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Via U.S. Mail, fax, and email

Tom McGinnis, NREMT-P
Chief, EMS Systems Division
California Emergency Medical Services Authority
10901 Gold Center Dr., Suite 400
Rancho Cordova, CA 95670

Re: Appeal of California EMS Authority Decision to Rescind Approval of the
Contra Costa County Emergency Medical Services Agency's RFP-2015-CCC

Dear Mr. McGinnis:

The Contra Costa County Emergency Medical Services Agency hereby appeals the April 13, 2018, decision of the California Emergency Medical Services Authority (EMSA) regarding Contra Costa County's emergency medical services plan. The County EMS Agency appeals EMSA's decision to rescind its approval of the County EMS Agency's RFP-2015-CCC, deny Contra Costa County's 2016 EMS Plan Update, and designate three exclusive operating areas as "non-exclusive," on the following grounds:

- EMSA abused its discretion and exceeded its jurisdiction by rescinding its approval of the County EMS Agency's RFP-2015-CCC. EMSA has no statutory authority under the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (the "EMS Act"; Health & Saf. Code, §§ 1797-1799.207) to rescind its prior approval of a local EMS agency's request for proposals. EMSA's statutory authority with respect to local RFPs is limited to reviewing and approving a local EMS agency's competitive process. (Health & Saf. Code, § 1797.224.)
- EMSA abused its discretion and exceeded its jurisdiction by purporting to designate three exclusive operating areas located in Contra Costa County as "non-exclusive." EMSA has no statutory authority under the EMS Act to designate local exclusive operating areas as "non-exclusive." Only local EMS agencies are authorized to create exclusive operating areas. (Health & Saf. Code, § 1797.224.)

- EMSA's decision, including its allegations that the County EMS Agency did not implement the RFP as approved and did not obtain EMSA's advance approval of RFP language, is not supported by substantial evidence. The evidence will show that the County EMS Agency's RFP-2015-CCC, the addendum and other modifications were approved by or submitted to EMSA.

- EMSA improperly relied on EMSA Guidelines, including EMSA Guideline No. 141, in making its decision. EMSA Guidelines are improper underground regulations that do not have the force of law, because they have not been approved under the California Administrative Procedure Act.

- EMSA's decision was improperly influenced by non-governmental organizations, including the California Ambulance Association. EMSA relied on unfounded allegations made by the California Ambulance Association and did not conduct an independent, complete investigation into the facts and circumstances surrounding this matter before issuing its decision.

- EMSA, in issuing its decision, has intentionally interfered with the November 17, 2015, agreement between Contra Costa County and the Contra Costa County Fire Protection District to provide advanced life support emergency ambulance services in three exclusive operating areas. Contra Costa County relied on EMSA's approval of the RFP to solicit bids from ambulance providers and then enter into an ambulance services contract with the Fire Protection District. All of the actions taken by the Board of Supervisors in its capacity as the governing board of both the County and the Fire Protection District were authorized by law. The Fire District Protection Law of 1987 allows fire protection districts governed by a board of supervisors to provide emergency ambulance services. (Health and Saf. Code, § 13862; see also Pub. Contract Code § 20812; CCC Ord. Code, § 48-16.005.) The EMS Act permits counties to award contracts for emergency ambulance services. (Health & Saf. Code, § 1797.200; see also Gov. Code, § 24004(c).) It is well established that a governing board of two separate legal entities may act in a dual capacity when the Legislature has allowed it by statute.

- EMSA's allegations that the County EMS Agency did not conduct a fair, competitive process, and that the County EMS Agency did not disclose to EMSA that competitors "had colluded in advance to capture the marketplace and allowed bid rigging to occur," have no basis in fact and are incorrect as a matter of law. The agreement between the Fire Protection District and American Medical Response West for the provision of ambulance services is a legitimate, publicly disclosed joint partnership. The U.S. Supreme Court and other courts have consistently upheld publicly disclosed joint partnerships, even if a result is that other potential bidders choose not to bid on a contract. In Contra Costa County, all contracts relevant to the provision of

ambulance services in the County were approved at noticed public meetings, and all steps in the ambulance service procurement process occurred openly and transparently, at public meetings. Moreover, EMSA approved language in the County EMS Agency's RFP allowing a "joint venture" response, and the law does not authorize EMSA to prohibit two entities from entering into a contractual relationship to respond to a local RFP.

- Such other and further grounds as may be supported by the evidence presented at hearing.

By filing this appeal, the County EMS Agency does not waive or release any of its rights or defenses.

The Office of the County Counsel represents the Contra Costa County EMS Agency in this matter. Please direct all correspondence regarding this case to this office.

Very truly yours,

Sharon L. Anderson
County Counsel



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