



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: May 15, 2015 REPORT NO: 15-053
ATTENTION: Council President Sherri Lightner and Members of the City Council
SUBJECT: Emergency Medical Services (EMS) Agreement – Third Amendment for Five (5) Year Extension with Rural/Metro

REQUESTED ACTION:

Authorize the Mayor to execute the Third Amendment to the EMS Agreement with Rural/Metro for the provision of emergency medical and medical transportation services for the term of five (5) years commencing on July 1, 2015 through June 30, 2020 with provisions for the City to opt out after year 3 or year 4 per agreed-upon terms.

STAFF RECOMMENDATION: Approve the requested action.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Status of City's Request for Proposal for Emergency Medical Services

The City last conducted a Request for Proposal process for Emergency Medical Services in the Fall of 2009. The resulting FY 2010-11 EMS Agreement was awarded to San Diego Medical Services Enterprise, LLC (SDMSE), a partnership between the San Diego Fire-Rescue Department and Rural/Metro Ambulance. Due to legal issues involving this LLC arrangement, the City dissolved the partnership and Rural/Metro bought out the City's interests in the Spring of 2011. In place of the SDMSE agreement, the City entered an interim, sole source 2011 EMS Agreement with Rural/Metro under a conventional contractor-vendor relationship. Meanwhile City staff and an EMS consultant, Abaris Group, began developing a new EMS RFP with the intention of completing a new competitive process by July 2013.

Various issues have delayed the City's ability to proceed with the RFP process as intended. The latest obstacle occurred in August 2014 after the City submitted a final draft RFP to the County and State authorities for approval to release the bid. The State of California EMS Agency issued a letter dated August 11, 2014 to County EMS stating that the City cannot proceed with the RFP because per the State's interpretation of the California Health and Safety Code (Section 1797.224), it is the responsibility of the local EMS agency (LEMSA), in this case the County, to run the competitive procurement process and hold the contract for all competitive process exclusive operating areas (EOAs) countywide, including the City of San Diego (Attachment 1, Reference Correspondence).

This interpretation contradicts the past 30 years of practice which has allowed individual cities to conduct their own RFP process, contract with the provider directly and oversee the services while the County's role has been to ensure the overall process was fair and competitive and resulting contracts follow the LEMSA policies and treatment protocols. At the EMS Commission meeting in December 2014, San Diego County legal counsel stated that the County plans to appeal the State EMSA's decision. The City of San Diego does not have standing before the EMS Commission and at this time is supporting the County's appeal.

Timeline for EMS Commission Appeal

It is difficult to put a precise timeframe on the appeal to the EMS Commission because until recently no appeals have come before this body and it currently does not have an appeal procedure in place. This means that San Diego County must wait for the EMS Commission to develop and adopt a procedure before any appeal can be considered. The EMS Commission initially attempted to pass a procedure by emergency motion, but the motion failed at their meeting in March of 2015. Therefore, the EMS Commission will have to proceed through the normal by-law adoption process.

The normal process for adopting an appeal procedure for California government commissions would require a motion to add the procedure, a possible hearing of the initial motion at an EMS Commission subcommittee, and then a final properly noticed meeting where the motion to add the appeals procedure would be heard. Since the EMS Commission meets quarterly, it is unlikely that an appeals process will be established before the end of 2015.

Based on information gathered from the EMS Commission's recent meetings and current bylaws, it is improbable San Diego County's appeal will be heard until 2016. It is very likely that whatever the outcome at the EMS Commission level, this issue will be litigated in the State courts. Additionally, when the issue finally resolves, either the County or the City will need to develop and obtain approval from the State for an entirely new RFP. Then the responsible party will be able to proceed with a competitive process and implementation which is expected to take another 12 months.

Expiration of the City's Current EMS Agreement & Objectives for a Contract Extension

The City's current EMS Agreement (2nd Amendment) expires on June 30, 2015. The State guidelines require a competitive process every 10 years. In a letter dated January 29, 2015, County EMS Chief Marcy Metz confirms that the State EMSA and County EMS consider the City's last-approved competitive process to have taken place in the year 2009 with a resulting contract that went in place July 1, 2010 to include an initial term of five years and the option to extend for an additional five years (Attachment 1, page 9). The EMSA has opined that City of San Diego is still operating under this prior approval and not due for a competitive process until the year 2019 for a new contract to begin in July 2020. The County indicated that the City should be prepared to extend its current contract to ensure uninterrupted advanced life support (ALS) ambulance services. County EMS recommends the City extend for a minimum of four years (two years with a two year extension).

Due to RFP development and anticipated release, prior contract extensions delays were intended to be short-term, “status quo” agreements. As issues arose, the City and Rural/Metro negotiated solutions (such as eliminating the outdated “System Busy” exemption and improving ambulance response times in the South Bay) but major system updates and enhancements were not pursued and were expected to be implemented under the competitive process. Now, due to the uncertainty of the appeal timeline, the City obtained approval from the County and State authorities to incorporate elements of the EMS RFP in to the Third Amendment. These elements will improve service levels and compliance monitoring, and will require Rural/Metro to hire and train additional medical personnel. In addition, Rural/Metro will infuse an estimated \$10.59M in capital for equipment and technology. In conjunction with the system enhancements and infusion of capital by Rural/Metro, the City also sought to move to an industry standard fee schedule, contain user fees and maintain the annual fee revenue paid by Rural/Metro to help offset the City costs of providing paramedic-level Fire first-response.

The City’s negotiation team determined that a multi-year agreement provided the best opportunity to achieve these objectives as well as provide EMS system stability while the legal matters are fully sorted out, and therefore obtained an extension of the sole source approval from the City’s Purchasing & Contracting Department (Attachment 2). The City and Rural/Metro have tentatively agreed to terms for a five (5) agreement commencing on July 1, 2015 and expiring on June 30, 2020 (Attachment 3). There is no further option to extend after June 2020 as this will put the City at the maximum State-approved timeline. However, in order to provide the City with flexibility to react to new developments, the amendment includes options for the City to terminate after year 3 or year 4 by buying out the contract and paying the remaining one or two year’s worth of Rural/Metro’s capital depreciation costs.

Tentative Agreements and Major Elements of the Proposed Third Amendment

This amendment incorporates service level improvements developed by City staff and our EMS Consultant as well as enhancements proposed by Rural/Metro to sustain a current, high-quality, high-performance EMS system in order to provide for the public health and safety. These are summarized below.

1. Service Enhancements

The EMS system contains ambulance response time standards for the following categories:

- Emergency Response** (Level 1 & 2) – standard of 12 minutes or less 90% of the time
- Urgent Response** (Level 3) – standard of 15 minutes or less 90% of the time
- Non-emergency Response** (Level 4) – standard of 30 minutes or less 90% of the time

Response time standards will continue to be measured and reported on a quarterly basis. For Emergency responses, Rural/Metro must meet these standards not only on a citywide basis, but also within individual Medical Response Zones. Under the Second Amendment, the Urgent and Non-emergency categories were not reported separately but were combined with Emergency responses into an “All-Levels” metric. Under this Third Amendment, the “All-Levels” metric will be eliminated and separate and individual reporting for the Urgent (Level 3) category and Non-emergency (Level 4) category will be restored and each will be measured citywide.

Ambulances are posted at various locations, however it is a fluid EMS system and ambulances are deployed by Rural/Metro throughout City boundaries according to real time demands. The purpose of dividing the City into Medical Response Zones is to help ensure even coverage for the City's hard-to-serve geographical areas. The City's current 4 medical response zones were configured nearly 20 years ago (Attachment 4). Due to development, population growth, and traffic patterns changing significantly over the years, these zones need to be updated.

In 2012, the City's EMS Consultant, Abaris Group, analyzed 911/EMS call volume data as well as considered population density, geography, traffic patterns, and historically hard-to-serve areas of the City to recommended a more updated configuration to 8 Medical Response Zones that align with the existing Fire Battalion Zones, with a slight modification to separate Battalion Zone 6 into northern and southern parts to create 8 zones in total (Attachment 5). This will enable even distribution of service across the entire City as well as aligns with Fire Department operations.

Penalties will be assessed for non-compliance. Under this amendment, the Outlier response has been more strictly defined as an ALS ambulance response time of 24 minutes or greater on an "Emergency Response" category call (normal standard of 12 minutes or less). Outlier penalties will be applied on a per-call basis and will increase based on the number of violations per month.

Rural/Metro will add 300 ambulance unit hours per week to the overall system (in the form of three 12-hour and one 10-hour units) in order to meet response time standards under this model. Rural Metro will require a 60-day implementation period and one month of testing. Therefore the first quarter of FY 2016 (July through September) will be reported under the old metrics and the new compliance metrics will be effective October 1, 2015.

2. New Cardiac Monitors

Rural/Metro will purchase 60 new monitors for ambulance units and 100 new monitors for the Fire-Rescue Department's First Responder Units to replace equipment at the end its useful life. These will be implemented in the in the first year of the contract.

3. Electronic Patient Care Record (ePCR) Mobile Devices

Rural/Metro will purchase 60 new devices for ambulance units and 100 new devices for the Fire-Rescue Department's First Responder Units to replace equipment at the end its useful life. These will be implemented in the in the first year of the contract.

4. Ambulance Fleet Replacement

Rural/Metro will continue to replace ambulances after 250,000 miles with new ambulances. Based on the projected replacement schedule, this will require the purchase of approximately 47 new ambulances over the course of the five-year term (with approximately 38 of those replacements occurring in years 1-3).

5. Performance Bond from \$2M to \$5M

The bond insurance amount has not been updated since 1997. This increase will provide the City with an appropriate level of protection in the unlikely event of a default requiring the City to help stand up the EMS system and put emergency contracts in place per a contingency plan.

6. Use of City Facilities

One of the holdover terms of the SDMSE agreement was that the City provided Rural/Metro with the use of various City facilities. This benefitted both parties under the partnership and was continued under previous extensions. Under the EMS Agreement, it is mandatory for Rural/Metro to still co-locate certain key positions in Fire/EMS Division offices. However, Rural/Metro will vacate the non-mandatory spaces listed below within the first 2 years of this contract extension (by June 30, 2017):

- Ambulance Fleet Repair Facility & Medical Supply Depot (aka “Storeroom 42A”) located within the complex at 3750 Kearny Villa Road
- BLS Communications Center, located in the Fire Communications Center building, also at 3750 Kearny Villa Road
- Ambulance Parking Lot (aka “The Annex”) located at I-15 and Aero Drive

Ambulances may still be posted at various Fire Stations by approval of the City.

7. Annual City EMS Operational Fee (Revenue)

As part of this extension, the City will continue to receive an annual EMS Operational Fee from Rural/Metro to partially offset the costs of providing Fire paramedic-level first response. The application of an annual Consumer Price Index (CPI) will increase the FY 2016 EMS Operational Fee to \$10,699,874.

The City will apply a reimbursement credit of \$370,367 to Rural/Metro for costs associated with replacing City Single-Role Paramedics who are no longer working on ambulances. This will reduce the FY 2016 Operating Fee to \$10,339,504 (still a net increase of \$329,522 from Fiscal Year 2015 revenue). The table below shows the EMS Operational Fee impacts to the FY 2016 Proposed Budget after the various adjustments and credits are applied:

FY 2015 EMS Operational Fee (Base)	\$10,335,000
CPI Formula Adjustment of +1.625%	+ \$171,093
City EMS Operational Fee (gross)	\$10,699,874
Credit for Single Role Replacements	- \$370,067
FY 2016 City EMS Operational Fee (net)	\$10,339,504

8. Transition to a User Fee Schedule (Base Rate + Mileage + Oxygen)

The City’s current price control methodology requires Rural/Metro to maintain a stipulated Average Patient Charge (APC), currently set at \$1,854 through June 30, 2015. The “APC” has

been in place since 1984 and is not an industry standard, making cost comparisons with other agencies difficult.

Patient charges are based on three general components: advanced life support (ALS) and basic life support (BLS) base rates, a charge based on mileage, and a charge for the use of oxygen. These rate components are standard throughout the EMS transportation industry as Medi-Cal/Medicare reimburses providers based on these components. Since actual transport charges will vary based on level of services, the APC methodology requires Rural Metro to periodically adjust the base rate up or down so the actual APC does not exceed the contractual average at the end of a monitored quarter. If for a given quarter the APC does exceed the contract allowable APC, component fees are adjusted downward in the following period of time sufficient to correct for surplus of actual aggregate charges. This results in greater variation in ambulance bills that patients receive from quarter to quarter for the same level of service.

The current agreement allows for an annual Consumer Price Index (CPI) increase each July 1. The FY 2016 adjustment of +1.625% will increase the APC by \$30 to become \$1,884 effective July 1, 2015 through August 31, 2015. Effective September 1, 2015 the additional ambulance unit hours will be in place and the fees will change to a new City-approved rate schedule based on base rate plus add-on for mileage and Oxygen (per the table below):

Rate Comparison:	FY 2015 Base Rates Current	FY 2016 Proposed (as of Sept.1st)	% Chg from FY 2015 Base Rate
ALS Emergency Transport Level 1	\$1,693.83	\$1,933.05	14%
ALS Non-Emergency Transport Level 1	\$1,693.83	\$1,933.05	14%
ALS Level 2	\$1,976.43	\$2,154.31	9%
BLS Non-Emergency Transport	\$1,496.58	\$850.00	-43%
BLS Emergency Transport	\$1,496.58	\$1,631.27	9%
BLS Treat No Transport	\$150.00	\$163.50	9%
ALS Treat No Transport	\$150.00	\$163.50	9%
Oxygen Use (flat fee)	\$30.57	\$33.32	9%
Mileage (per Loaded Mile)	\$24.90	\$27.14	9%

The rate schedule methodology is more transparent and will eliminate the constant need for adjustment. This represents an overall 9% increase compared to current rates and is based on Rural/Metro's estimation of actual transports and projected revenues required to implement the system updates and improvements discussed above.

Since the "Base Rate plus mileage and oxygen" is the industry norm for patient charges, changing to a Rate Schedule method will also allow the City to do a direct comparison with other agencies that similarly contract for ambulance service. Based on a recent survey, the City of San Diego's proposed rates would be on a par or lower than the average for comparable agencies in the region (Attachment 6).

9. CPI Adjustment

An annual Consumer Price Index (CPI) adjustment will be applied at the beginning of each Fiscal Year to both the user fees (Rate Schedule) as well as to the City's EMS Operational Fee (Fire First Responder offset). The CPI adjustment is based on the "All Urban Consumers, San Diego" and is a blended rate of components for Medical (75%) and Transportation (25%).

10. Term and Buyout Options

The term of this agreement is five years. This enables the system enhancements and capital investments while maintaining competitive user fees. However, this amendment includes options for the City to buy-out of the contract after the third year or fourth year with a 180 day notice to Rural/Metro. The buyout costs include fixed and variable components and are estimated to be \$3.964M after year 3 or \$2.161M after year 4. The figures are based on the anticipated investment made by Rural/Metro over the five-year term. It is a reduced buyout cost based on unrealized depreciation of the assets and as such, the assets will remain the property of Rural/Metro. If the City exercises this option, staff will verify documentation of actual assets purchased under the term of the contract and implementation dates of those assets to pay only the remaining year's worth of Rural/Metro's depreciation expense.

The buyout termination does not affect any of the City's rights to terminate the contract for material breach.

ENVIRONMENTAL IMPACT:

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

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.

Objective #4: Foster services that improve quality of life.

FISCAL CONSIDERATIONS: The FY 2016 EMS Operating Fee revenue is \$10,339,504. This revenue will be received in Fund 200227, Fire/EMS Transport Fund.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (if applicable):

This is 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 ACTIONS: City Council approved the Second Amendment contract extension per resolution R-308905 dated April 28, 2014.

COMMUNITY PARTICIPATION AND OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

State of California, County of San Diego, City EMS personnel, and citizens and visitors in the City of San Diego's who may access 911/EMS are key stakeholders.



Javier Mainar
Fire Chief



Greg Bych
Risk Management Director



Scott Chadwick
Chief Operating Officer

- Attachments(s):
1. Reference Correspondence from 08-11-14 to 01-29-15
 2. Sole Source Approval
 3. EMS Agreement Third Amendment
 4. Current Medical Response Zones
 5. Proposed Medical Response Zones
 6. Ambulance Rates & Regional Comps