



**NOTICE AND CALL OF A SPECIAL MEETING  
OF THE  
ORANGE COUNTY FIRE AUTHORITY  
BOARD OF DIRECTORS**

A Special Meeting of the  
Orange County Fire Authority Board of Directors  
has been scheduled for October 7, 2013

at 6:00 p.m.

The meeting will be held at:

OCFA – RFOTC

Board Room

1 Fire Authority Road

Irvine, CA

The business to be transacted at the meeting will be:

**CLOSED SESSION:**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Section 54956.9(d2)

Case No.: Two Cases

**OPEN SESSION:**

1. Discussion of County Board of Supervisors Consideration of Authority to Award Ambulance Contracts in Unincorporated Areas, and OCFA Ambulance Process for Request for Proposals.
2. Consider Circulation of Board Member Contact Information by the Clerk of the Authority.

Opportunity will be provided for members of the public to address the  
Orange County Fire Authority Board of Directors  
regarding this item.

Steven Weinberg, Board Chair



# ORANGE COUNTY FIRE AUTHORITY

## AGENDA

### BOARD OF DIRECTORS SPECIAL MEETING

Monday, October 7, 2013

6:00 P.M.

#### Regional Fire Operations and Training Center

Board Room

1 Fire Authority Road

Irvine, CA 92602

***Unless legally privileged, all supporting documentation and any writings or documents provided to a majority of the Board of Directors after the posting of this agenda, which relate to any item on this agenda will be made available for public review in the office of the Clerk of the Authority located on the 2<sup>nd</sup> floor of the OCFA Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602, during regular business hours, 8:00 a.m. - 5:00 p.m., Monday through Thursday, and every other Friday, (714) 573-6040. In addition, unless legally privileged, all supporting documentation and any such writings or documents will be available online at <http://www.ocfa.org>.***

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, supporting documents, including staff reports, are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact Sherry A.F. Wentz, Clerk of the Authority, at (714) 573-6040 Monday through Friday from 8 A.M. to 5 P.M.

If you wish to speak before the Fire Authority Board, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority prior to being heard before the Board. Speaker Forms are available at the counters of both entryways of the Board Room.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040.

#### CALL TO ORDER

#### INVOCATION

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

#### CLOSED SESSION

#### CS1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(d2)

Case No.: Two Cases

**DISCUSSION CALENDAR**

- 1. Discussion of County Board of Supervisors Consideration of Authority to Award Ambulance Contracts in Unincorporated Areas, and OCFA Ambulance Process for Request for Proposals**

Recommended Action:  
Board discretion.

- 2. Consider Circulation of Board Member Contact Information by the Clerk of the Authority**

Recommended Action:  
Board discretion.

**BOARD MEMBER COMMENTS**

**ADJOURNMENT** - The next regular meeting of the Orange County Fire Authority Board of Directors is scheduled for November 21, 2013, at 6:30 p.m.

**AFFIDAVIT OF POSTING**

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Special Agenda was posted in the lobby and front gate public display case of the Orange County Fire Authority, Regional Training and Operations Center, 1 Fire Authority Road, Irvine, CA, not less than 24 hours prior to the meeting. Dated this 4<sup>th</sup> day of October 2013.

\_\_\_\_\_  
Lydia Slivkoff, CMC  
Assistant Clerk of the Authority

**UPCOMING MEETINGS:**

Budget and Finance Committee Meeting	Wednesday, October 9, 2013, 12 noon
Claims Settlement Committee Meeting	Thursday, October 24, 2013, 5:30 p.m.
Executive Committee Meeting	Thursday, October 24, 2013, 6:00 p.m.

**DISCUSSION CALENDAR – AGENDA ITEM NO. 1**  
**BOARD OF DIRECTORS SPECIAL MEETING**  
**October 7, 2013**

TO: Board of Directors, Orange County Fire Authority

FROM: Lori Zeller, Assistant Chief  
Business Services Department

SUBJECT: **Orange County Board of Supervisors Consideration of Authority to Award Ambulance Contracts in Unincorporated Areas, and OCFA Ambulance Process for Request for Proposals**

Summary:

This agenda item is submitted for discussion of potential actions under consideration by the Orange County Board of Supervisors regarding the Request for Proposal process and award of contracts for emergency ambulance services.

Recommended Action:

Board discretion.

Background:

Based in part on previous delegated authority from the County (Resolution No. 04-120, Attachment 1), the OCFA administers a competitive bidding process for emergency ambulance services provided to 19 of our member agencies and the County unincorporated areas. The current ambulance contracts are set to expire September 1, 2014. OCFA staff is in the early planning stages for an upcoming RFP process for new emergency ambulance service contracts that would become effective in September 2014.

Under the current structure, ambulance contracts are competitively bid by OCFA and awarded by either the OCFA Board of Directors or individual City Councils for each individual Exclusive Operating Area (aka “ambulance service area”). These Exclusive Operating Areas (EOAs) each contain an individual city jurisdiction, and any contiguous County unincorporated area (Attachment 2).

***Actions Under Consideration by County Board of Supervisors***

A supplemental agenda item has been issued for the County Board of Supervisors meeting of October 8, 2013 (Attachment 3). The following actions are recommended in the supplemental agenda item:

1. Adopt Resolution rescinding Resolution No. 04-120 in its entirety.
2. Affirm the Board of Supervisors’ authority to award contracts for ambulance services in unincorporated areas.

As indicated in the attached City Manager Advisory issued by Jill Ingram, Chair of OCFA's City Manager Technical Advisory Committee, OCFA's member cities could be impacted by these pending County actions (Attachment 4). The lack of time between issuance of the County supplemental agenda item on October 4<sup>th</sup>, and potential action on October 8<sup>th</sup>, has made it very challenging for OCFA staff to analyze the impacts of these actions on behalf of our member cities, inform those cities, and facilitate the topic for consideration by their City Councils, if desired.

Furthermore, upon issuance of the County's supplemental agenda item, OCFA staff immediately requested General Counsel to review the matter and provide a memorandum outlining the impacts. General Counsel has provided an initial memorandum (Attachment 5); however, that task has also proved challenging given the limited amount of time.

### ***Action Suggested by Staff***

Considering the complexity of the Legislative and Regulatory structure surrounding the competitive selection and award of emergency ambulance contracts, combined with the potential impact to OCFA's member cities, staff is suggesting that the Board of Directors consider the following action:

**The OCFA Board of Directors recommends that the Orange County Board of Supervisors defer action relating to (1) the rescission of County Resolution 04-120; and, (2) affirmation of the Board of Supervisors' authority to award ambulance contracts for ambulance services in County unincorporated areas.**

Deferral of the pending actions would provide more time for the various stakeholders to become better informed on the topic, and enable participation from City representatives, where desired. Should the Board of Directors support the staff-suggested action, the Fire Chief will convey the recommendation to the County Board of Supervisors at the October 8<sup>th</sup> meeting.

### **Impact to Cities/County**

Changes in responsibilities and authorities for ambulance contract could potentially impact OCFA's member cities, as outlined in the General Counsel Memorandum (Attachment 5).

### **Fiscal Impact**

Resolution No. 04-120, which is proposed for rescission by the County, contains the base authorization which connects the annual adjustments to OCFA's reimbursement rates for Advanced Life Support (ALS) paramedic services to the same percentage change as the Basic Life Support (BLS) transport reimbursement rate. It is unknown at this time how rescission of this resolution would impact OCFA's ability to obtain ALS reimbursements, or to obtain approval for annual adjustments to the ALS reimbursement rates.

Staff Contact for Further Information

Lori Zeller, Assistant Chief  
Business Services Department  
[lorizeller@ocfa.org](mailto:lorizeller@ocfa.org)  
(714) 573-6020

Jim Ruane, Finance Manager/Auditor  
Finance Division  
[jimruane@ocfa.org](mailto:jimruane@ocfa.org)  
(714) 573-6304

Attachments:

1. County Resolution No. 04-120
2. Exclusive Operating Areas
3. County Supplemental Agenda Item No. S16A
4. City Manager Advisory from Jill Ingram, Chair, OCFA Technical Advisory Committee
5. General Counsel Memorandum – Effect of Proposed Rescission of County Resolution 04-120 re: Contracting for Ambulance Services (*Note: This attachment will be provided separately.*)

1 RESOLUTION OF THE BOARD OF SUPERVISORS OF

2 ORANGE COUNTY, CALIFORNIA

3 April 27, 2004

4  
5 WHEREAS, a public hearing has been conducted to update the maximum basic life  
6 support ambulance rates affecting the unincorporated areas of Orange County  
7 and the cities within Orange County that have adopted the County's Ambulance  
8 Ordinance; and

9  
10 WHEREAS, a public hearing has been conducted to update the maximum advanced  
11 life support paramedic assessment and transport fee, as requested by the  
12 Orange County Fire Authority (OCFA) Board of Directors, applicable to the  
13 OCFA jurisdictional areas (excepting San Clemente, Westminster, and Buena  
14 Park); and previously approved by the OCFA Board of Directors; and

15  
16 WHEREAS, OCFA is requesting through the Health Care Agency to conduct a  
17 competitive process on behalf of the Orange County Emergency Medical Services  
18 (OCEMS) for the selection and award of emergency ambulance exclusive  
19 operating area contracts for OCFA jurisdictional areas (excepting San  
20 Clemente, Westminster, and Buena Park);

21  
22 NOW, THEREFORE, BE IT RESOLVED that effective July 1, 2004, this Board hereby  
23 rescinds previous Board action taken on June 24, 2003 and establishes the  
24 following basic life support (BLS) emergency ground ambulance rates for the  
25

1 unincorporated area of the County and cities that have adopted the Orange  
 2 County Ambulance Ordinance:

4	(1) Emergency BLS Base Rate	\$ 531.75
5	(2) Mileage (per patient mile or fraction thereof)	\$ 13.00
6	(3) Oxygen (when administered)	\$ 63.00
7	(4) Standby time (per 15 minutes after the first 15 minutes)	\$ 31.00
8	(5) Expendable medical supplies (maximum per response)	\$ 23.50

9  
 10 BE IT FURTHER RESOLVED that effective July 1, 2004, this Board hereby  
 11 rescinds previous Board action taken on March 3, 1998, and establishes the  
 12 following maximum advanced life support paramedic assessment and transport  
 13 fee for OCFA jurisdictional areas (excepting San Clemente, Westminster, and  
 14 Buena Park):

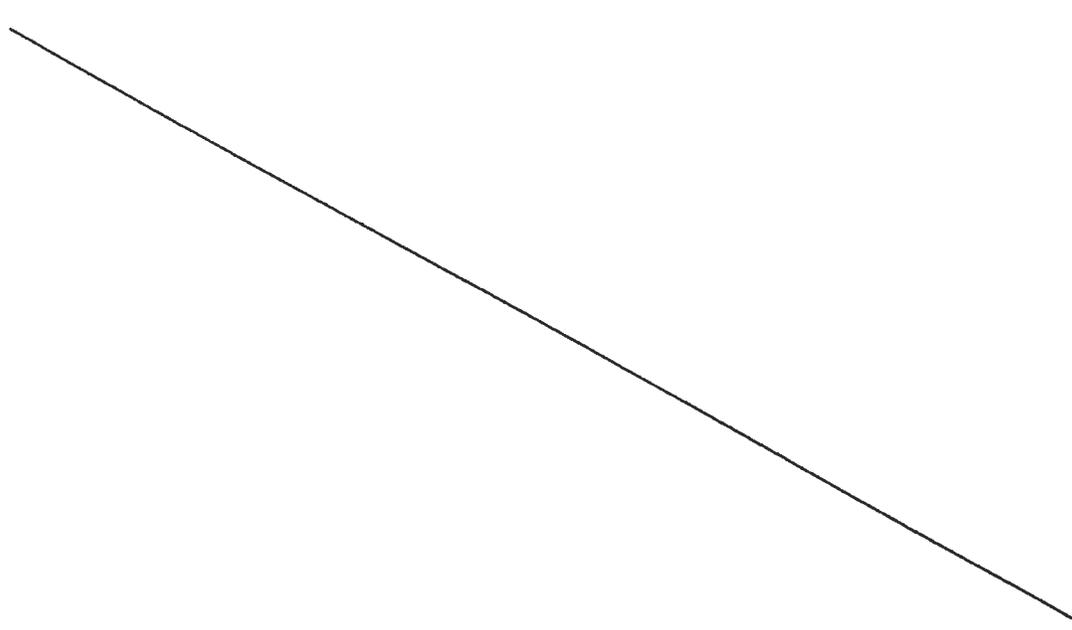
16	Advanced Life Support Paramedic Assessment and Transport	\$ 282.00
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17  
 18 BE IT FURTHER RESOLVED that the Health Care Agency is directed to return to  
 19 the Board of Supervisors annually to adjust the OCFA maximum advanced life  
 20 support fee by the same percentage change as the maximum emergency basic life  
 21 support base rate for the same time period, but not to exceed OCFA's actual  
 22 costs for providing advanced life support services.

23  
 24 BE IT FURTHER RESOLVED that OCFA is authorized to conduct a competitive  
 25

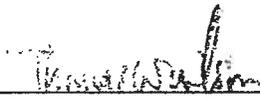
1 process on behalf of OCEMS for the selection and award of emergency ambulance  
2 exclusive operating area contracts for OCFA jurisdictional areas (excepting  
3 San Clemente, Westminster, and Buena Park), effective July 1, 2004 or  
4 immediately thereafter.

5  
6 BE IT FURTHER RESOLVED that the Board of Supervisors finds that, in  
7 accordance with Section 15273 of the California Environmental Quality Act  
8 (C.E.Q.A.) Guidelines, the advanced life support paramedic assessment and  
9 transport fee is only for the purpose of meeting operating expenses and is,  
10 therefore, statutorily exempt from compliance with C.E.Q.A.



The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on May 11, 2004, to wit:

AYES:	Supervisors:	THOMAS W. WILSON, BILL CAMPBELL, JAMES W. SILVA
NOES:	Supervisor(s):	CHARLES V. SMITH, CHRIS NORBY
EXCUSED:	Supervisor(s):	
ABSTAINED:	Supervisor(s):	

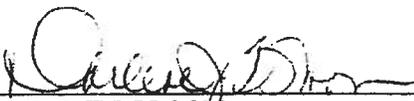
  
 \_\_\_\_\_  
 CHAIRMAN

STATE OF CALIFORNIA    )  
   )  
 COUNTY OF ORANGE     )

**I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors .**

**IN WITNESS WHEREOF, I have hereto set my hand and seal.**



  
 \_\_\_\_\_  
 DARLENE J. BLOOM  
 Clerk of the Board  
 County of Orange, State of California

Resolution No: 04-120  
 Agenda Date: 05/11/2004  
 Item No: 34



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors , Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

**Orange County Fire Authority  
Exclusive Operating Areas / Ambulance Service Areas  
October 7, 2014**

<b>Current EOA #</b>	<b>City of:</b>	<b>Includes County Islands of: (Per 2004 Staff Report)</b>
5	Cypress	
10	Irvine	Santa Ana Heights, JWA, IRV SOI
13	La Palma	
14	Los Alamitos	Rossmoor
17	Placentia	Brea Unincorporated & Tonner Canyon
19	San Juan Capistrano	Ortega Hwy
21	Seal Beach	Bolsa Chica
22	Stanton	Midway City
23	Tustin	Cowan, Lemon Heights
24	Villa Park	Silverado Canyon
26	Yorba Linda	Chino Hills State Park
28	Laguna Hills	
29	Rancho Santa Margarita	Trabuco, O'Neill Park, Las Flores, Coto De Caza, Ladera Ranch
30	Laguna Niguel	
32	Aliso Viejo	Aliso Woods, Aliso Canyon
35	Laguna Woods	Newport Coast, Unincorporated Laguna Wilderness, Emerald Bay
38	Mission Viejo	
39	Dana Point	
42	Lake Forest	Modjeska, Upper Trabuco/Cooks, Foothill Ranch

This list does not include County Islands.

Agenda Item (Clerk's Use Only)



SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

S/6A

ASR Control

MEETING DATE: October 8, 2013
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All
SUBMITTING AGENCY/DEPARTMENT: County Counsel
DEPARTMENT CONTACT PERSON(S): Nicholas S. Chrisos, County Counsel
James C. Harman, Supervising Deputy

2013 OCT -3 PM 3:30
RECEIVED
COUNTY OF ORANGE
BOARD OF SUPERVISORS

SUBJECT: Authority to Award Ambulance Contracts in Unincorporated Areas

CEO CONCUR [Signature] COUNTY COUNSEL REVIEW Approved Resolution to Form # CLERK OF THE BOARD Discussion

Budgeted: n/a Current Year Cost: n/a Annual Cost: n/a
Staffing Impact: n/a # of Positions: n/a Sole Source: n/a
Current Fiscal Year Revenue: n/a
Funding Source: n/a

Prior Board Action: May 11, 2004 (Resolution No. 04-120)

RECOMMENDED ACTION(S)

- 1. Adopt Resolution rescinding Resolution No. 04-120 in its entirety.
2. Affirm the Board of Supervisors' authority to award contracts for ambulance services in County unincorporated areas.

SUMMARY:

Per Board direction, the proposed resolution rescinds the Board's prior delegation of authority to the Orange County Fire Authority to solicit and award contracts for ambulance services in unincorporated areas.

BACKGROUND INFORMATION:

On May 11, 2004, the Board of Supervisors passed Resolution No. 04-120, which allowed the Orange County Fire Authority to select and award contracts in OCFA jurisdictional areas "effective July 1, 2004 or immediately thereafter."

There is ambiguity on the current effect of Resolution No. 04-120 on the Orange County Fire Authority's ability to solicit and award contracts for ambulance services in County unincorporated areas. The proposed resolution eliminates that ambiguity by rescinding Resolution No. 04-120 in its entirety and by

reaffirming the Board of Supervisors' authority to award contracts for ambulance services in unincorporated areas.

**FINANCIAL IMPACT:**

n/a

**STAFFING IMPACT:**

n/a

**REVIEWING AGENCIES:**

CEO  
HCA

**EXHIBIT(S):**

None

**ATTACHMENT(S):**

Proposed Resolution

RESOLUTION OF THE BOARD OF SUPERVISORS OF  
ORANGE COUNTY, CALIFORNIA

October 8, 2013

WHEREAS, on April 30, 1985, the Orange County Board of Supervisors adopted Ordinance No. 3517 (codified as Title 4, Division 9, Article 1 in the Codified Ordinances of the County of Orange and hereinafter the “Ambulance Ordinance”); and

WHEREAS, section 4-9-1 of the Ambulance Ordinance states that the intent of the ordinance is, “to establish general operating procedures and standards for medical transportation services operating within the unincorporated areas of the County in both emergency and other situations, to provide a fair and impartial means of allowing responsible private operators to provide such services in the public interest and to provide a means for the designation of emergency response areas. This division is intended to be used as a model for adoption by cities within the County”; and

WHEREAS, section 4-9-13 of the Ambulance Ordinance requires the County to contract for emergency medical transportation services with licensed providers on a competitive basis in each emergency response area; and

WHEREAS, section 4-9-13 of the Ambulance Ordinance further provides that contracts for emergency medical transportation services are awarded by the Board of Supervisors and are administered by the Fire Chief; and

WHEREAS, on March 1, 1995, the County entered into a Joint Powers Agency agreement that created the Orange County Fire Authority (hereinafter “OCFA”); and

WHEREAS, on April 27, 2004, the OCFA requested authority from the Orange County Board of Supervisors to conduct a competitive process on behalf of Orange County Emergency

Medical Services (hereinafter "OCEMS") for the selection and award of emergency medical transportation services in emergency response areas served by OCFA (excluding San Clemente, Westminster, and Buena Park); and

WHEREAS, on April 27, 2004, the Orange County Board of Supervisors adopted Resolution No. 04-120, wherein it authorized OCFA, "to conduct a competitive process on behalf of OCEMS for the selection and award of emergency ambulance exclusive operating area contracts for OCFA jurisdictional areas (excepting San Clemente, Westminster, and Buena Park), effective July 1, 2004 or immediately thereafter; and

WHEREAS, under state law and the Ambulance Ordinance, the County has an obligation to ensure a competitive process is utilized in awarding contracts for emergency medical transportation services in emergency response areas that include unincorporated areas of Orange County.

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby rescinds Resolution No. 04-120 in its entirety;

BE IT FURTHER RESOLVED that the Orange County Board of Supervisors retains the authority to award contracts for emergency medical transportation services in emergency response areas that include unincorporated areas of Orange County as provided in the Ambulance Ordinance.

**From:** Jill Ingram  
**Sent:** Friday, October 04, 2013 6:12 PM  
**Subject:** City Manager Advisory - OCFA Ambulance Contracts

**TO:** OCFA City Managers

**FROM:** Jill R. Ingram, Chair  
OCFA City Manager Technical Advisory Committee

**SUBJECT:** City Advisory –Ambulance Contracts

There is a significant amount of activity occurring at a rapid pace in relation to the upcoming RFP process for ambulance contracts, which could impact our cities. As Chair of the OCFA's City Manager Technical Advisory Committee (TAC), I thought it important to provide an update of these activities.

As you know, the OCFA administers the RFP process for award of Exclusive Operating Area (EOA) ambulance contracts for the majority of our cities. OCFA performs this function based on responsibility delegated by the County. Upon completion of the RFP process, each city has the ability to retain authority to award the contract, or delegate that authority to the OCFA Board of Directors. In either case, our cities have the ability to participate in the contract award decisions.

Today, the County Board of Supervisors issued a Supplemental Agenda Item for their meeting of Tuesday, October 8, 2013, with a subject title of "Authority to Award Ambulance Contracts in Unincorporated Areas" (see attached). The recommended actions include:

1. Adopt Resolution rescinding Resolution No. 04-120 in its entirety.
2. Affirm the Board of Supervisors' authority to award contracts for ambulance services in County unincorporated areas.

Resolution No. 04-120 is the resolution which authorizes OCFA to conduct the RFP process for the selection and award of emergency ambulance contracts in OCFA's jurisdictional areas (excepting San Clemente, Santa Ana, Westminster, and Buena Park). It appears that rescinding that resolution would remove OCFA's ability to perform this important service on behalf of our cities.

Further, if the Board of Supervisors affirms their authority to award ambulance contracts in County unincorporated areas, this raises questions as to how each of our city EOAs would be impacted. Of the 19 cities/EOAs for which OCFA coordinates ambulance contracts, County unincorporated areas are attached to 13. Should this action be approved by the Board of Supervisors, it appears that the Supervisors would be making decisions about ambulance service providers for 13 of our cities.

If these potential actions are of concern for your city, please consider contacting the Supervisor for your District and/or consider attending the Board of Supervisor's meeting on Tuesday morning.

Additionally, the OCFA has called a Special Board meeting to discuss this matter on Monday, October 7th, 6:00 p.m. at OCFA Headquarters. The notice and agenda is attached as well.

Thank you for your attention to this time sensitive matter, and please call if you have any questions.

Sincerely,

Jill R. Ingram, City Manager  
CITY OF SEAL BEACH  
211 - 8th Street  
Seal Beach, CA 90740  
(562) 431-2527 ext. 1300



WOODRUFF, SPRADLIN & SMART  
A Professional Corporation  
555 ANTON BOULEVARD, SUITE 1200  
COSTA MESA, CA 92626-7670  
(714) 558-7000

DIRECT DIAL: (714) 415-1083  
DIRECT FAX: (714) 415-1183  
E-MAIL: dkendig@wss-law.com

## MEMORANDUM

### VIA E-MAIL

TO: Keith Richter, Fire Chief

FROM: David Kendig, General Counsel 

DATE: October 7, 2013

RE: Effect of Proposed Rescission of County Resolution 04-120 re Contracting for Ambulance Services

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### Background

#### I. The Legislative and Regulatory Setting.

##### A. State Law Required Counties to Create a Local EMS Agency.

The Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act ("EMS Act"), permits each county to develop an emergency medical services program. Note that the state law designates this function as a *county* function – it does not specifically assign it as a task to be performed by cities.

In developing an emergency medical services program, the county was required to designate a local EMS agency ("LEMSA").<sup>1</sup> In Orange County, the County Health Care Agency ("County HCA") is the designated LEMSA.

##### B. State Law Authorizes the County HCA to Create Exclusive Operating Areas.

State law authorizes County HCA, as the LEMSA, to create exclusive operating areas ("EOAs") within which an exclusive contract is awarded for the provision of emergency ambulance services.<sup>2</sup> Because EOAs are utilized in Orange County, the EMS Act requires a competitive process for the selection and award of EOA ambulance service contracts:

<sup>1</sup> Cal. Health & Safety Code § 1797.200.

<sup>2</sup> Cal. Health & Safety Code § 1797.85. ("Exclusive operating area" means an EMS area or subarea defined by the emergency medical services plan for which a local EMS agency, upon the recommendation of a county, restricts operations to one or more emergency ambulance services or providers of limited advanced life support or advanced life support.)

A local EMS agency may create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan.<sup>3</sup>

The EMS Act identifies very few specific requirements for the required competitive process. The Act states, in pertinent part:

A local EMS agency which elects to create one or more exclusive operating areas in the development of a local plan shall develop and submit for approval to the authority, as part of the local EMS plan, its competitive process for selecting providers and determining the scope of their operations. This plan shall include provisions for a competitive process held at periodic intervals.<sup>4</sup>

C. In 1985, the County Adopted its Current Ambulance Ordinance.

In 1985, the County Board of Supervisors adopted its Ambulance Ordinance. (See **Exhibit 1.**) Per the County Ordinance:

The County shall contract with licensees on a competitive basis for provision of ambulance service in response to emergencies in each emergency response area. Said contracts shall provide for one primary contractor per emergency response area, with such other back-up service by other emergency ambulance service providers as deemed necessary by the County. In awarding these contracts, the County shall consider the comparative value of competing proposals in the same fashion as would be the case were the County evaluating proposals from prospective service providers for other County activities, including consideration of:

- (1) The quality of service to be provided;
- (2) The level of service to be provided;
- (3) The rates charged for services to be provided; and
- (4) The cost, if any, to the County.<sup>5</sup>

That Ambulance Ordinance also expressly delegates to the County's Fire Chief the authority to administer the contracts for ambulance service awarded by the Board of Supervisors under this section.<sup>6</sup>

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<sup>3</sup> Cal. Health & Safety Code § 1797.224.

<sup>4</sup> *Id.* [emphasis added]

<sup>5</sup> Orange County Code, § 4-9-13(a) [emphasis added].

<sup>6</sup> Orange County Code, § 4-9-13(b).

D. In 2003, the County Merged Immediately Adjacent Unincorporated Areas into EOAs that included OCFA Member Cities.

For OCFA member cities, EOAs have been established that include the Member City and the unincorporated area of the county immediately adjacent to the respective city borders. In June 2003, the Orange County Board of Supervisors approved a plan to combine the unincorporated areas of the county with cities having a contiguous border.

According to the County's approved EMS Plan:

"The purpose of this plan was to avoid 'pockets' in the County where there could be potential risk of not receiving qualified bids for small, low volume areas. Subsequently, the Orange County Fire Authority (that Agency charged with providing services to the unincorporated areas) conducted an RFP (request for proposal) in May 2004."<sup>7</sup>

Since that time, the ambulance service contracts awarded for those EOAs have also covered some portion of the unincorporated areas.

E. In 2004, the County Delegated to OCFA and the Cities Much of Its Authority to Conduct the Competitive Process and Award Contracts.

In 2004, the County Board of Supervisors adopted Resolution No. 04-120 expressly delegating to OCFA the authority to conduct the competitive process for the selection and award of EOA ambulance service contracts for OCFA jurisdictional areas (excluding the cities of San Clemente, Westminster, and Buena Park.)<sup>8</sup> That Resolution provided, in pertinent part as follows:

BE IT FUTHER RESOLVED THAT OCFA is authorized to conduct a competitive process on behalf of OCFA for the selection an award of emergency ambulance exclusive operating area contracts for OCFA jurisdictional areas (excepting San Clemente, Westminster, and Buena Park), effective July 1, 2004 or immediately thereafter.

(A full copy of that Resolution is attached as **Exhibit 2**.)

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<sup>7</sup> 2007 Emergency Medical Services System Plan, County of Orange/Health Care Agency, Standard 4.19  
<sup>8</sup> Orange County Board of Supervisors Resolution No. 04-120, April 27, 2004. Because the authorization in the Resolution was limited, OCFA has not conducted nor overseen the competitive RFP process for the cities of Anaheim, Buena Park, Fullerton, Garden Grove, Huntington Beach, Orange, San Clemente, or Westminster.)

F. Cities Adopted Their Ambulance Ordinances.

The County Ambulance Ordinance indicates that it was intended to serve as a model for adoption by all cities within the County.<sup>9</sup> However, most cities adopted a modified version of the Ambulance Ordinance as their own. Although the OCFA began conducting the RFP process for the County in 1997/1998, the County's Ambulance Ordinance has not been amended to reflect the existence of OCFA, nor to reflect the County's delegation to OCFA (or cities) of the authority to conduct the competitive process and award ambulance service contracts (discussed *infra*).

Nevertheless, pursuant to the delegation of authority reflected in Resolution 04-120, and reflective of many years of established practice by that time, OCFA member cities revised or enacted their local ambulance ordinances to reflect that OCFA would conduct the competitive process and either OCFA or the city would award the contracts.<sup>10</sup>

Despite the fact that the existing practice was formally memorialized in the cities' ambulance ordinances, formalized in County Resolution 04-120, and expressly contemplated by the County's State-approved EMS Plan, the County Ordinance has not been updated to reflect the practice since the ordinance was adopted in 1985.

G. The County EMS Plan Provides that Cities May Prepare an RFP.

As noted above, the State EMS Law required the County's local EMS plan to submit for State approval the competitive process used by the County for selecting providers and determining the scope of their operations.<sup>11</sup>

The County prepared the required plan and the plan was approved by State EMS. According to the approved County EMS Plan, each city desiring to have an exclusive operating area for ambulance service "is required to prepare an RFP (request for proposal) and submit the RFP to [County EMS] for approval. Once an RFP is approved by OCEMS, the State EMS Authority is notified."<sup>12</sup>

The approved EMS Plan continues to contemplate OCFA's role in the RFP process as well. For instance, the approved plans contain the following provisions:

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<sup>9</sup> Orange County Code, § 4-9-1.

<sup>10</sup> For example, Mission Viejo Municipal Code Section 6.02.130(a) provides: "The Orange County Fire Authority shall administer the competitive process, on behalf of the local EMS agency, for the award of EOA contracts within the city. The Orange County Fire Authority shall select and shall enter into contracts with licensees for the provision of ambulance service in response to emergencies in each EOA, unless the city has provided written notification to the Orange County Fire Authority of its intention to retain licensee selection and contracting authority for itself."

<sup>11</sup> Cal. Health & Safety Code § 1797.224.

<sup>12</sup> 2007 Emergency Medical Services System Plan, County of Orange/Health Care Agency, Standard 1.28.

"The Orange County Fire Authority's exclusive operating areas combine the geographical areas of cities with adjacent unincorporated areas of the county."<sup>13</sup>

"Each RFP prepared by either a city or the Orange County Fire Authority includes [the following] minimum standards..."<sup>14</sup>

H. In 2008, OCFA Conducted the Competitive RFP Process, and Individual Cities and OCFA Awarded the Resulting Contracts.

In 2008, OCFA – with the oversight and approval by both the County EMS and State EMS - released a Request for Proposals ("RFP") and, following a competitive process, ambulance service contracts were awarded for 19 EOAs in the OCFA jurisdiction. The EOAs included several individual EOAs that were partially unincorporated areas.

The 2008 contracts will expire by September 1, 2014. To ensure the timely award of new EOA contracts, OCFA recently began ramping up for the 2014 ambulance services RFP.

**II. Analysis**

The State EMS Act assigns to the County and its LEMSA (County EMS) the obligation to conduct a competitive process for the award of exclusive operating area contracts. State law also requires the County EMS to describe to the State its competitive process for selecting providers.

Similarly, the County's 1985 Ambulance Ordinance calls for the County to contract on a competitive basis with ambulance providers for EOAs.

By adopting Resolution 04-120, since July of 2004, the County Board expressly delegated the authority to OCFA to conduct the competitive process for the selection and award of EOA ambulance service contracts for OCFA jurisdictional areas (excluding the cities of San Clemente, Westminster, and Buena Park).

At its meeting tomorrow (October 8, 2013) County staff is recommending that the Board of Supervisors:

- "1. Adopt a Resolution rescinding Resolution 04-120 in its entirety", and
- "2. Affirm the Board of Supervisors' authority to award contracts for ambulance services in unincorporated areas."<sup>15</sup>

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<sup>13</sup> 2007 Emergency Medical Services System Plan, County of Orange/Health Care Agency, Standard 4.01.

<sup>14</sup> 2007 Emergency Medical Services System Plan, County of Orange/Health Care Agency, Standard 4.19.

<sup>15</sup> October 8, 2013 Board of Supervisors' Supplemental Agenda Item Agenda Report re Authority to Award Ambulance Contracts in Unincorporated Areas.

If that recommended action is approved, then arguably the only direct delegation of authority to OCFA to conduct the competitive process or to award ambulance contracts will be eliminated. However, that conclusion is not clear: the County's State-approved EMS Plan expressly contemplates OCFA's involvement in the RFP process.

The impact of tomorrow's recommended Board action to rescind Resolution 04-120 is further obscured by existing inconsistencies between the County Ambulance Ordinance, the approved County EMS Plan, and the locally adopted ambulance ordinances with respect to the involvement of cities and/or OCFA in the RFP process. Therefore, the rescission of Resolution 04-120 might not accomplish the result intended by the Board of Supervisors.

A table identifying various potential effects of the proposed rescission on the RFP and contract award process is set forth on the next page.

We hope this proves helpful. Please let me know if you have any questions.

**Summary: The Effect if Resolution 04-120 is Rescinded**

<b>Authority</b>	<b>Current Delegation:</b>	<b>Effect if Resolution 04-120 is Rescinded:</b>
Authority to <u>conduct</u> <u>competitive RFP</u> process for EOAs in OCFA territory consisting <u>partially</u> of unincorporated area	<b>Delegated to OCFA</b> , per County Resolution 04-120, with oversight by County EMS and State EMS.	<b>Unclear.</b> County Ordinance provides that the County will conduct the RFP, but the County's State-approved EMS Plan and the cities' ordinances each contemplate a continuing role by OCFA.
Authority to <u>conduct</u> <u>competitive RFP</u> process for EOAs containing <u>no</u> unincorporated area	<b>Delegated to OCFA</b> , per County Resolution 04-120, with oversight by County EMS and State EMS.	<b>Unclear.</b> County Ordinance provides that the County will conduct the RFP, but the County's State-approved EMS Plan and the cities' ordinances each contemplate a continuing role by OCFA.
Authority to <u>award</u> ambulance service contracts in an EOA in OCFA jurisdiction consisting <u>partially or entirely</u> of unincorporated areas	<b>Delegated to OCFA</b> , per County Resolution 04-120. Member cities may each provide notice to OCFA that the city retains authority to select and contract with the provider.	<b>Unclear.</b> [County Ordinance provides that “ <u>The County shall contract</u> with licensees on a competitive basis for provision of ambulance service in response to emergencies in each emergency response area.” County Code § 4-9-13(a). However, the EMS Plan and city ordinances anticipate OCFA's and cities' role in awarding contracts, but in the absence of Resolution 04-120, authority for City awards is less clear.]
Authority to <u>award</u> ambulance service contracts in an EOA in OCFA jurisdiction consisting of <u>no</u> unincorporated areas	<b>Delegated to OCFA</b> , per County Resolution 04-120. Member cities may each provide notice to OCFA that the city retains authority to select and contract with the provider.	<b>Unclear.</b> [County Ordinance provides that “ <u>The County shall contract</u> with licensees on a competitive basis for provision of ambulance service in response to emergencies in each emergency response area.” County Code § 4-9-13(a). However, the EMS Plan and city ordinances anticipate OCFA's and cities' role in awarding contracts, but in the absence of Resolution 04-120, authority for City awards is less clear.]
Authority to administer awarded contracts	Fire Chief, per County Code § 4-9-13(b) (adopted in 1985).	Fire Chief, per County Code § 4-9-13(b) (adopted in 1985).

**Exhibit 1**

[Excerpt of 1985 County Ambulance Ordinance]

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Page 7 of 9

- (a) A licensee shall only employ personnel performing tasks described in this division who comply with the requirements of this section.
- (b) Attendants shall be at least eighteen (18) years of age and trained and competent in the proper use of all equipment, and shall hold current "EMT 1A" certification in compliance with all State laws, rules and regulations. Additionally, each attendant shall hold a license from the Health Officer indicating compliance with this section. Applications for such licenses shall be in a form required by the Health Officer and shall be accompanied by the fee, if any, established therefor. All applicants for licenses as an attendant shall be subject to the same criminal history review as required for principals of ambulance companies pursuant to this division no less than once every two years. Certificates may be denied, suspended, or revoked in the same form and fashion as that specified for ambulance service licensees in this division. Licenses shall be valid for two years from the date of issuance or certification as an Emergency Medical Technician-1A, whichever is less. Renewal of a license shall be in the same fashion as issuance of a new license.
- (c) Each licensee shall have at least one dispatcher. Emergency ambulance service licensees shall have a dispatcher on a twenty-four (24) hour-per-day basis and shall adequately train the dispatcher to radio operation and protocols and to the emergency response area(s) served before said dispatcher begins dispatching emergency calls. For purposes of this section, "adequate" training of a dispatcher shall be that which meets State standards, if any, or County requirements.
- (d) Ambulance drivers shall, in addition to the requirements of this division for attendants, maintain an appropriate license issued by the California Department of Motor Vehicles and, if applicable, the Federal Aviation Administration.

(Ord. No. 3517, § 1, 4-30-85)

**Sec. 4-9-12. - Rates.**

No licensee shall charge more than those rates approved by the Board of Supervisors for emergency ambulance services.

(Ord. No. 3517, § 1, 4-30-85)

**Sec. 4-9-13. - Usage of ambulance service licensees.**

- (a) The County shall contract with licensees on a competitive basis for provision of ambulance service in response to emergencies in each emergency response area. Said contracts shall provide for one primary contractor per emergency response area, with such other back-up service by other emergency ambulance service providers as deemed necessary by the County. In awarding these contracts, the County shall consider the comparative value of competing proposals in the same fashion as would be the case were the County evaluating proposals from prospective service providers for other County activities, including consideration of:
  - (1) The quality of service to be provided;
  - (2) The level of service to be provided;
  - (3) The rates charged for services to be provided; and
  - (4) The cost, if any, to the County.
- (b) The Fire Chief shall administer the contracts for ambulance service awarded by the Board of Supervisors under this section. The Fire Chief shall also prepare and keep current emergency response area lists specifying contract providers for each area. The Fire Chief

shall include on the list for each emergency response area the provider which has entered into an ambulance service agreement with the County as the primary contractor as well as the emergency ambulance service provider(s) who will provide back-up emergency ambulance service for that area.

- (c) In the event no proposals acceptable to the County under the provisions of this section are received for one or more emergency response areas, the County shall designate one or more licensees in that emergency response area to provide emergency ambulance services. From the date of such designation until a regular emergency ambulance service agreement is signed for the affected area(s), provision of emergency ambulance service shall be an express condition of the license and unreasonable or unjustified refusal of such calls shall be a violation of this division.
- (d) No person shall provide ambulance service in response to, or as a result of, an emergency, unless that person is a licensee specified in each instance by a physician or public safety agency. A licensee thus specified by a physician need not be a contractor selected pursuant to this section. Any ambulance service operator receiving a request for emergency ambulance service from other than a public safety agency shall immediately, by telephone, notify a public safety agency designated by regulation of the request.  
No licensee responding to an emergency shall transport a patient unless:

- (1) A paramedic is present at the location of the patient; or
- (2) A physician is present at the location of the patient and directs transportation in the absence of a paramedic; or
- (3) A safety qualified employee of the Orange County Fire Department, or an appropriate employee of a public safety agency designated by regulation directs transportation in the absence of a paramedic.

Unless otherwise directed by a physician present at the location of the patient, a licensee shall transport a patient pursuant to regulations adopted under section 4-9-14.

(Ord. No. 3517, § 1, 4-30-85)

#### Sec. 4-9-14. - Rules and regulations.

- (a) As to all sections of this division except section 4-9-13, the Health Officer shall make such rules and regulations and as may be necessary to implement this division. Prior to adoption, proposed rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.
- (b) As to section 4-9-13, the Fire Chief shall make such rules and regulations and as may be necessary to implement this division. Prior to adoption, the Fire Chief's rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.
- (c) The Health Officer or the Fire Chief or their designee(s) may inspect the records, facilities, transportation units, equipment and method of operation of each licensee whenever necessary and, by the Health Officer, at least annually.

(Ord. No. 3517, § 1, 4-30-85)

#### Sec. 4-9-15. - Complaints

The department, any user, subscriber, public safety agency or consumer who believes, or has reason to believe, that he or another party has been required to pay an excessive charge for services, received inadequate services or services provided were not in compliance with the



1 unincorporated area of the County and cities that have adopted the Orange  
2 County Ambulance Ordinance:

3  
4 (1) Emergency BLS Base Rate \$ 531.75  
5 (2) Mileage (per patient mile or fraction thereof) \$ 13.00  
6 (3) Oxygen (when administered) \$ 63.00  
7 (4) Standby time (per 15 minutes after the first 15 minutes)\$ 31.00  
8 (5) Expendable medical supplies (maximum per response) \$ 23.50  
9

10 BE IT FURTHER RESOLVED that effective July 1, 2004, this Board hereby  
11 rescinds previous Board action taken on March 3, 1998, and establishes the  
12 following maximum advanced life support paramedic assessment and transport  
13 fee for OCFA jurisdictional areas (excepting San Clemente, Westminster, and  
14 Buena Park):

15  
16 Advanced Life Support Paramedic Assessment and Transport \$ 282.00  
17

18 BE IT FURTHER RESOLVED that the Health Care Agency is directed to return to  
19 the Board of Supervisors annually to adjust the OCFA maximum advanced life  
20 support fee by the same percentage change as the maximum emergency basic life  
21 support base rate for the same time period, but not to exceed OCFA's actual  
22 costs for providing advanced life support services.  
23

24 BE IT FURTHER RESOLVED that OCFA is authorized to conduct a competitive  
25

Resolution No. 04-120, Item No. 34  
Public Hearing - amending ambulance rates and transport fees

1 unincorporated area of the County and cities that have adopted the Orange  
2 County Ambulance Ordinance:

- 3
- |   |  |           |
|---|--|-----------|
| 4 | (1) Emergency BLS Base Rate                                  | \$ 531.75 |
| 5 | (2) Mileage (per patient mile or fraction thereof)           | \$ 13.00  |
| 6 | (3) Oxygen (when administered)                               | \$ 63.00  |
| 7 | (4) Standby time (per 15 minutes after the first 15 minutes) | \$ 31.00  |
| 8 | (5) Expendable medical supplies (maximum per response)       | \$ 23.50  |
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22 costs for providing advanced life support services.

23

24 BE IT FURTHER RESOLVED that OCFA is authorized to conduct a competitive

25

Resolution No. 04-120, Item No. 34  
Public Hearing - amending ambulance rates and transport fees

1 process on behalf of CCEMS for the selection and award of emergency ambulance  
2 exclusive operating area contracts for OCFA jurisdictional areas (excepting  
3 San Clemente, Westminster, and Buena Park), effective July 1, 2004 or  
4 immediately thereafter.

5

6 BE IT FURTHER RESOLVED that the Board of Supervisors finds that, in  
7 accordance with Section 15273 of the California Environmental Quality Act  
8 (C.E.Q.A.) Guidelines, the advanced life support paramedic assessment and  
9 transport fee is only for the purpose of meeting operating expenses and is,  
10 therefore, statutorily exempt from compliance with C.E.Q.A.

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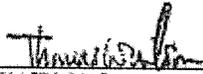
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Resolution No. 04-120, Item No. 34  
Public Hearing -- amending ambulance rates and transport fees

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on May 11, 2004, to wit:

AYES:	Supervisors:	THOMAS W. WILSON, BILL CAMPBELL, JAMES W. SILVA
NOES:	Supervisor(s):	CHARLES V. SMITH, CHRIS NORBY
EXCUSED:	Supervisor(s):	
ABSTAINED:	Supervisor(s):	

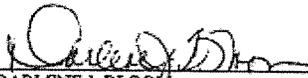
  
\_\_\_\_\_  
CHAIRMAN

STATE OF CALIFORNIA )  
                                  )  
COUNTY OF ORANGE )

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors .

IN WITNESS WHEREOF, I have hereto set my hand and seal.



  
\_\_\_\_\_  
DARLENE J. BLOOM  
Clerk of the Board  
County of Orange, State of California

Resolution No: 04-120  
Agenda Date: 05/11/2004  
Item No: 34



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy