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24-5550

**DATE:** April 16, 2024

**TO:** Board of Supervisors

**FROM:** James R. Williams, County Executive

**SUBJECT:** 911 Emergency Ambulance Services Contract Extension

**RECOMMENDED ACTION**

Approve Ninth Amendment to Agreement with Rural/Metro of California relating to providing 911 emergency paramedic and ambulance services, extending the agreement for an 18-month period through December 31, 2025, with three one-year extension options, that has been reviewed and approved by County Counsel as to form and legality.

**FISCAL IMPLICATIONS**

The recommended action will increase revenue in the General Fund through an increase in cost-recovery fees paid to the County of \$3.5 million annually.

**CONTRACT HISTORY**

The County Emergency Medical Services Agency (“EMS Agency”) oversees all emergency medical services (ambulance responses and transports) throughout the county and has historically delivered these services through a contract with a single ambulance provider.<sup>1</sup>

The County and its current ambulance provider, Rural/Metro, entered into the original Emergency Medical Services Agreement on December 10, 2010. Under this agreement, Rural/Metro provides Advanced Life Support First Response and Advanced Life Support Emergency Ambulance Services countywide. The original contract with Rural/Metro took effect on July 1, 2011, with a term of five years and with two optional three-year extensions. Rural/Metro was subsequently acquired by American Medical Response (AMR). The first optional extension was exercised in 2016 and the second in 2019.

In 2018, the EMS Agency conducted an RFP process that did not result in any responsive bids. In June 2019, the EMS Agency began the planning process for initiating a new RFP process, starting with convening a stakeholder group to explore and provide input on the

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<sup>1</sup> The only exception to this is the City of Palo Alto, which is a grandfathered city by section 201 of the state EMS Act and provides its own ambulance services. Even with respect to Palo Alto, however, the EMS Agency has responsibility for credentialing, patient care standards, and numerous other regulatory obligations and duties.

various options available to the County for emergency medical response, including by assessing models used in other jurisdictions.

In March 2020, however, plans for the stakeholder group were put on hold due to the COVID-19 pandemic, and the EMS Agency determined it was therefore necessary to extend the ambulance services contract with Rural/Metro. The Board approved an extension of the AMR/Rural Metro contract for two years through June 2024, with an option for the EMS Agency to extend the contract for an additional three years.

California Health & Safety Code Section 1797.224 requires a competitive process to be conducted for any ambulance service provider contract in which services will be provided within an “exclusive operating area” (EOA). The County has long utilized the EOA structure, under which a single provider is required to provide EMS service to the entire county and is the only provider authorized to do so, because the EOA structure ensures that service can be provided throughout the County’s entire geographic region. This approach ensures sufficient incentive, economies of scale, and volume to support EMS service delivery to areas of the county with few residents, greater distance from population centers, or fewer residents with private insurance.

The EMS Agency is required to submit any draft RFP, through which an exclusive EMS agreement will be awarded, to the California Emergency Medical Services Authority (Cal EMSA) for approval prior to release. (Cal. Health & Safety Code section 1797.224.) Cal EMSA is responsible for the coordination and integration of all State activities regarding EMS. (Cal. Health & Safety Code section 1797.103.) Local Emergency Medical Services Agencies (LEMSAs), such as the County EMS Agency, are charged with planning, operating, and evaluating a county-level EMS system in accordance with applicable law. (Cal. Health & Safety Code section 1797.200.)

## **REASONS FOR RECOMMENDATION AND BACKGROUND**

Extending the existing ambulance services agreement at this time is recommended for the following reasons:

### ***To allow sufficient time to collect data and assess recent EMS system enhancements to inform a future RFP***

To improve ambulance availability and timeliness, as well as to increase EMS system efficiency, a series of efforts are underway (as previously reported to the Health and Hospital Committee). Collectively, these items require data to inform the structure of the next RFP, as well as to provide prospective bidders with accurate information to ensure a competitive and successful RFP process.

### **Increased Deployment of Basic Life Support Ambulances**

The EMS Agency has already approved deployment of basic life support (BLS) ambulances, staffed with two EMTs, to supplement the advanced life support (ALS) ambulances staffed by one EMT and one paramedic. When patient assessment indicates a lower acuity problem, or when a 911 call’s triage indicates a lower acuity problem, a BLS ambulance can be dispatched. This added support is anticipated to significantly reduce the burden caused by

higher call volume and lower acuity calls, which comprise approximately 26% of ambulance response, ensuring ALS ambulance availability to respond to higher acuity calls.

### Implementation of a Nurse Navigator Pilot Program

Nurse Navigation services will be piloted at County Communications and other jurisdictions that have medical calls triaged by County Communications. Meetings with multiple stakeholders are ongoing to begin implementation of this pilot program. Work groups comprised of first responders, system partners, and other stakeholders are meeting to define the clinical determinants for nurse navigation, call flow, field referral, community education, and alternative destinations, including engaging alternative destinations for participation in the pilot. A pilot nurse navigator program is anticipated to launch in Spring 2024.

Under the Nurse Navigation program, 911 callers with non-emergency injuries or illnesses can be transferred to a “nurse navigator” who can assess the symptoms and refer the individual to the most appropriate level of medical care. This pilot can decrease low acuity ambulance calls as well as get patients to the right level of care, which may or may not include a hospital emergency department.

Nurse Navigators are licensed nurses and have professional experience in emergency nursing or urgent care. They are also specially trained in the practice of telephone triage.

The Nurse Navigators will direct callers to the appropriate path for treatment and help coordinate a patient’s care. A Nurse Navigator may determine a virtual appointment with a physician is the best option, or they may schedule ride-share transportation for a patient to the nearest urgent care clinic for an exam.

This specialized response to 911 calls ensures that patients get the right care at the right time at the right place. By offering a tailored approach to care for this subset of non-emergency callers, this service can also help reduce wait times at the hospital and free up more ambulances to respond to emergencies.

If this pilot is successful, the EMS Agency plans to work with the other dispatch centers that do medical call triage to expand the program.

### Utilization of Non-Ambulance Transport Services

Non-ambulance transport services will be deployed to assist patients who are not experiencing an emergency or do not require an ambulance. This type of transport, which can be performed via a fleet vehicle configured with the necessary emergency medical equipment and safety restraints and staffed with one EMT, may be used to transport non-medical psychiatric patients.

### Ambulance Patient Offload Time (APOT) at hospitals

When ambulances must wait for extended periods of time at hospitals, they are functionally out of service. On occasion, ambulances are waiting with low acuity patients for hours for the patient to be accepted into the emergency department and the ambulance to be released back into service. The EMS Agency and local hospitals are working collaboratively on improvement plans to meet the California EMS Authority’s target APOT of 20 minutes.

Possible solutions could include:

1. Structured interval reassessment during extended ambulance delays at impacted hospitals. When possible, the Emergency Department triage nurse will formally assess ambulance patients according to their existing triage system after 30 minutes has been exceeded and place the lowest acuity patients that are cooperative and ambulatory in the ED waiting room.
2. Joint decision making between ambulance crew and hospital personnel.
3. Continued communication of patient status between ambulance crew and hospital personnel.
4. Patients may be transferred to EMT personnel from a paramedic after a detailed assessment in accordance with County EMS Agency Policy. When hospital space and EMT availability are adequate, this allows paramedic-level ALS ambulances to return to service and be available for response in the 911 system.

***To account for significant existing legal/regulatory uncertainty***

The legal landscape governing EMS service delivery in California is in a state of flux, with pending litigation and imminent regulatory changes likely to have a significant impact on future delivery models. For example, there is significant ongoing litigation with the County of Santa Barbara and the County of Sonoma.<sup>2</sup> Both disputes are related to the counties' contracts for ambulance services and use of alternative models. While these cases are dependent on specific facts that are not identical to our County's current contract situation, the outcomes are likely to affect such factors as exclusivity in ambulance agreements and the proper process for a request for proposals. In addition to pending litigation, the California Emergency Medical Services Authority (Cal EMSA) is expected to release new proposed rules this year that will dictate the requirements of the competitive process that counties must undertake to establish an enforceable exclusive operating area. Because of the significant likelihood that the litigation and upcoming new regulations will drastically affect core components of future ambulance contracts, Administration recommends extending the current contract to allow these legal developments to unfold.

***To allow sufficient time to explore alternative service delivery models***

Potential EMS service delivery models used in other jurisdictions include the current private ambulance provider model, use of a public provider (either the County itself or another public entity), or a public-private partnership. Execution of an extension to the existing ambulance services agreement would allow the new Administration sufficient time to evaluate these alternative service delivery models to inform an upcoming RFP, especially in the context of the shifting legal requirements and models being used by other jurisdictions.

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<sup>2</sup> In *American Medical Response West v. County of Sonoma*, Case No. SCV-272948 (Cal. Sup. Ct. 2023), AMR alleges that the County of Sonoma unfairly withheld material facts regarding the state's decision to deem AMR's operating area in the county non-exclusive during the parties' negotiation of a contract extension. In *American Medical Response West v. County of Santa Barbara*, Case No. 23CV04250 (Cal. Sup. Ct. 2023), AMR contends that the County of Santa Barbara unfairly worked with Santa Barbara County Fire District to cancel a competitive solicitation process that would have resulted in a contract award to AMR and instead initiated a contract with the Fire District. A preliminary injunction was issued against the county in the *Santa Barbara* case.

***To allow sufficient time to achieve EMS system stabilization in the wake of recently announced service reductions***

On February 14, 2024, Regional Medical Center (RMC) informed the Emergency Medical Services Agency that, effective August 12, 2024, RMC intends to terminate its Hospital Designation Agreement as a Level II Trauma Center, ceasing all trauma services, as well as ceasing STEMI (ST-elevation Myocardial Infarction) services, and decreasing Stroke services from Comprehensive to Primary stroke care. Per California Health and Safety Code section 1300 and EMS Agency Policy, the EMS Agency has notified specified stakeholders of the planned reduction of services and will complete and distribute a draft EMS Impact Evaluation and conduct a public hearing. Through the Impact Evaluation process and in the months to come, the EMS Agency will be closely monitoring EMS system resources and recommending adjustments accordingly to promote system stability and mitigate any risks to the public of the reduction in emergency services at RMC. These local system changes are likely to have an effect on the next RFP process.

The cumulative impact of these items poses significant challenges in drafting an appropriate RFP in the current environment that is likely to lead to competitive proposals. Accordingly, Administration recommends extending the current agreement.

The proposed Ninth Amendment would extend the current agreement for an initial 18-month period, provide for three additional one-year options to extend solely at the County's discretion, and make changes to the contract to reflect the current system status and pilot initiatives. These changes include the Nurse Navigator program, BLS ambulances, and use of additional ALS ambulances in the system. The Ninth Amendment also includes an updated fee for enhanced partial cost recovery for County Communications, allows an increase in rates for Rural/Metro that still ensures rates are the lowest among all Bay Area counties, and modifies certain liquidated damages provisions to, *inter alia*, reflect the inability of the County to currently appropriately calculate damages based on the current computer-aided dispatch situation at County Communications.

**COMMITTEE RECOMMENDATIONS**

At the March 19, 2024 Health and Hospital Committee (HHC) meeting, Supervisor Lee noted the challenging recruitment environment for paramedics, and that these challenges have impacted AMR's performance. He requested quarterly reports to HHC during the term of the contract extension to provide the Committee with updates on stakeholder engagement and the progress of efforts to assess both EMS system stability and pilot options for system redesign. Supervisor Simitian expressed concerns about the length of the term (three years) in the County's unilateral option to extend and requested that Administration consider recommending a shorter-term extension, subject to negotiations with AMR, such as for a one-year term with two one-year options.

**CHILD IMPACT**

The recommended action will have no/neutral impact on children and youth.

**SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

## **SUSTAINABILITY IMPLICATIONS**

The recommended action will have no/neutral sustainability implications.

## **CONSEQUENCES OF NEGATIVE ACTION**

The current contract with Rural/Metro expires June 2024, with one unilateral option to extend the agreement for an additional three years. The option must be exercised by May 1, 2024. In the absence of the Ninth Amendment, the County Executive will exercise the County's unilateral option to extend the term of the current contract for a three-year period through June 30, 2027, under existing terms.

## **STEPS FOLLOWING APPROVAL**

The Clerk of the Board of Supervisors is requested to notify John Blain, Wesley Dodd, and Jeff Mullin when the Ninth Amendment is executed and provide them with electronic copies of the executed Amendment.