Department

Deputy Chief/Chief Operating Officer

**FIRST AMENDMENT TO
2011 EMERGENCY MEDICAL SERVICES AGREEMENT**

This First Amendment ("First Amendment") to the 2011 Emergency Medical Services Agreement ("Agreement") is entered into on the 1st day of July 1, 2013, by and between the City of San Diego, California, hereinafter called the City ("City"), and Rural/Metro of San Diego, Inc., a California corporation, hereinafter called Rural/Metro ("Rural/Metro"), the City and together with Rural/Metro, the "Parties".

RECITALS

- A. Whereas, the Parties entered into a 2011 Emergency Medical Services Agreement dated July 1, 2011, for emergency ambulance transportation services.
- B. Whereas, the City and Rural/Metro desire to amend the Agreement subject to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing, the mutual promises, covenants, and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Term. Section 2.1 of the Agreement is hereby amended to provide that the Term of the Agreement shall be extended for an additional one (1) year. Accordingly, unless sooner terminated, the Agreement shall expire as of the end of business on June 30, 2014. The Parties further agree that they may, by mutual written agreement, extend this Agreement for an additional period of up to one (1) year after the initial extended term expires on June 30, 2014.

2. Fees Paid to the City. Section 3.3 will be deleted in its entirety and replaced with the following new language:

3.3 Fees Paid to the City. Rural/Metro shall pay to the City a Fiscal Year 2014 City EMS Operational Fee of \$10,039,988. This is a net increase of \$39,988 from the FY 2013 fee of \$10,000,000 and reflects a \$335,000 increase to the City for a FY 2014 Consumer Price Index ("CPI") formula adjustment (3.35%) and a reimbursement of \$295,012 to Rural/Metro for the costs of replacing City (Single Role) employees that no longer staff ambulances. The City Operational Fee shall be payable in four equal quarterly payments, payable within forty-five (45) days of the beginning of each fiscal calendar quarter, and shall compensate the City for expenses incurred for First Responder services; training, paramedic, clinical quality, and medical oversight; and administrative and other services or costs, except for response time penalties and indemnification, in connection with this Agreement. The City EMS Operational Fee shall also compensate the City for its provision of facilities and support logistics to Rural/Metro at the following City properties: (a) parking lot at the intersection of Aero Drive and Interstate 15 (APN 421-333-04), San Diego, CA; (b) ambulance maintenance facility (fleet and medical supply) at 3870 Kearny Villa Rd and the dispatch center at 3750 Kearny Villa Road, San Diego, CA; (c) office space at Executive Complex, 1010 Second Avenue, San Diego, CA; and (d) ambulance housing at the City fire stations.

The Average Patient Charge ("APC") shall be set at a maximum rate of \$1,820 (a 3.35% Increase) for a FY2014 Consumer Price Index ("CPI") formula adjustment.

Should the Parties exercise the right to further extend the term as described in the amended section 2.1 of the Agreement, the Parties shall agree on a City Operational Fee for that extended period prior to any extension.

3. Electronic Patient Care Record (“ePCR”) System. Rural/Metro shall provide and maintain an ePCR system for all First Responder Units, which shall be the same as those used on ambulances. The City and Rural/Metro will jointly evaluate ePCR providers and the City will have final approval of the ePCR product to be deployed. The Parties further agree that if Rural/Metro is not selected to provide 911 services to the City of San Diego following the expiration of this First Amendment, the City shall reimburse Rural/Metro as follows:

- a. Zoll: No reimbursement.
- b. OnScene:
 - a. Year 1: 50% of all receipted costs for professional services, software licensing, maintenance, and hardware, not to exceed \$250,000
 - b. Year 2: 25% of all receipted costs for professional services, software licensing, maintenance, and hardware, not to exceed \$125,000

Rural/Metro further acknowledges that the City will retain 100 devices as installed on First Responder vehicles if OnScene is selected as the ePCR provider.

In addition, the City acknowledges that Rural/Metro will not provide a warranty for OnScene software and will not be held responsible for any non-performance or failure of the software, but will remain responsible for repair/replacement of ePCR field data entry devices.

4. A new Section 15.11 shall be added to the Agreement as follows:

15.11 Compliance with Federal Anti-Kickback Statute. Each Party shall comply with the Federal Health Care Programs’ Anti-Kickback Statute (42 U.S.C. § 1320a-7b) and any applicable regulations promulgated thereunder. The Parties further recognize that the Agreement shall be subject to amendments of the Anti-Kickback Statute or any of its applicable regulations. In the event any applicable provisions of the Anti-Kickback Statute or its regulations invalidate, or are otherwise inconsistent with the terms of the Agreement, or would cause one or both the parties to be in violation of the law, the parties shall exercise their best efforts to accommodate the terms and intent of the Agreement to the greatest extent possible consistent with the requirements of the Statute and applicable regulations. City acknowledges that it has received copies of Rural/Metro’s Code of Ethics and Business Conduct and Rural/Metro’s Anti-Kickback Policy.

5. A new Section 15.12 shall be added to the Agreement as follows:

15.12 Fair Market Value. This Agreement has been negotiated at arms-length and in good faith by the parties. Nothing contained in this Agreement, including any compensation paid or payable, is intended or shall be construed: (i) to require, influence or otherwise induce or solicit either party regarding referrals of business or patients, or the recommending the ordering of any items or services of any kind whatsoever to the other party or any of its affiliates, or to any other person, or otherwise generate business between the parties to be reimbursed in whole or in part by any Federal Health Care Program; or (ii) to interfere with a patient’s right to choose his or her own health care provider.

6. Effect of First Amendment. This First Amendment shall become effective on July 1, 2013. All of the terms, covenants, conditions and provisions of the Agreement are hereby reinstated and remain in full force and effect, as modified by this First Amendment.

IN WITNESS WHEREOF the Parties hereto have placed signatures on the day and year first above written.

THE CITY OF SAN DIEGO

By: _____
Dennis Gakunga, Director
Purchasing & Contracting Department

RURAL/METRO OF SAN DIEGO, INC.,
a California corporation

By: _____
Scott Bartos, President

I HERBY APPROVE the form and legality of the foregoing First Amendment to the Agreement, this _____ day of July, 2013.

_____, City Attorney

By: _____
Noah J. Brazier, Deputy City Attorney



County of San Diego

HEALTH AND HUMAN SERVICES AGENCY

PUBLIC HEALTH SERVICES
HEALTH SERVICES COMPLEX

3851 ROSECRANS, SAN DIEGO, CALIFORNIA 92110
(619) 531-5800 FAX (619) 542-4186

EMERGENCY MEDICAL SERVICES

6255 Mission Gorge Road
San Diego, CA 92120
(619) 285-6429 Fax: (619) 285-6531

Epidemiology & Immunization Services
Emergency & Disaster Medical Services
HIV, STD and Hepatitis
Maternal, Child and Family Health Services
Public Health Laboratory
PH Nursing
Border Health
TB Control & Refugee Health
Vital Records

NICK MACCHIONE, FACHE
DIRECTOR

WILMA J. WOOTEN, M.D., M.P.H.
PUBLIC HEALTH OFFICER

May 31, 2013

Alyssa Ross
EMS Program Manager
City of San Diego
1010 Second Avenue, Suite 400
San Diego, CA 92010

Dear Ms. Ross:

The County of San Diego Emergency Medical Services (EMS) has received and reviewed the City of San Diego's request to extend the City's EMS Agreement with Rural Metro for an additional period of one (1) year after the extended term which expires on July 1, 2014. EMS understands that in order to ensure uninterrupted Advanced Life Support (ALS) services during the competitive process, an extension of the Agreement may be needed. Therefore, EMS does not anticipate any issues with both parties agreeing in writing to extend the Agreement for an additional one year period expiring on July 1, 2015, if necessary.

If you have any questions, I can be reached at 619-285-6476.

Sincerely,

MARCY METZ, Chief
Emergency Medical Services

cc: Bruce Haynes, M.D. EMS Medical Director

CITY OF SAN DIEGO
MEMORANDUM

DATE: May 17, 2013
TO: Alyssa Ross, EMS Program Manager
FROM: Dennis Gakunga, Purchasing Agent
SUBJECT: Sole Source Request for Sole Source Contract Authorization- 2011
Emergency Medical Services Agreement

Your Sole Source Request for the above subject with Rural/Metro Corporation was approved and is valid through 6/30/2015. In order for a Purchase Order to be issued, your department has to submit a purchase requisition. In the internal header notes of the requisition, please reference Sole Source Case Number 2443. For questions, please contact Leslie Valdez, CPPB at x67090.



Dennis Gakunga
Purchasing Agent

OS - 17 - 2013

DG/br

cc: Nelson Hernandez, Chief Operating Officer
Scott Chadwick, Interim Chief Operating Officer
Javier Mainar, Fire Chief
Criss Brainard, Deputy Fire Chief
Alyssa Ross, EMS Program Manager