

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

654



SUBMITTAL DATE:
August 3, 2011

FROM: Community Health Agency / Department of Public Health

SUBJECT: Approve agreement between the County of Riverside and the Pechanga Band of Luiseño Indians (Pechanga) for First Responder ALS (Paramedic) services. Contract #12-003

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve the agreement with Pechanga for First Responder ALS Services effective date of signed agreement through June 30, 2014, unless otherwise terminated by either party.
- 2) Authorize the Purchasing Agent to sign subsequent ministerial Amendments from effective date through June 30, 2014.
- 3) Authorize the Chairperson to sign four (4) originals of said Agreement on behalf of the County.

BACKGROUND (Continued on Page 2)

BB:bm/ys

Susan D. Harrington

Susan Harrington, Director of Public Health

FINANCIAL DATA

Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A

SOURCE OF FUNDS:

No funds involved

Positions To be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Debra Cournoyer*
Debra Cournoyer

County Executive Office Signature

- Policy
- Consent
- Policy
- Consent

Dept't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: | **District:** All | **Agenda Number:**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.16

FORM APPROVED COUNTY COUNSEL
BY: *Marshall Victor*
MARSHAL VICTOR
DATE: 8/3/11
Departmental Concurrence

SUBJECT: Approve agreement between the County of Riverside and the Pechanga Band of Luiseño Indians (Pechanga) for First Responder ALS (Paramedic) services.
Contract #12-003

BACKGROUND: The Health and Safety Code and California Code of Regulations, Title 22 gives the County authority to authorize an Advanced Life Support (ALS) program which provides services utilizing Paramedics (EMT-Ps) and to designate ALS First Responder Providers. This Agreement allows Pechanga Fire Department to provide ALS First Responder (non-transport) Services in Pechanga Fire Department's service area. This Agreement will allow for quicker paramedic responses within Pechanga Fire Department's service area.

ALS FIRST RESPONDER SERVICE PROVIDER
MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE
PECHANGA BAND OF LUISEÑO INDIANS AND COUNTY OF
RIVERSIDE

This MOU is made and entered into between the Pechanga Band of Luiseno Indians (“Pechanga”), a federally recognized Indian tribe exercising jurisdiction within the Pechanga Indian Reservation, and the County of Riverside, a county organized under the laws of the State of California (County). Pechanga and County are sometimes individually referred to as “party” and collectively as “parties”.

RECITALS

A. Pursuant to *County of San Bernardino v. City of San Bernardino* (1997) 15 Cal.4th 909, the County has the exclusive authority to determine the providers of Advanced Life Support (ALS) first responder (ALS First Responder Services) and ALS ambulance transport services (ALS Ambulance Transport Services) within its jurisdictional limits, and to determine ambulance zones within such jurisdictional limits, subject to certain statutory exceptions. In addition, Health and Safety Code Section 1797.218 gives the County authority to authorize an ALS program which provides services utilizing EMT-P and to designate ALS First Responder Providers.

B. County, acting through the emergency medical services agency (EMS) of its Department of Health, is the local EMS agency (Contract Administrator) for the local EMS area which includes the territory within the Southwest Zone that encompasses the Pechanga Indian Reservation.

C. The purpose of this MOU is, subject to the terms and conditions set forth herein, to designate Pechanga Fire Department as a provider of EMS/ALS First Responder Services within the Pechanga Fire Department Service Area (as defined herein).

Now therefore, the parties agree as follows:

Section 1. County's designation of Pechanga as an ALS First Responder Service Provider.

County hereby grants to Pechanga authority to provide ALS First Responder Services within the Pechanga Fire Department Service Area, which shall be defined as the geographical area consisting of the Pechanga Indian Reservation as well as any areas served by the Pechanga Fire Department pursuant to an agreement, as depicted on the map attached hereto as Schedule B.

Section 2. Pechanga's Obligation as an ALS First Responder Service Provider.

For County's grant of authority to Pechanga to provide ALS First Responder Service within the Pechanga Fire Department Service Area, Pechanga represents and agrees:

a. That such services will be performed in accordance with all applicable federal, state, and County laws, rules, regulations, and County protocols and ALS performance standards, including but not limited to, the operational requirements set forth in Schedule A of this MOU;

b. That it will cooperate with County representatives relating to Pechanga's performance as an ALS First Responder Provider and its oversight for the County's EMS system including, but not limited to, the utilization and submittal of required patient care and performance reports and cooperating with County investigations of EMS related incidents; and

c. That it shall not be entitled to, or demand, any compensation from County for services rendered pursuant to Pechanga's designation as an ALS First Responder Service provider as permitted by this MOU.

Section 3. Mutual Obligations

The parties agree that Pechanga's operational obligations as set forth in Schedule A may be modified by written MOU of Pechanga's Tribal Council and County's EMS Director or their designees.

Section 4. Term.

The term of this MOU shall begin when this MOU is executed by the Parties and shall continue for five years.

Section 5. County Authority in County Southwest Zone

Pursuant to its authority under Health and Safety Code Section 1797.224, the County has entered into the County / American Medical Response (AMR) Agreement by which it has granted exclusive authority to provide ground ALS Ambulance Transport Services in the Southwest Zone to AMR. Nothing in this MOU shall be construed in any manner to abrogate or diminish this grant of authority or AMR's qualifications to receive such exclusive authority under existing law. Pechanga's agreement to this provision shall not be construed in any manner to abrogate or diminish any rights Pechanga may have at any time with regard to the delegation of authority to provide ground ALS Ambulance Transport Services within the Pechanga Fire Department service area. Pechanga Fire Department will continue to use the Riverside County Authorized Transport Service Provider.

Section 6. Independent Contractor Status

Each party shall be solely responsible for its own employees. Each party shall pay all wages, salaries, overtime, benefits and other amounts due to their own personnel pursuant to applicable law and in connection with any and all services under this MOU. Each party shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance. Employees or agents of one party shall not be deemed employees of the other for any purpose. Each party shall defend, indemnify and hold harmless the other party from and against any and all expenses or liabilities of any kind arising from or incident to any claim by any employee of the indemnifying party or any governmental agency relating to wages, salaries,

overtime, benefits or other obligations of the indemnifying party to any employee thereof.

Section 7. Notices

All notices permitted or required under this MOU shall be given to the respective parties at the following addresses, or at such other addresses as the respective parties may provide in writing for this purpose:

Pechanga Band of Luiseno Indians:

Pechanga Fire Department
48240 Pechanga Rd.
Temecula, CA 92592
Attn: Fire Chief
Fax: 951-587-2558

Copy to:

Pechanga Office of General Counsel
P.O. Box 1477
Temecula, CA 92592
Fax: 951-587-8162

County:

Riverside County EMS Agency
4065 County Circle Drive
Riverside, California 92503
Attn: EMS Director
Fax: 951-358-5160

Such notices may be provided by personal delivery, by first class mail, by express delivery or by facsimile transmission. Notice shall be deemed made as follows: (A) when personally delivered, upon actual delivery; (B) when mailed, seventy-two (72) hours after deposit in the U.S. Mail, first class postage prepaid; (C) when sent by express delivery, upon delivery as documented by the delivery services, and (D) when sent via facsimile transmission, upon actual delivery as documented by any verifiable facsimile transmission record. Facsimile transmission shall be followed by first class delivery along with a copy of the facsimile transmission record. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Section 8. Cooperation and Further Acts

The parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this MOU.

Section 9. Non-Discrimination

Pechanga shall not discriminate in the provisions of services, allocation of benefits, accommodation of facilities, or employment of personnel, on the basis of ethnic group identification, race, color, creed, ancestry, religion, national origin, sexual orientation, sex, age (over 40), marital status, medical condition, or physical or mental handicap, and shall comply with all requirements of the law regarding non-discrimination and affirmative action including those laws pertaining to the prohibition against qualified handicapped persons in all programs or activities; provided, however, that Indian Preference in Employment laws as permitted by federal and tribal law shall not be construed to violate this MOU.

For the purpose of this MOU, distinctions on grounds of race, religion, color, sex, national origin, age or physical or mental handicap include, but not limited to, the following:

- a. Denying an eligible person or providing to an eligible person any services or benefit which is different, or is provided in a different manner or at a different time from that provided to other eligible persons under this MOU.
- b. Subjecting an eligible person to segregation or separate treatment in any manner related to his/her receipt of any service, except when necessary for infection control.
- c. Restricting the ineligible person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving a similar service or benefit.
- d. Treating an ineligible person differently from others in determining whether he/she satisfies an eligibility, membership, or other requirement or condition which individuals must meet in order to be provided a similar services or benefit.

e. The assignment of time or places for provisions of services on the basis of race, religion, color, sex, national origin, age, or physical or mental handicap of the eligible person to be served.

Section 10. Insurance Program

Without limiting Pechanga's obligation, Pechanga shall provide and maintain at its own expense during the term of this MOU, the following programs(s) of insurance covering its operations hereunder through either purchasing insurance, by self-insuring, or by participation in a Joint Powers Insurance Authority. Such insurance (if purchased) shall be provided by responsible insurer(s) and evidence of such insurance or self-insurance programs shall be delivered to County on or before the effective date of this MOU. Such evidence shall specifically identify this MOU and, if insurance is purchased, then the evidence shall contain express conditions that County be given a written notice at least thirty (30) days in advance of any modification or termination of any program or insurance.

Failure on the part of Pechanga to produce or maintain required insurance or the self-insurance program shall constitute a material breach of this MOU upon which County may immediately terminate or suspend this MOU.

Liability: Such insurance shall be primary to and not contributing with any other insurance maintained by County.

Comprehensive General Liability coverage, including automobile liability, which shall include premises-operations, contractual, property damage and personal injury with a combined limit of not less than \$3,000,000 in coverage for each occurrence.

Errors and Omission coverage shall include personal injury arising from the acts or omissions of Pechanga's EMTs and EMT-Ps in performing emergency medical services, with limits of no less than \$1,000,000 for each occurrence.

Pechanga shall cause its insurance carriers to furnish County with evidence of the coverage specified herein and shall cause County to be named as additional insured under its comprehensive general liability and errors and omissions coverage with respect to the acts or omissions of Pechanga under this MOU and the obligations of Pechanga hereunder.

Workers' Compensation, which shall be in a form to meet all applicable requirements or the Labor Code of the State of California, including employer's liability

Section 11. Attorney's Fees

If any party commences an action against another party, either legal, administrative or otherwise, arising out of or in connection with this MOU, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

Section 12. Indemnification

Each party shall defend, indemnify and hold the other party and its officials, officers, employees and agents free and harmless from and against any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any negligent acts, omissions or willful misconduct of the indemnifying party or its officials, officers, employees and agents related to the performance of this MOU, including attorney's fees and other related costs and expenses; provided, however, that employees of any party shall not be deemed agents of any other party for purposes of this Section. The indemnifying party shall defend, at that party's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the other party or its officials, officers, employees and agents. The indemnifying party shall pay and satisfy any judgment, award or decree that may be rendered against the other party or its officials, officers, employees and agents in any such suit,

action or other legal proceeding. The indemnifying party shall reimburse the other party and its officials, officers, employees and agents for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Notwithstanding the foregoing, the indemnifying party shall not settle any lawsuit with respect to the other party to this MOU without such party' s consent, which consent shall not be unreasonably withheld.

Section 13. Entire MOU; Amendments

This MOU contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, agreements or MOUs. This MOU may only be modified by a writing signed by both parties.

Section 14. Governing Law

This MOU shall be governed by the laws of the State of California.

Section 15. Successors and Assigns

This MOU shall be binding on the successors and assigns of the parties.

Section 16. Assignment or Transfer

No party shall assign, hypothecate, subcontract or transfer, either directly or by operation of law, this MOU or any interest herein without the prior written consent of the other party. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

Section 17. Construction, References and Captions

Since the parties or their agents have participated fully in the preparation of this MOU, the language of this MOU shall be construed simply, according to its fair meaning, and not strictly for or against any party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to any party shall include all officials, officers, employees and agents of that party, except as otherwise specified in this MOU. The captions of the

various sections are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this MOU.

Section 18. Waiver

No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give any other party any contractual rights by custom, estoppel, or otherwise.

Section 19. No Third Party Beneficiaries

There are no third party beneficiaries of any right or obligation assumed by the parties.

Section 20. Invalidity and Severability

If any portion of this MOU is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect. In addition, if any portion of this MOU is declared to be invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, or is otherwise deemed to be such by legal counsel for the parties to this MOU, the parties shall use their reasonable best efforts to amend this MOU to remove the inappropriate provision(s); provided, however, that if the amendment cannot be made in a manner which preserves all essential parts of the consideration for any party, such party may terminate this MOU as soon as is reasonably practicable or as required by law.

Section 21. Authority to Execute MOU

Each party warrants that it has all requisite power and authority to conduct its business and to execute, deliver, and perform the MOU. Each party also warrants that the individuals who have signed this MOU have the legal power to make this MOU and bind each respective party hereto.

Section 22. Counterparts

This MOU may be signed in one or more counterparts, each of which shall constitute an original.

Section 23. Material Breach

County may terminate the Agreement or pursue other appropriate legal remedy if Pechanga materially breaches the Agreement. Pechanga will have 30 days from the receipt of written notice to correct the material breach. If the material breach cannot be reasonably cured within the 30-day period, the Contract Administrator may allow for additional time as reasonably required to cure such breach. The parties agree that the circumstances constituting material breach include, but are not limited to, the following:

- a. Failure of Pechanga to operate in compliance with applicable federal, state and county laws, regulations and policies.
- b. Failure to maintain the required insurance.
- c. Willful falsification of data supplied to the county.
- d. Failure to comply with provisions of this Agreement.

Section 24. Termination.

Either party may terminate this Agreement upon 90-day written notice to the other party. Both parties may mutually agree in writing to terminate this Agreement within an agreed upon timeframe.

IN WITNESS WHEREOF, the parties hereto have caused their authorized representatives to execute this Agreement on behalf of:

Signed:

COUNTY OF RIVERSIDE

PECHANGA BAND OF LUISENO INDIANS

By _____

By 

Chairman of the Board of Supervisors

Mark Macarro, Tribal Chairman

Print Name _____

Print Name Mark Macarro, Tribal Chairman

Date _____


Date July 30, 2011

ATTEST: Kecia Harper-Ihem

By _____

Date _____

FORM APPROVED COUNTY COUNSEL

BY:  8/3/11
MARSHAL VICTOR DATE

SCHEDULE A

OPERATIONAL REQUIREMENTS

Pechanga Will:

1. Provide County with a map which outlines the Pechanga Indian Reservation and provide County with notice of any changes in the Pechanga Indian Reservation and updated maps reflecting such changes;

2. Comply with all applicable County requirements for record keeping and data collection and maintain the confidentiality of said information;

3. Comply with County's requirements for the implementation of Continuous Quality Improvement (CQI) program, including the designation of a qualified person to supervise the QA/QI Program;

4. Appoint Pechanga's Fire Chief, or his designate, to serve as ALS Program Coordinator to serve as a liaison with County and other County EMS system service providers and to act on Pechanga's behalf in the administration of this MOU;

5. Comply with County's dispatch protocols;

6. Notify County in a timely manner of significant or continuing service performance problems, including but not limited to: (1) base hospital complaints; (2) changes in the status of certified/accredited personnel (e.g., termination, classification, etc.); (3) changes in station location(s); (4) radio frequency interference which causes operational problems; (5) and local emergencies/disasters which causes operational problems.

7. Shall provide continuous twenty-four (24) hour First Responder Services which meet a minimum level of service, as determined by the County. The service by Pechanga may be modified as approved by agreement of all parties. Pechanga shall determine what level of service to provide beyond the County's minimum level.

8. Shall ensure that all appropriate employees and agents hold necessary certification, licenses, or accreditation and shall maintain the records of such that they comply with all training requirements as required by applicable state and federal law, regulation, policy and protocol; and

9. Shall meet the following ALS performance standards:

9.1 Level of Clinical Sophistication

9.1.1 Medical Control

Prospective medical control of EMT-P personnel shall be according to the policies and procedures of the EMS Medical Director. Immediate medical control shall be provided to EMT-P personnel by Base Hospital physicians or mobile intensive care nurses according to the policies and procedures of the EMS Medical Director. Retrospective medical control shall be provided according to the standards set for by the EMS Medical Director through quality improvement programs, including continuing education programs, conducted cooperatively by Pechanga, the EMS Agency, and the Base Hospitals.

9.1.2 Training/Education/Certification/Accreditation

9.1.2.1 Continuing Education Records

Pechanga shall maintain records of continuing education for its EMT-P employees for a minimum of four (4) years.

9.1.2.2 Field Care Audits

Pechanga shall work cooperatively with the Hospitals and the EMS Agency in identifying educational opportunities, assisting with field care audits, continuing education classes and programs.

9.1.2.3 Mandatory Education for Local EMT-P Accreditation

Pechanga shall cooperate fully with the EMS Agency to notify and ensure completion by EMT-Ps of mandatory education programs.

9.1.2.4 Specialty Education Programs

Pechanga shall ensure that all paramedic personnel in their employ receive and continuously maintain Advanced Cardiac Life Support certification, Prehospital Trauma Life Support, or Basic Trauma Life Support, Pediatric Advanced Life Support, or other EMS Agency approved paramedic emergency medical pediatric course. New hire employees shall complete all required training within six (6) months of their date of hire.

9.1.3 ALS Staffing

All First Responder ALS responses shall be staffed with at least one Riverside County accredited paramedic who must have completed and been certified in all training listed in 9.1.2.5. Subject to the approval of Contract Administrator, this staffing may be modified in special circumstances.

9.1.4 Medical Equipment and Supplies

Pechanga will equip and supply ALS vehicles according to the standards set forth by County. This inventory may be modified only with the approval of the Contract Administrator. Pechanga will submit a written plan for approval by the Contract Administrator detailing the plan to maintain adequate equipment and supplies on all ALS response vehicles.

9.2 Data Collection and Record Keeping

9.2.1 EMS System and Patient Data

Pechanga shall be responsible for the provision of detailed patient and

EMS system data. Reports will be submitted according to specifications set forth by the County and any future guidelines promulgated by the EMS Agency. The data will be prepared in a format specified by the EMS Agency.

9.3 Out of Service Area Medical Mutual Aid

Pechanga agrees to send ALS vehicles and personnel to other EMS service areas, both within and outside Riverside County, for the purposes of rendering care to a large scale multiple victim incidents when requested. However, Pechanga agrees to maintain adequate ALS resources for first responder emergency medical responses within their jurisdiction.

10. Strive to ensure a positive, communicative and effective working relationship with County.

County Will:

1. Provide Pechanga with adopted protocols, policies and procedures relating to emergency medical care, and shall provide Pechanga with any revisions or additions following approval by the County;
2. Involve Pechanga in the County's CQI programs;
3. Communicate as necessary with Pechanga's Provider Medical Advisor, ALS program coordinator and/or fire chief;
4. Assign one or more base hospitals to Pechanga's ALS program according to the Riverside County EMS Agency Policies and Procedures;
5. Schedule mutually acceptable periodic visits by County staff with Pechanga's staff to ensure compliance with local policies and/or procedures related to the MOU which fall within the

jurisdiction of the County as the local EMS Agency.

6. Strive to ensure a positive, communicative and effective working relationship with Pechanga.

7. Continue to honor Pechanga's existing responsibilities and rights in connection with the administration of Pechanga's EMS program, including, but not limited to, dispatching, placement/location of ALS First Responder units, staffing, equipping and system delivery of ALS First Responder, so long as Pechanga does not violate applicable state or local laws, rules, regulations, protocols and policies that relate to emergency medical care.

