COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2401

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

December 13, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

CONTRACT FOR EMERGENCY MEDICAL PROGRAM DESIGN IMPLEMENTATION AND SUPERVISION SERVICES (ALL DISTRICT) (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:

1. Find that this contract is exempt from the provisions of the California Environmental Quality Act (CEQA).

2. Find that special circumstances exist, namely, that the County does not employ a qualified, experienced person to provide Emergency Medical Services (EMS) quality assurance expertise, and design and implementation support services to the Consolidated Fire Protection District of Los Angeles County.

3. Approve and instruct the Mayor to sign a thirty-six-month contract with two one-year extension options and an additional twelve month-to-month extensions, to be effective January 1, 2006, with Franklin D. Pratt, M.D., Inc., to provide EMS quality assurance expertise, design, implementation and supervision support services for the Consolidated Fire Protection District of Los Angeles County, in the amount of $80,975 per calendar year for services and up to $21,000 per calendar year for approved reimbursable expenses.

4. Authorize the Fire Chief or his designee to suspend and/or terminate the contract, if deemed necessary, in accordance with the District's contract for Emergency Medical Program Design, Implementation and Supervision Services. In addition, authorize the Fire Chief or his designee to amend this contract by way of extensions to meet the terms and conditions as set forth above and within the contract.

5. Authorize the annual contract expenditure for the first contract year at $101,975, ($80,975 for services and $21,000 reimbursable expenses), year two at $103,999 ($82,999 for services and $21,000 reimbursable expenses), and year three at $106,074 ($85,074 for services and $21,000 reimbursable expenses.) Total annual cost of $312,048 based on the District's previous and current fiscal year expenditures which includes a cost of living adjustment on services only.

   In addition, authorize expenditures for two (2) additional one-year periods and an additional twelve month-to-month extensions at $331,197, representing the total cost of the extensions, which includes a cost of living adjustment on services only. The Contract will be subject to Cost of Living Adjustments (COLAs) requests for multi-year service contracts (Policy No. 5.070 of the Board of Supervisors Policy Manual) beginning annually on the contract's anniversary date and will include the two (2) one (1) year renewal options and twelve (12) month-to-month extensions.

PURPOSE OF RECOMMENDED ACTION:

The Consolidated Fire Protection District of Los Angeles County requires the continuation of Medical Director Services for emergency medical program quality assurance expertise and design and implementation support services and to ensure compliance with State Emergency Medical Authority regulations. Dr. Pratt will provide the necessary experience and background to monitor the performance of the EMS personnel to maintain a level of quality assurance that will provide service to the public and to limit the District's exposure to liability claims.

ENVIRONMENTAL DOCUMENTATION:

The services provided through this contract will not have a significant effect on the environment and therefore the contract is exempt from CEQA, pursuant to Section 15061(b) (3) of the CEQA Guidelines.

JUSTIFICATION:

The need to implement new techniques as they are approved is of paramount importance to the District. The District currently responds to in excess of 140,000 EMS calls per year, which are handled by EMT Paramedics and/or EMT-1 certified personnel. Additionally, the State of California has mandated quality assurance, annual reviews and EMS regulations updates. By utilizing Dr. Pratt, the District will be better prepared to comply with these State mandates and other medically related issues.

IMPLEMENTATION OF STRATEGIC PLAN GOALS:

In accordance with the Strategic Plan Goals of service excellence, fiscal integrity, organizational effectiveness, and workforce excellence, the implementation of Consultant's contract, along with the need to review performance, monitor the continuing education programs, and to implement new techniques, promotes and further enhances the District's goal of quality control in the performance of Emergency Medical Services.

FISCAL IMPACT/FINANCING:

Under this contract, the Consultant will continue to provide these necessary services on an "as needed" basis to the District for an amount not to exceed $101,975 the first contract year, and a total of $210,073 for contract years two (2) and three (3), to be effective from January 1, 2006. Of this amount, $80,975.04 has been designated as compensation for direct medical services and up to $21,000 for reimbursable expenses related to his services to the District for the first contract year. For contract year two, $82,999 has been designated as compensation for direct medical services and up to $21,000 for reimbursable expenses and for calendar year three, $85,074 has been designated as compensation for direct medical services and up to $21,000 for reimbursable expenses. In addition, $331,197 is the total cost for the three (3) year extension.

The continuation of the Consultant's services is a cost-effective alternative to hiring a full-time medical director as an employee, which would cost the District an estimated $220,764 annually for salary and benefits. This estimate was determined from the physician salaries quoted in the 2004 Personnel Administration Handbook (Code Section 6.08.210).

Funds have been budgeted in the District's Fiscal Year 2005-06 Budget to cover the cost of this contract for the remainder of Fiscal Year 2005-06. Appropriations will be included in our budget requests for subsequent fiscal years.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The Consultant's expertise dates back to 1975 while employed by the UCLA Hospital and Clinics in their Emergency Medical Center. The Consultant was employed by the Los Angeles County Department of Health Services previously from June 24, 1981 until he resigned on June 30, 1989. In 1988 he served in a volunteer capacity with the District as Consultant on EMS issues. The Consultant has been utilized by the District under a consultant contract since May of 1990, with a renewal of the contract in January of 1998 until present. He is currently the Chief of Emergency Medicine at Torrance Memorial Hospital.

To assure the continued quality of emergency medical service, it has been determined that the Consultant will provide the required expertise in the following areas:

- Review of EMT-1 and paramedic performance and implementation of quality assurance guidelines.
- Emergency medical services (EMS) system modifications, operational policies, procedures and practices.
- EMS legal issues and risk management.
- EMS data conversion.
- Review and approve EMT-1 and paramedic training module.
- Multi-Casualty incident planning and management for EMS.
- Disaster preparedness planning and management for EMS.
- Communicable disease exposure prevention and education.
- Design of pre-hospital emergency medical care improvements.

The Consultant has the level of experience that will readily facilitate the implementation of a cost-effective EMS quality assurance program. The Consultant has provided the medical program supervision to the District since 1988. This contract is merely a renewal of his services.

Conditions of the contract stipulate that the Consultant shall provide no service which conflicts with his performance under the contract, nor shall the Consultant provide any services on behalf of the District for any project or facilities in which the Consultant has a financial or personal interest.

This contract has been properly executed by Franklin D. Pratt, M.D., and County Counsel has approved it as to form.

CONTRACTING PROCESS:

Per Policy No. 5.100 of the Board of Supervisors Policy Manual for sole source contracts $250,000 or greater, the District notified your Board of our intent to proceed with negotiating the sole source contract last December. This contract is a continuation of Medical Director Services provided to the District since 1988 and renewed in January of 1998. Because of this long-term relationship with the District and Dr. Pratt's intimate knowledge of the District's paramedic program, soliciting proposals and qualification statements would not be cost-beneficial to the District. Health and Safety Code 13861 authorizes the District to approve this contract for specialized services.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

The Medical Director will provide performance review, implement new techniques and oversee the continuing training of EMT Paramedics, who respond to over 140,000 EMS calls annually.

CONCLUSION:

Upon execution by your Honorable Board, please return two original certified copies of the contract and the adopted Board Letter to the District.

Respectfully submitted,

P. MICHAEL FREEMAN

PMF:cdw

Attachments

c: Chief Administrative Office
County Counsel
Executive Office, Board of Supervisors
Auditor-Controller

REQUIRED FORMS - EXHIBIT B

Consolidated Fire Protection District of Los Angeles County

EMERGENCY MEDICAL PROGRAM DESIGN,
IMPLEMENTATION AND SUPERVISION SERVICES
SPECIFIC PROPOSAL FOR QUARTERLY BILL RATES

Name of Business Franklin D. Pratt, M.D., Inc.

Address 302 16th Street

City Santa Monica State CA Zip 90402

Phone 310/451-0704 Fax 310/395-0255

EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION AND SUPERVISION SERVICES
is all inclusive, i.e., office supplies, as stated in the SOW

$20,243.75 per quarterly

EXPENSES: TRAVEL, TRAINING, INSURANCE, SUBSCRIPTIONS AND MEMBERSHIP

$5,250.00 per quarter on average.
This amount will vary quarter to quarter, but will not exceed $21,000.00 per year.

The rate must include all overhead, insurance and profit.

By Franklin D. Pratt, M.D / President
Print Name/Title

Date 11/29/05

Signature

CONTRACT

BY AND BETWEEN

CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY

AND

FRANKLIN D. PRATT, M.D., INC.

FOR

EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION AND SUPERVISION SERVICES

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Contract

CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION AND SUPERVISION SERVICES

This Contract, including Exhibits, is made and entered into this ___ day of _____, 2006

by and between CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY (hereafter "District")

and FRANKLIN D. PRATT, M.D., INC., A California corporation (hereafter "Consultant")

RECITALS

WHEREAS, the District provides prehospital emergency medical care to the public within its area of responsibility and desires to provide the highest quality care within budget constraints and prevailing medical technology; and

WHEREAS, to this end, the District has determined it is a matter of public health and safety to engage the specialized services of a consultant who will provide emergency medical training program design, implementation and supervision for the District, which is also known as the Los Angeles County Fire Department; and

WHEREAS, the District is authorized by Health and Safety Code Section 13861 to enter into a contract for professional, expert technical and specialized services; and

WHEREAS, the State of California has mandated quality assurance of emergency medical care and annual reviews and updates of emergency medical service regulations; and

WHEREAS, Consultant has previous provided similar services to the District and has developed considerable knowledge and expertise on the needs of the District; and

WHEREAS, the Consultant is a recognized professional with extensive experience and training in emergency and internal medicine; and

WHEREAS, in rendering these services, the Consultant shall, at a minimum, exercise the ordinary care and skill expected of similar experienced practitioners in Consultant's profession acting under similar circumstances.

NOW THEREFORE, the parties hereto do mutually agree to the following:

1.0 APPLICABLE DOCUMENTS

Exhibits A, B, C, D, E, F G, H, I and J are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract document and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority:

1.1 EXHIBIT A - Statement of Work
1.2 EXHIBIT B - Specific Proposal for Quarterly Bill Rates
1.3 EXHIBIT C - Consultant's EEO Certification
1.4 EXHIBIT D - District's Administration
1.4 EXHIBIT E - Consultant's Administration
1.5 EXHIBIT F - Technical Exhibit
1.6 EXHIBIT G - Forms Required at the Time of Contract Execution
1.7 EXHIBIT H - Jury Service Ordinance
1.8 EXHIBIT I - Local Small Business Preference Program
1.9 EXHIBIT J - Safely Surrendered Baby Law

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Sub-paragraph 8.4 - Change Notices and Amendments and signed by both parties.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

2.1 **Contract:** Contract executed between District and Consultant. It sets forth the terms and conditions for the issuance and performance of the Statement of Work, Exhibit A.

2.2 **Consultant:** The sole proprietor, partnership, or corporation that has entered into a contract with the District to perform or execute the work covered by the Statement of Work.

2.3 **County:** The departments, commissions, special districts, agencies or committees under the jurisdiction of the County of Los Angeles. A reference to the County also includes District.

2.4 **District Contract Project Manager:** Person with responsibility to oversee the day to day activities of this Contract. Responsibility for inspections of any and all tasks, deliverables for the District, services and other work provided by Consultant.

2.5 **District Contract Director:** Person designated by District with authority for District on contractual or administrative matters relating to this Contract that cannot be resolved by the District Contract Manager. This shall be the Fire Chief or his designee.

2.6 **District Contract Administrator:** Person designated by District Contract Director to manage the operations under this Contract.

2.7 **Day(s):** Calendar day(s) unless otherwise specified.

2.8 **Fiscal Year:** The twelve (12) month period beginning July 1st and ending the following June 30th.

3.0 SCOPE OF WORK

3.1 Pursuant to the provisions of this Contract, the Consultant shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in the *Statement of Work, Exhibit A*.

3.2 If the Consultant provides any tasks, deliverables, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Consultant, and the Consultant shall have no claim whatsoever against the District.

4.0 TERM OF CONTRACT

4.1 The Contract shall commence on January 1, 2006, and terminate in 36 months, unless extended by the District. The Fire Chief and the Consultant may mutually agree in writing to extend this Contract for

two additional one-year periods at an adjusted level of compensation as mutually agreed between District and Consultant.

4.2 The District shall have the sole and exclusive option to extend the Contract Term for an additional two (2) one-year periods and twelve (12) month-to-month extensions, for a maximum total Contract Term of six (6) years. Each extension shall be exercised at the sole and exclusive discretion of the Fire Chief or authorized designee.

4.3 Consultant shall notify District when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Consultant shall send written notification to the District at the address herein provided in Exhibit D - District's Administration.

5.0 CONTRACT SUM

5.1 The amount the District shall expend from its own funds during the entire term for this Emergency Medical Program Design, Implementation and Supervision Services Contract shall not exceed $80,975 per contract year. However, effective upon the end of the Contract's first year through the third year, the District may approve a cost of living adjustment, based on Consultant request in accordance with sub-paragraph 5.7 of this Contract. The renewal options that include two (2) one-year periods and twelve (12) month-to-month extensions are subject to Paragraph 5.7, Cost of Living Adjustment (COLA's).

5.2 Consultant has provided District with prices as described in Statement of Quarterly Rates and Expenses Exhibit B, to be charged during the Contract Term. During the Contract Term, there may be adjustments in the type of services required as set forth below.

5.3 The Consultant shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Consultant's duties, responsibilities, or obligations, or performance of same by any entity other than the Consultant, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall not occur.

5.4 Consultant shall maintain a system of record-keeping that will allow Consultant to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon

occurrence of this event, Consultant shall send written notification to District at the address herein provided in *Exhibit D*.

5.5 **No Payment for Services Provided Following Expiration/ Termination of Contract.**

Consultant shall have no claim against District for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Consultant after the expiration or other termination of this Contract. Should Consultant receive any such payment it shall immediately notify District and shall immediately repay all such funds to District. Payment by District for services rendered after expiration or termination of this Contract shall not constitute a waiver of District's right to recover such payment form Consultant. This provision shall survive the expiration or other termination of this Contract.

5.6 **Invoices and Payments**

5.6.1 The Consultant shall invoice the District only for providing the tasks, deliverables, services, and other work specified in Exhibit A - *Statement of Work* and elsewhere hereunder. The Consultant shall prepare invoices, which shall include the fees owed to the Consultant by the District under the terms of this Contract. The Consultant's payments shall be as provided in *Exhibit B – Specific Proposal for Quarterly Bill Rates*, and the Consultant shall be paid only for the tasks, deliverables, services, and other work approved in writing by the District. If the District does not approve work in writing no payment shall be due to the Consultant for that work.

5.6.2 The Consultant's invoices shall be priced in accordance with *Exhibit B – Specific Proposal for Quarterly Bill Rates*

5.6.3 The Consultant's invoices shall contain the information set forth in Exhibit A - *Statement of Work* describing the tasks, deliverables, services, work hours, and facility and/or other work for which payment is claimed.
5.6.4The Consultant shall submit the quarterly invoices to the District by the 15th calendar day of the month following the quarter of service.

5.6.4 The Consultant shall submit the quarterly invoices to the District by the 15th calendar day of the month following the quarter of service.

5.6.5 Payment to Consultant shall be made on an arrears basis, upon acceptance of completed work by District, provided that the Consultant is not in default under any provisions of this Contract. Consultant is to provide the completed original invoice, along with one (1) copy to the following address:

Consolidated Fire Protection
District of Los Angeles County
Financial Management Division
Expenditure Management
P.O. Box 910901
Commerce, CA 90091

Consultant shall send one (1) copy of the invoice to the District Contract Project Manager authorizing the work, who shall review and approve all invoices for payment.

Payment shall constitute acceptance of work. Estimated payment time is thirty (30) days, pending acceptance and approval of the work by the District Contract Project Monitor and compliance with the aforementioned invoicing procedures.

5.6.6 **District Approval of Invoices.** All invoices submitted by the Consultant for payment must have the written approval of the District's Contract Project Manager prior to any payment thereof. In no event shall the District be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld, and in no instance will such approval by the District take more than two (2) weeks from receipt of properly prepared invoices.
To assist the District in making timely payment for services provided hereunder, Consultant's invoices shall contain the following:

- Contract number
- Itemize charges for times services were provided.
- Copy of approved Work Authorization form for special assignments.

Payment of all completed work shall be contingent upon approval of an itemized invoice by District's authorized representative. Other than the prices or rates submitted by the Consultant, no estimate of cost furnished by either of the parties shall be construed as determining the compensation for any of the work to be performed pursuant to this Contract.

5.7 **Cost of Living Adjustments (COLA's)**

The Contract (hourly, daily, monthly, etc.) amount may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area for the most recently published percentage change for the 12-month period preceding the Contract anniversary date, which shall be the effective date for any cost of living adjustment. However, any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increase in County employee salaries, no cost of living adjustments will be granted.

Consultant shall submit proposed adjustment to District's Contract Administrator no later than sixty (60) days prior to the expiration of the initial term and the renewal options. All price increases shall be subject to acceptance and approval by the District's Contract Administrator. After approval by the District's Contract Administrator, the revised price shall be valid from the date of approval until the expiration of the Contract.

5.8 Time spent as part of a FEMA authorized deployment will not be billed under this contract.

6.0 ADMINISTRATION OF CONTRACT - DISTRICT

DISTRICT ADMINISTRATION

A listing of all personnel involved with District Administration referenced in the following Sub-paragraphs are designated in *Exhibit D*. The District shall notify the Consultant in writing of any change in the names or addresses shown.

6.1 **District's Project Director**

Responsibilities of the District's Contract Director include:

- making authoritative decisions on contractual or administrative matters relating to this contract that cannot be resolved by the District Contract Administrator.

6.2 **District's Contract Administrator**

The Responsibilities of the District's Contract Administrator include:

- ensuring that the objectives of this Contract are met;

- Making changes in the terms and conditions of this Contract in accordance with Sub-paragraph 8.4, Change Notices and Amendments; and
- Providing direction to Consultant in the areas relating to District policy, information requirements, and procedural requirements.

6.3 District's Contract Project Manager

The District's Contract Project Manager is responsible for overseeing the day-to-day administration of this Contract.

- Meeting with Consultant's Project Manager on a regular basis and
- Inspecting any and all tasks, deliverables, services, or other work provided by or on behalf of Consultant.

The District's Contract Project Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate District in any respect whatsoever.

7.0 ADMINISTRATION OF CONTRACT – CONSULTANT

7.1 Consultant's Project Manager

7.1.1 Consultant's Project Manager is designated in Exhibit E. The Consultant shall notify the District in writing of any change in the name or address of the Consultant's Project Manager.

7.1.2 Consultant's Project Manager shall be responsible for Consultant's day-to-day activities as related to this Contract and shall coordinate with District's Contract Project Manager and Project Monitor on a regular basis.

7.2 Consultant's Staff Identification

7.2.1 Consultant shall provide all staff assigned to this Contract with a photo identification badge in accordance with District specifications. Specifications may change at the discretion of the District and Consultant will be provided new specifications as required. The format and content of the badge is subject to the District's approval prior to the Consultant implementing the use of the badge. Consultant staff, while on duty or when entering a District facility or its grounds, shall prominently display the photo identification badge on the upper part of the body.

7.2.2 Consultant shall notify the District within one business day when staff is terminated from working on this Contract. Consultant is responsible to retrieve and immediately destroy the staff's District

photo identification badge at the time of termination from the District Contract.

7.2.3 If District requests the removal of Consultant's staff, Consultant is responsible to retrieve and immediately destroy the District photo identification badge at the time of removal from working on the Contract.

7.3 Background and Security Investigations

7.3.1 At any time prior to or during term of this Contract, the District may require that all Consultant staff performing work under this Contract undergo and pass, to the satisfaction of District, a background investigation, as a condition of beginning and continuing to work under this Contract. District shall use its discretion in determining the method of background clearance to be used, up to and including a District performed fingerprint security clearance. The fees associated with obtaining the background information shall be at the expense of the Consultant.

7.3.2 Confidentiality

The Consultant shall maintain the confidentiality of all records obtained from the District under this Contract in accordance with all applicable federal, State or local laws, ordinances, regulations and directives relating to confidentiality.

7.4 Confidentiality

The Consultant shall sign and adhere to the *"Consultant Employee Acknowledgment, Confidentiality Agreement", Exhibit F1.*

8.0 TERMS AND CONDITIONS

8.1 ASSIGNMENT AND DELEGATION

8.1.1 The Consultant shall not assign its rights or delegate its duties under this Contract, or both, either in whole or in part, without the prior written consent of the District. Any unapproved assignment or delegation shall be null and void. Any payments by the District to any approved delegate or assignee on any claim under this Contract shall be deductible, at District's sole discretion, against the claims, which the Consultant may have against the District.

8.1.2 If any assumption, assignment, delegation, or takeover of any of the Consultant's duties, responsibilities, obligations, or performance of same by any entity other than the Consultant, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for

any reason whatsoever without District's express prior written approval, may result in the termination of this Contract.

8.2 AUTHORIZATION WARRANTY

The Consultant represents and warrants that the person executing this Contract for the Consultant has actual authority to bind the Consultant to each and every term, condition, and obligation of this Contract and that all requirements of the Consultant have been fulfilled to provide such actual authority.

8.3 BUDGET REDUCTIONS

It is the District's policy that in the event that the Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to District Contracts, the District reserves the right to reduce its payment obligation correspondingly for that fiscal year and any subsequent fiscal year services provided by the Consultant under the Contract. The District's notice to the Consultant regarding said reduction in payment obligation shall be provided within 30 calendar days of the Board's approval of such actions. The Consultant shall continue to provide all of the services set forth in the Contract.

8.4 CHANGE NOTICES AND AMENDMENTS

8.4.1 The District reserves the right to initiate Change Notices that **do not affect** the scope of work, term, Contract Sum or payments. All such changes shall be accomplished with an executed Change Notice signed by the Consultant and by District Contract Administrator or authorized designee.

8.4.2 For any change, which affects the scope of work, term, Contract Sum, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the District's Fire Chief or authorized designee.

8.4.3 The District's Board of Supervisors or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The District reserves the right to add and/or change such provisions as required by the District's Board of Supervisors or Chief Administrative Officer. To implement such orders, an Amendment to the Contract shall be prepared and executed by District's Fire Chief or authorized designee.

8.4.4 The Fire Chief or authorized designee may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 – TERM OF CONTRACT. The Consultant agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions.

8.5 COMPLAINTS

The Consultant shall develop, maintain and operate procedures for receiving, investigating and responding to complaints. Within 30 business days after Contract effective date, if not already provided to the District, the Consultant shall provide the District with the Consultant's policy for receiving, investigating and responding to user complaints.

8.5.1 The District will review the Consultant's policy and provide the Consultant with approval of said policy or with requested changes.

8.5.2 If the District request changes in the Consultant's policy, the Consultant shall make such changes and resubmit the policy within five (5) business days.

8.5.3 If, at any time, the Consultant wishes to change the Consultant's policy, the Consultant shall submit proposed changes to the District for approval before implementation.

The Consultant shall preliminarily investigate all complaints and notify the District's Contract Project Manager of the status of the investigation within five (5) business days of receiving the complaint.

When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines. Copies of all written responses shall be sent to the District's Contract Project Manager within three (3) business days of mailing to the complainant.

8.6 COMPLIANCE WITH APPLICABLE LAW

8.6.1 The Consultant shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Consultant hereby assures that it will comply with Subchapter VII of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through

2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Consultant shall comply with *Exhibit C - Consultant's EEO Certification.*

8.8 COMPLIANCE WITH THE DISTRICT'S JURY SERVICE PROGRAM

8.8.1 Jury Service Program:

It is the District's policy that this Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

8.8.2 Written Employee Jury Service Policy.

1. Unless Contractor has demonstrated to the District's satisfaction either that Contractor is not a "Consultant" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Consultant qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Consultant shall have and adhere to a written policy that provides that its Employees shall receive from the Consultant, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Consultant or that the Consultant deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Sub-paragraph, "Consultant" means a person, partnership, corporation or other entity which has a contract with the District or a subcontract with a District Consultant and has received or will receive an aggregate sum of $50,000 or more in any 12-month period under one or more District contracts or subcontracts. "Employee" means any California resident who is a full time employee of Consultant. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the District, or 2) Consultant has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less

within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Consultant uses any subcontractor to perform services for the District under the Contract, the subcontractor shall also be subject to the provisions of this Sub-paragraph. The provisions of this Sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If Consultant is not required to comply with the Jury Service Program when the Contract commences, Consultant shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Consultant shall immediately notify District if Consultant at any time either comes within the Jury Service Program's definition of "Consultant" or if Consultant no longer qualifies for an exception to the Jury Service Program. In either event, Consultant shall immediately implement a written policy consistent with the Jury Service Program. The District may also require, at any time during the Contract and at its sole discretion, that Consultant demonstrate to the District's satisfaction that Consultant either continues to remain outside of the Jury Service Program's definition of "Consultant" and/or that Consultant continues to qualify for an exception to the Program.

4. Consultant's violation of this Sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, District may, in its sole discretion, terminate the Contract and/or bar Consultant from the award of future District contracts for a period of time consistent with the seriousness of the breach.

8.9 CONFLICT OF INTEREST

8.9.1 No District employee whose position with the District enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Consultant or have any other direct or indirect financial interest in this Contract. No officer or employee of the Consultant who may financially benefit from the performance of work hereunder shall in any way participate in the District's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the District's approval or ongoing evaluation of such work.

8.9.2 The Consultant shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Consultant warrants that it is not now aware of any facts that create a conflict of interest. If the Consultant hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the District. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

8.10 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

Should the Consultant require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Consultant shall give **first consideration** for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

Should the Consultant require additional or replacement personnel after the effective date of this Contract, the Consultant shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Consultant's minimum qualifications for the open position. For this purpose, consideration shall mean that the Consultant will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Consultant. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

8.12 CONSULTANT'S RESPONSIBILITY AND DEBARMENT

8.12.1 Responsible Consultant

A responsible Consultant is a Consultant who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is the District's policy to conduct business only with responsible Consultants.

8.12.2 Chapter 2.202 of the County Code

The Consultant is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the District acquires information concerning the performance of the Consultant on this or other Contracts which indicates that the Consultant is not responsible, the District may, in addition to other remedies provided in the Contract, debar the Consultant from bidding on District Contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing Contracts the Consultant may have with the District.

8.12.3 Non-responsible Consultant

The District may debar a Consultant if the Board of Supervisors finds, in its discretion, that the Consultant has done any of the following: (1) violated any term of a Contract with the District, (2) committed any act or omission which negatively reflects on the Consultant's quality, fitness or capacity to perform a Contract with the District or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the District or any other public entity.

8.12.4 Consultant Debarment

If there is evidence that the Consultant may be subject to debarment, the District will notify the Consultant in writing of the evidence that is the basis for the proposed debarment and will advise the Consultant of the scheduled date for a debarment hearing before the Contractor Hearing Board.

The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Consultant and/or the Consultant's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Consultant should be debarred, and, if so, the appropriate length of time of the debarment. The Consultant and the District shall be provided

an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 **Contractor Reinstatement**

If a Contractor has been debarred for a period longer than five years, the Contractor may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The District may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the District.

The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five years; (2) the debarment has been in effect for a least five years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes support documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of

Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.13 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Consultant shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit J, Safely Surrendered Baby Law of this Contract and is also available on the Internet at www.babysafela.org for printing purpose.

8.14 CONSULTANT'S ACKNOWLEDGEMENT OF DISTRICT'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Consultant acknowledges that the District places a high priority on the implementation of the Safely Surrendered Baby Law. The Consultant understands that it is the District's Policy to encourage all of the District's Contractors to voluntarily post the District's "Safely Surrendered Baby Law" poster in a prominent position at the Consultant's place of business. The Consultant will also encourage its Subcontractors, is any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Consultant with the poster to be used.

8.15 CONSULTANT'S ACKNOWLEDGEMENT OF DISTRICT'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT

The Consultant acknowledges that the District places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Consultant understands that it is the District's policy to encourage all District Consultants to voluntarily post the District's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at the Consultant's place of business. The County's Child Support Services Department will supply the Consultant with the poster to be used.

8.16 CONSULTANT'S WARRANTY OF ADHERENCE TO DISTRICT'S CHILD SUPPORT COMPLIANCE PROGRAM

8.16.1 The Consultant acknowledges that the District has

established a goal of ensuring that all individuals who benefit financially from the District through Purchase Order or Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the taxpayers of Los Angeles County.

8.16.2 As required by the District's Child Support Compliance Program and without limiting the Consultant's duty under this Contract to comply with all applicable provisions of law, the Consultant warrants that it is now in compliance and shall during the term of this Contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.17 DISTRICT'S QUALITY ASSURANCE PLAN

The District or its agent will evaluate the Consultant's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Consultant's compliance with all Contract terms and conditions and performance standards. Consultant deficiencies which the District determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the District and the Consultant. If improvement does not occur consistent with the corrective action measures, the District may terminate this Contract or seek other remedies as specified in this Contract.

8.18 DAMAGE TO DISTRICT OR COUNTY FACILITIES, BUILDINGS OR GROUNDS

8.18.1 Consultant shall repair, or cause to be repaired, at its own cost, any and all damage to District facilities, buildings, or grounds caused by Consultant or employees or agents of Consultant. Such repairs shall be made immediately after Consultant has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.18.2 If Consultant fails to make timely repairs, District may make any necessary repairs. All costs incurred by District, as determined by District, for such repairs shall be repaid by Consultant by cash payment upon demand.

8.19 EMPLOYMENT ELIGIBILITY VERIFICATION

The Consultant warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Consultant shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Consultant shall retain all such documentation for all covered employees for the period prescribed by law. The Consultant shall indemnify, defend, and hold harmless, the District, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Consultant or the District or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

8.20 FACSIMILE REPRESENTATIONS

The District and the Consultant hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Change Notices and Amendments prepared pursuant to Sub-paragraph 8.4, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Change Notices to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.21 FAIR LABOR STANDARDS

The Consultant shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the District and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Consultant's

employees for which the District may be found jointly or solely liable.

8.22 GOVERNING LAW, JURISDICTION, AND VENUE

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Consultant agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.23 INDEPENDENT CONSULTANT STATUS

8.23.1 This Contract is by and between the District and the Consultant and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the District and the Consultant. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.23.2 The Consultant shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The District shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Consultant.

8.23.3 The Consultant understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Consultant and not employees of the District. The Consultant shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Consultant pursuant to this Contract.

8.23.4 The Consultant shall cause each employee performing services covered by this Contract to sign and adhere to the *"Consultant Employee Acknowledgment And Confidentiality Agreement", Exhibit F1.* The Consultant shall cause each non-employee performing services covered by this Contract to sign and adhere to the *"Consultant Non-Employee Acknowledgment and Confidentiality*

Agreement", Exhibit F2.

8.24 INDEMNIFICATION

The Consultant shall indemnify, defend and hold harmless the District, the County, its Special Districts and their elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Consultant's acts and/or omissions arising from and/or relating to this Contract.

The District shall indemnify, defend and hold harmless the Consultant from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with the District's acts and/or omissions arising from and/or relating to this Contract.

8.25 GENERAL INSURANCE

Without limiting the District's indemnification of the Consultant and during the term of this Contract, the Consultant shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the District. Such coverage shall be provided and maintained at the Consultant's own expense.

8.25.1 **Evidence of Insurance:** Prior to commencing services under this Contract, a Certificate of Insurance (ACORD Certificate) and the Additional Insured Endorsement (CGL policy) or other evidence of coverage satisfactory to the District. Certificates must be updated as coverage expire or are renewed or replaced. Documents shall be delivered to

Consolidated Fire Protection District of
Los Angeles County
5801 S. Eastern Ave. Suite 100
Los Angeles, CA 90040
Attn: Contracts Section

prior to commencing services under this Contract. Such certificates or other evidence shall:

- Specifically identify this Contract;

- Clearly evidence all coverages required in this Contract;
- Contain the express condition that the District is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;

- Include copies of the additional insured endorsement to the commercial general liability policy, adding the District, County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Contract;

- Identify any deductibles or self-insured retentions for the District's approval. The District retains the right to require the Consultant to reduce or eliminate such deductibles or self-insured retentions as they apply to the District, or, require the Consultant to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.25.2 **Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the District with an A.M. Best rating of not less than A:VII unless otherwise approved by the District.

8.25.3 **Failure to Maintain Coverage:** Failure by the Consultant to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the District, shall constitute a material breach of the Contract upon which the District may immediately terminate or suspend this Contract. The District, at its sole option, may obtain damages from the Consultant resulting from said breach. Alternatively, the District may purchase such required insurance coverage, and without further notice to the Consultant, the District may deduct from sums due to the Consultant any premium costs advanced by the District for such insurance.

8.25.4 **Notification of Incidents, Claims or Suits: Consultant shall report to the District:**

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit

- against the Consultant and/or the District. Such report shall be made in writing within 24 hours or as soon as possible of occurrence.

- Any third party claim or lawsuit filed against the Consultant arising from or related to services performed by the Consultant under this Contract.

- Any injury to a Consultant employee that occurs on District property. This report shall be submitted on a District "Non-employee Injury Report" to the District Contract Administrator.

- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of District property, monies or securities entrusted to the Consultant under the terms of this Contract.

8.25.5 **Compensation for District Costs:** In the event that the Consultant fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to comply results in any costs to the District, the Consultant shall pay full compensation for all costs incurred by the District.

8.26 **INSURANCE COVERAGE REQUIREMENTS**

8.26.1 **General Liability** insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

General Aggregate:	$2 million
Products/Completed Operations Aggregate:	$1 million
Personal and Advertising Injury:	$1 million
Each Occurrence:	$1 million

8.26.2 **Automobile Liability** written on ISO policy form CA 00 01 or its equivalent with a limit of liability of not less than $1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

8.26.3 **Professional Liability**; Insurance covering liability arising from error, omission, negligent or wrongful act of the Consultant, its officer or employees with limits of not less that $ 1 million per occurrence and $3 million aggregate. The coverage also shall provide an extended two year reporting period commencing upon termination or cancellation of this Agreement.

8.27 LIQUIDATED DAMAGES

8.27.1 If, in the judgment of the District, the Consultant breaches the Contract requirements as specified in the *Performance Requirements Summary (PRS) Chart*, as defined in *Technical Exhibit F, Technical Exhibit 2,* hereunder, the District will have a claim for the sum specified in the PRS, to be paid by the Consultant in accordance with the Contract as liquidated damages. The District's Contract Administrator, or his/her designee shall notify Consultant in writing of the specific instances and areas of noncompliance and/or nonperformance and the corresponding unsatisfactory performance deductions.

8.27.2 This paragraph shall not, in any manner, restrict or limit the District's right to damages for any breach of this Contract other than those breaches of this Contract specified in the PRS, and shall not, in any manner, restrict or limit the District's right to terminate this Contract as agreed to herein.

8.28 MOST FAVORED PUBLIC ENTITY

If the Consultant's prices decline, or should the Consultant at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to the District.

8.29 NONDISCRIMINATION AND AFFIRMATIVE ACTION

8.29.1 The Consultant certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.29.2 The Consultant shall certify to, and comply with, the provisions of *Exhibit C - Consultant's EEO Certification.*

8.29.3 The Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability,

marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

8.29.4 The Consultant certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, marital status, or political affiliation.

8.29.5 The Consultant certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.

8.29.6 The Consultant shall allow County and District representatives access to the Consultant's employment records during regular business hours to verify compliance with the provisions of this Sub-paragraph 8.29 when so requested by the County or District.

8.29.7 If the District finds that any provisions of this Sub-paragraph 8.29 have been violated, such violation shall constitute a material breach of this Contract upon which the District may terminate or suspend this Contract. While the District reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Consultant has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the District that the Consultant has violated the anti-discrimination provisions of this Contract.

8.29.8 The parties agree that in the event the Consultant violates any of the anti-discrimination provisions of this Contract, the District shall, at its sole option, be entitled to the sum of Five Hundred Dollars ($500) for each such violation pursuant to California Civil

Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

8.30 NON EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Consultant. This Agreement shall not restrict District from acquiring similar, equal or like goods and/or services from other entities or sources.

8.31 NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) day, give notice thereof, including all relevant information with respect thereto, to the other party.

8.32 NOTICE OF DISPUTES

The Consultant shall bring to the attention of the District's Contract Administrator and/or District's Contract Director any dispute between the District and the Consultant regarding the performance of services as stated in this Contract. If the District Contract Administrator or District Contract Director is not able to resolve the dispute, the Fire Chief, or designee shall resolve it.

8.33 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Consultant shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.34 NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in *Exhibit D, District's Administration and Exhibit E, Consultant's Administration*. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The District's Contract Administrator shall

have the authority to issue all notices or demands required or permitted by the District under this Contract.

8.35 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Consultant and the District agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

8.36 PUBLIC RECORDS ACT

8.36.1 Any documents submitted by Consultant; all information obtained in connection with the District's right to audit and inspect Consultant's documents, books, and accounting records pursuant to Sub-paragraph 8.38 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the District. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The District shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.36.2 In the event the District is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Consultant agrees to defend and indemnify the District from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

8.37 PUBLICITY

8.37.1 The Consultant shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Consultant's need to identify its services and related clients to sustain itself, the District shall not inhibit the Consultant from

publishing its role under this Contract within the following conditions:

- The Consultant shall develop all publicity material in a professional manner; or
- During the term of this Contract, the Consultant shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the District without the prior written consent of the District's Contract Director. The District shall not unreasonably withhold written consent.

8.37.2 The Consultant may, without the prior written consent of District, indicate in its proposals and sales materials that it has been awarded this Contract with the District, provided that the requirements of this Sub-paragraph 8.37 shall apply.

8.38 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Consultant shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Consultant shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Consultant agrees that the District, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Contract. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by the Consultant and shall be made available to the District during the term of this Contract and for a period of five (5) years thereafter unless the District's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Consultant at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the District's option, the Consultant shall pay the District for travel, per diem, and other costs incurred by the District to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.38.1 In the event that an audit of the Consultant is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Consultant or otherwise, then the Consultant shall file a copy of such audit report with the District's Auditor-Controller within thirty (30) days of the Consultant's receipt thereof, unless otherwise

provided by applicable Federal or State law or under this Contract. The District shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.38.2 Failure on the part of the Consultant to comply with any of the provisions of this Sub-paragraph 8.38 shall constitute a material breach of this Contract upon which the District may terminate or suspend this Contract.

8.38.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the District may conduct an audit of the Consultant regarding the work performed under this Contract, and if such audit finds that the District's dollar liability for any such work is less than payments made by the District to the Consultant, then the difference shall be either: a) repaid by the Consultant to the District by cash payment upon demand or b) at the sole option of the District's Auditor-Controller, deducted from any amounts due to the Consultant from the District, whether under this Contract or otherwise. If such audit finds that the District's dollar liability for such work is more than the payments made by the District to the Consultant, then the difference shall be paid to the Consultant by the District by cash payment, provided that in no event shall the District's maximum obligation for this Contract exceed the funds appropriated by the District for the purpose of this Contract.

8.39 RECYCLED BOND PAPER

The Consultant agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.40 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN CHILD SUPPORT COMPLIANCE

Failure of the Consultant to maintain compliance with the requirements set forth in Sub-paragraph 8.16 - CONSULTANT'S WARRANTY OF ADHERENCE TO DISTRICT'S CHILD SUPPORT COMPLIANCE PROGRAM, shall constitute a default by the Consultant under this Contract. Without limiting the rights and remedies available to the District under any other provision of this Contract, failure to cure such default within 90 days of notice by the Los Angeles County Child Support Services Department shall be grounds upon which the Auditor-Controller or the District's Board of Supervisors may terminate this Contract pursuant to Sub-paragraph 8.42 - TERMINATION FOR DEFAULT.

8.41 TERMINATION FOR CONVENIENCE

8.41.1 This Contract may be terminated, by in whole or in part, from time to time, when such action is deemed by the District through its Fire Chief, or his designee, to be in its best interest. Termination of work hereunder shall be effected by delivery to the Consultant of a notice of termination specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than fifteen (15) days after the notice is sent.

8.41.2 After receipt of a notice of termination, and except as otherwise directed by the District, the Consultant shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.41.3 For a period of five (5) years after final settlement under this Contract, the Consultant shall make available to the District, at all reasonable times, all its books, records, documents, or other evidence bearing on the costs and expenses of the Consultant under this Contract with respect to the termination of work hereunder. All such material shall be maintained by the Consultant at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the District's option, the Consultant shall pay the District for travel, per diem, and other costs incurred by the District to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.42 TERMINATION FOR DEFAULT

8.42.1 The District through its Fire Chief or his designee, may by written notice to the Consultant, terminate the whole or any part of this Contract, if, in the judgment of District:

- Consultant has materially breached this Contract;
- Consultant fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Consultant fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails

- to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the District may authorize in writing) after receipt of written notice from the District specifying such failure.

8.42.2 In the event that the District terminates this Contract in whole or in part as provided in Sub-paragraph 8.42.1, the District may procure, upon such terms and in such manner as the District may deem appropriate, goods and services similar to those so terminated. The Consultant shall be liable to the District for any and all excess costs incurred by the District, as determined by the District, for such similar goods and services. The Consultant shall continue the performance of this Contract to the extent not terminated under the provisions of this sub-paragraph.

8.42.3 Except with respect to defaults of any subcontractor, the Consultant shall not be liable for any such excess costs of the type identified in Sub-paragraph 8.42.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Consultant. Such causes as determined by District may include, but are not limited to: acts of God or of the public enemy, acts of the District in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Consultant. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Consultant and subcontractor, and without the fault or negligence of either of them, the Consultant shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Consultant to meet the required performance schedule. As used in this Sub-paragraph 8.42.3, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

8.42.4 If, after the District has given notice of termination under the provisions of this Sub-paragraph 8.42, it is determined by the District that the Consultant was not in default under the provisions of this Sub-paragraph 8.42, or that the default was excusable under the provisions of Sub-paragraph 8.42.3, the rights and obligations of the parties shall be the same as if the

notice of termination had been issued pursuant to Sub-paragraph 8.41 - TERMINATION FOR CONVENIENCE.

8.42.5 In the event the District terminates this Contract in its entirety due to the Consultant's default as provided in Sub-paragraph 8.42.1, the Consultant and the District agree that the District will have actual damages, which are extremely difficult to calculate and impracticable to fix and which will include, but are not limited to, the District's costs of procurement of replacement services and costs incurred due to delays in procuring such services. Therefore, the Consultant and the District agree that the District shall, at its sole option and in lieu of the provisions of Sub-paragraph 8.42.2, be entitled to liquidated damages from the Consultant, pursuant to California Civil Code Section 1671, in the amount of Five Thousand Dollars ($5,000) or five percent (5%) of the applicable year's Contract sum, whichever is less, as equitable compensation to the District for such actual damages. This amount of liquidated damages shall be either paid by the Consultant to the District by cash payment upon demand or, at the sole discretion of the District, or designee, deducted from any amounts due to the Consultant by the District, whether under this Contract or otherwise.

These liquidated damages shall be in addition to any credits, which the District is otherwise entitled to under this Contract, and the Consultant's payment of these liquidated damages shall not in any way change, or affect the provisions of Sub-paragraph 8.24 - INDEMNIFICATION.

8.42.6 The rights and remedies of the District provided in this Sub-paragraph 8.42 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.43 TERMINATION FOR IMPROPER CONSIDERATION

8.43.1 The District may, by written notice to the Consultant, immediately terminate the right of the Consultant to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Consultant, either directly or through an intermediary, to any County or District officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Consultant's performance pursuant to this Contract. In the event of such termination, the

District shall be entitled to pursue the same remedies against the Consultant as it could pursue in the event of default by the Consultant.

8.43.2 The Consultant shall immediately report any attempt by a County or District officer or employee to solicit such improper consideration. The report shall be made either to the District Contract Director who will then notify the manager/supervisor charged with the supervision of the employee or to the County Auditor-Controller, Office of County Investigations, at (800) 544-6861.

8.43.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8.44 TERMINATION FOR INSOLVENCY

8.44.1 The District may terminate this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of the Consultant. The Consultant shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Consultant is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Consultant under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Consultant; or
- The execution by the Consultant of a general assignment for the benefit of creditors.

8.44.2 The rights and remedies of the District provided in this Sub-paragraph 8.44 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.45 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

It is the District policy that the Consultant, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Consultant, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the

Consultant or any County Lobbyist or County Lobbying firm retained by the Consultant to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which the District may in its sole discretion, immediately terminate or suspend this Contract.

8.46 TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, the District shall not be obligated for the Consultant's performance hereunder or by any provision of this Contract during any of the District's future fiscal years unless and until the District's Board of Supervisors appropriates funds for this Contract in the District's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The District shall notify the Consultant in writing of any such non-allocation of funds at the earliest possible date.

8.47 VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

8.48 WAIVER

No waiver by the District of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the District to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 8.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.49 WARRANTY AGAINST CONTINGENT FEES

8.49.1 The Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Consultant for the purpose of securing business.

8.49.2 For breach of this warranty, the District shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

IN WITNESS WHEREOF, Consultant has executed this Contract, or caused it to be duly executed and the Consolidated Fire Protection District of Los Angeles County, by order of its governing body the Board of Supervisors has caused this Contract to be executed on its behalf by the Mayor of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

CONSULTANT- FRANKLIN D. PRATT, M.D., INC.

By_____ President
Name Title

CONSOLIDATED FIRE PROTECTION
DISTRICT OF LOS ANGELES COUNTY

By_____
Mayor, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk
of the Board of Supervisors

By_____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By_____
Deputy