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

DARYL L. OSBY
FIRE CHIEF
FORESTER & FIRE WARDEN

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

44 December 20, 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

December 20, 2011

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:

APPROVAL OF CONTRACT FOR CONSULTANT FOR EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION, MANAGEMENT AND SUPERVISION (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

The Consolidated Fire Protection District of Los Angeles County (District) is seeking Board approval for a Contract with Franklin D. Pratt, MD, Inc. who will provide Consultation services for the District's Emergency Medical Program, including Design, Implementation, Management and Supervision. Collectively, the services shall be referred to as "Medical Director Services." The District's current Contract with Franklin D. Pratt, MD, Inc. will expire on December 31, 2011. The total possible term for this Contract, including extensions, will be six (6) years.

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

1. Approve and instruct the Chairman to sign a Contract (Attachment A) to be effective January 1, 2012 with Franklin D. Pratt, MD, Inc. to provide Medical Director Services to the District. These services include Emergency Medical Services (EMS) quality assurance and Medical Director Services as mandated by Health & Safety Code section 1797.202 as well as the California State Emergency Medical Authority. The initial term of the Contract will be for three (3) years, with two (2) one-year extensions, and also include an additional twelve (12) month-to-month extensions, not to exceed a total possible Contract term of six (6) years.

2. Authorize annual Contract expenditures for the first three (3) years at $120,000, (Attachment C) representing the total annual cost based on the price submitted by Franklin D. Pratt, MD, Inc., plus an additional ten percent (10%) annually, for unforeseen, as-needed additional work only if approved

by the Fire Chief or his designee, bringing the annual contract total to $132,000.

In addition, authorize total expenditures, including ten percent (10%) annually for unforeseen, as-needed additional work for the two (2) one-year renewal options, and twelve (12) month-to-month extensions at $132,000 annually. Cost of Living Adjustment (COLA) requests for multi-year service contracts will be applicable after the initial three-year term. (Policy No. 5.070 of the Board of Supervisors Policy Manual). Should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increases in County employee's salaries, no COLA's will be granted.

3. Delegate authority to the Fire Chief, or his designee, to amend, suspend and/or terminate the Contract, if deemed necessary, in accordance with the approved Contract terms and conditions. In addition, delegate authority to the Fire Chief, or his designee, to exercise the extensions as described in paragraph 2, above.

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

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of these recommended actions is to enable the District to continue to obtain Medical Director Services and to ensure compliance with the State of California Emergency Medical Authority regulations. Franklin D. Pratt, MD, Inc. has the necessary experience, education, and expertise to monitor the performance of EMS personnel in order to maintain a high level of quality assurance. These functions will support the current excellent service provided to the public and limit the District's exposure to liability claims. The original Contract with Franklin D. Pratt, MD, Inc. was approved by your Honorable Board in 1990, and he has maintained a proven performance record since that time.

Implementation of Strategic Plan Goals

Approval of the recommended actions is consistent with the County's Strategic Plan Goal in the area of Operational Effectiveness (Goal 1). The continuation of these services promotes and further enhances the District's goal of quality control in the performance of Emergency Medical Services. Franklin D. Pratt, MD, Inc. has the experience and expertise to provide consultation services in an effective and efficient manner that will support the District in meeting this goal.

Implementation of Strategic Plan Goals

N/A

Strategic Asset Management Principles Compliance

N/A

FISCAL IMPACT/FINANCING

The proposed Agreement expenditure for the District is $120,000 annually (Attachment C), with an allowance for an additional ten percent (10%) annually, for unforeseen, as-needed additional work, bringing the total to $132,000 annually. The District's FY 2011-12 adopted budget includes sufficient

funding for this Contract.

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 $330,876 annually. This cost was determined from the physician salaries schedule, pursuant to Los Angeles County Code Section 6.08.210.

There is no impact on net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The District is authorized to contract for these services under California Health and Safety Code Section 13861 and Public Contract Code section 20812. Franklin D. Pratt, MD, Inc. is in compliance with all applicable requirements and his proposal was accepted based on qualifications, experience, and willingness to comply with all County and District ordinances and policies.

Franklin D. Pratt, MD, Inc. has been utilized continuously by the District under a consultant Contract since May of 1990. In addition, he is also currently the Emergency Department Medical Director at Torrance Memorial Medical Center. Franklin D. Pratt, MD, Inc. agrees to maintain compliance with all County and District requirements throughout the term of the contract, and he will not be asked to perform services which will exceed the approved Contract amount, scope of work or contract dates.

To assure the continued quality of EMS, the Consultant has the required expertise, and will provide the following services:

- Review of EMT & EMPT performance and implementation of quality assurance guidelines.
- EMS system modifications, operational policies, procedures and practices.
- Oversee EMS legal issues, risk management and data conversion.
- Review and approve EMT and EMPT training modules.
- Multi-casualty incident planning and management for EMS.
- Communicable disease exposure prevention and education.
- Design of pre-hospital emergency medical care improvements.
- Disaster preparedness planning and management.
- Design and implement policies and procedures related to EMS programs.
- Oversee, coordinate and administer the physician and medical component of the USAR Program

Conditions of the Contract stipulate that Franklin D. Pratt, MD, Inc. shall provide no service which conflicts with his performance under the Contract, nor shall he provide any services on behalf of the District for any project or facilities in which he has a financial or personal interest.

The Contract has been signed by Franklin D. Pratt, MD, Inc. and has been reviewed and approved by County Counsel. On final analysis and consideration of the award, this vendor was selected without regard to race, color, creed, or national origin.

ENVIRONMENTAL DOCUMENTATION

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

CONTRACTING PROCESS

On May 3, 2011, the District issued a Request for Proposals (RFP) solicitation to seek a contractor who could perform Medical Director Services. In addition to posting the announcement on the County's WebVen, advertisements were posted in three (3) local community newspapers, a mailing list was provided by Department of Health Services, and current physicians from the Urban Search And Rescue (USAR) team were notified. In all, Fifteen (15) bidders were identified and were notified via email. Six (6) solicitation packets were requested and distributed. Two (2) vendors attended the Proposer's conference and of those, one (1) vendor submitted a proposal: Franklin D. Pratt, MD, Inc.

The proposal evaluation consisted of two elements: 1) meeting all of the minimum requirements and providing all the necessary documentation and 2) informed averaging methodology scored by an evaluation committee. The committee's evaluation was based on criteria described in the RFP, which included price, qualifications, experience, references, approach, and quality control. Since Franklin D. Pratt, MD, Inc. was the only proposer, he presented the lowest-cost proposal and was the highest ranked, responsive and responsible proposer.

The local Small Business Enterprise (SBE) program's provisions were included in the RFP. No proposer was certified as a Local SBE vendor; therefore no local SBE credit was applied in the RFP evaluation process.

The District has evaluated and determined that Franklin D. Pratt, MD, Inc. complies with the District's policy of compliance with the Community Business Enterprises Program (Attachment B), Child Support Compliance Program and Contractor's Responsibility and Debarment Program, the Safely Surrendered Baby Law, and the Contractor Employee Jury Services-Program, and agrees to maintain compliance with all requirements throughout the term of the Contract. The District has reviewed the Better Business Bureau and the State's Business License websites to assess the vendor's past performances, and/or negative experiences, and finds that the vendor does not have any current violations or complaints. Franklin D. Pratt, MD, Inc. was evaluated and deemed capable of performing the services requested, based on his qualifications and experience as stated in his proposal, and as demonstrated in prior Contracts with the District.

The Contract includes a COLA which will be applicable after the third year and annually thereafter. This will allow the amount of the Contract to be adjusted annually, based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index (CPI). Also, any increase shall not exceed the general salary movement granted to County employees as determined by the CEO as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increases in County employee's salaries; no COLAs will be granted. This is not a Proposition A Contract, therefore, it is exempt from the Living Wage Program (County Code Chapter 2.201).

Franklin D. Pratt, MD, Inc. has agreed to comply with all standard Contract terms and conditions except as specified below:

Indemnification – Franklin D. Pratt, MD, Inc. presented an exception to the standard indemnification language in the contract, as he requested equal indemnification if he was involved in any litigation, claim or demand. The County's CEO Risk Management section recommended rejecting this exception and instead recommended a minimum modification of the standard indemnification by

adding the following language to the Contract: “The Consultant shall not be obligated to indemnify the District for liability arising directly from the District’s sole negligence.” Franklin D. Pratt, MD, Inc. has agreed to accept this language.

This Contract is submitted to your Board for approval with the District’s belief that it represents a minimal risk position for the District given the critical need for these services. It is recommended that your Board approve this Contract with the identified exceptions that were negotiated, based upon the business and operational need for this contract.

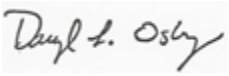
IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no significant impact on current services as there will be no displacement of any County employees. These services are presently contracted with Franklin D. Pratt, MD, Inc. therefore the Contract will not result in a reduction of service, and there is no change in risk exposure to the County.

CONCLUSION

Upon approval by your Honorable Board, the District requests the Executive Office of the Board notify the District’s Contract Administrator, Lucy Guadiana at (323) 838-2275 when the documents become available.

Respectfully submitted,



DARYL L. OSBY
FIRE CHIEF, FORESTER & FIRE WARDEN

DLO:cs

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Vicky Santana
Randi Tahara
Joseph Charney
Susan Nissman
Rick Velasquez
Sussy Nemer

ATTACHMENT A

CONTRACT #: _____

CONTRACT

BY AND BETWEEN

CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY

AND

FRANKLIN D. PRATT, MD., INC.

FOR

CONSULTANT FOR EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION, MANAGEMENT AND SUPERVISION SERVICES (MEDICAL DIRECTOR)

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CONTRACT BETWEEN
CONSOLIDATED FIRE PROTECTION DISTRICT OF
LOS ANGELES COUNTY AND
FRANKLIN D. PRATT, MD., INC.
FOR CONSULTANT FOR EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION, MANAGEMENT AND SUPERVISION SERVICES (MEDICAL DIRECTOR)

This Contract and Exhibits made and entered into this 20th day of December, 2011 by and between the Consolidated Fire Protection District of Los Angeles County, hereinafter referred to as "District" and Franklin D. Pratt, MD., Inc., hereinafter referred to as "Consultant"

RECITALS

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WHEREAS, the District is authorized by Health and Safety Code §13861 and Government Code §31000 to contract with public or private companies to provide professional, expert technical and specialized services; and

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

WHEREAS, the District provides pre-hospital 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, 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, management and supervision for the District; 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, in rendering these services, the Consultant shall, at a minimum, exercise the ordinary care and skill expected of similar experienced practitioner in Consultant's profession acting under similar circumstances.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

1.0 APPLICABLE DOCUMENTS

Exhibits A, B, C, D, E, F, G, H, and I 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 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.

Standard Exhibits:

1.1	EXHIBIT A -	Statement of Work
1.2	EXHIBIT B -	Pricing Schedule
1.3	EXHIBIT C -	Consultant's EEO Certification
1.4	EXHIBIT D -	District's Administration
1.5	EXHIBIT E -	Consultant's Administration
1.6	EXHIBIT F -	Consultant's Acknowledgement and Confidentiality Agreement
1.7	EXHIBIT G -	Jury Service Ordinance
1.8	EXHIBIT H -	Safely Surrendered Baby Law
1.9	EXHIBIT I -	Consultant's Obligations as a "Business Associate" Under the Health Insurance Portability AND Accountability Act of 1996 (HIPAA)

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 8.1 - 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 meaning, unless otherwise apparent from the context in which they are used.

2.1 **Contract:** Agreement 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 **Consultant Project Manager:** The individual designated by the Consultant to administer the Contract operations after the Contract award.

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

2.5 **District Project 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's Project Manager.

2.6 **District Project Manager:** Person designated by District's Project Director to manage the operations under this Contract.

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

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

3.0 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 herein.

3.2 If the Consultant provides any tasks, deliverables, goods, 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 Consultant shall have no claim whatsoever against the District.

3.3 Consultant shall be paid on a per monthly basis for services rendered. Monthly bill rate shall be for 80 hours a month. Any work performed <u>over</u> 80 hours a month must be preapproved by the Fire Chief or authorized designee. Work performed <u>over or under</u> 80 hours a month will be compensated at an hourly rate. The hourly rate shall be determined by dividing the monthly rate by 80. A timecard shall be submitted to account for hours worked.

4.0 TERM OF CONTRACT

4.1 The term of this Contract shall be three (3) years, commencing on January 1, 2012, unless term is sooner terminated or extended, in whole or in part, as provided in this Contract.

4.2 The District shall have the sole option to extend this Contract term for up to two (2) additional one-year periods and twelve (12) month to month extensions, for a maximum

total Contract term of six (6) years. Each such option and extension shall be exercised at the sole discretion of the Fire Chief or authorized designee.

4.3 The Consultant shall notify the District when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the 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 Contract term shall not exceed $132,000 per contract year. Effective upon the expiration of the Contract's third year, the District may approve a cost of living adjustment based on the Consultants request. The Contract allows for the subsequent renewal options that include two (2) one-year periods and twelve (12) month-to-months extensions be subject to Paragraph 5.6, Cost of Living Adjustments (COLA's).

5.2 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 occur only with the District's express prior written approval.

5.3 The Consultant shall maintain a system of record keeping that will allow the Consultant to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon occurrence of this event, the Consultant shall send written notification to (Department) at the address herein provided in Exhibit D – District's Administration.

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

The Consultant shall have no claim against District for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Consultant after the expiration or other termination of this Contract. Should the 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/termination of this Contract shall not constitute a waiver of District's right to recover such payment from

the Consultant. This provision shall survive the expiration or other termination of this Contract.

5.5 **Invoices and Payments**

5.5.1 The Consultant shall invoice the District only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit A - Statement of Work and elsewhere hereunder. The Consultant shall prepare invoices, which shall include the charges owed to the Consultant by the District under the terms of this Contract. The Consultant's payments shall be as provided in Exhibit B - Pricing Schedule, and the Consultant shall be paid only for the tasks, deliverables, goods, 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. A timecard shall be submitted to account for hours worked.

5.5.2 The Consultant's invoices shall be priced in accordance with Exhibit B - Pricing Schedule.

5.5.3 The Consultant's invoices shall contain the information set forth in Exhibit A - Statement of Work describing the tasks, deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.

5.5.4 The Consultant shall submit the monthly invoices to the District by the 15th calendar day of the month following the month of service.

5.5.5 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 and 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 90091-0901

In addition, Consultant shall deliver one (1) copy of the invoice and all pertinent work order documentation to the following:

Consolidated Fire Protection District of Los Angeles County
Fire Chief – Daryl L. Osby

5.5.6 **District Approval of Invoices**

All invoices submitted by the Consultant for payment must have the written approval of the District's 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. To assist the District in making timely payment for services provided hereunder, Consultant's invoice shall contain the following:

- Contract number
- Itemize charges for times services were provided
- Copy of approved Work Authorization from for special assignments
- Verification of reimbursable expenses
- Attached timecard to account for hours worked.

Payment of all completed work shall be contingent upon approval of an itemized invoice by District's authorized representative.

5.5.7 **Local Small Business Enterprises – Prompt Payment Program**

Certified Local SBEs will receive prompt payment for services they provide to District. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

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

The Consultant's rates shall remain firm and fixed for the initial three (3) years of the Contract. The contract (hourly, daily, monthly, etc.) amount may be adjusted after the initial three (3) years 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 District employees as determined by the Chief Executive Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board from approving any increase in District employee salaries; no cost of living adjustments will be granted. Where the District decides to grant a Cost of Living Adjustment (COLA) pursuant to this paragraph for living wage contracts, it may, in its sole discretion exclude the cost of labor (including the cost of wages and benefits paid to employees providing services under this contract) from the base upon which a COLA is calculated, unless the Consultant can show that labor cost will actually increase.

6.0 ADMINISTRATION OF CONTRACT - DISTRICT

DISTRICT ADMINISTRATION

A listing of all District Administration referenced in the following sub-paragraphs is designated in Exhibit D – District's Administration. 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 Project 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; and
- Providing direction to the Consultant in the areas relating to District policy, information requirements, and procedural requirements; and
- Making changes in the terms and conditions of this Contract in accordance with Sub-paragraph 8.1, Amendments.

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 the Consultant's Project Manager on a regular basis; and
- Inspecting any and all tasks, deliverables, goods, 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 The Consultant's Project Manager is designated in Exhibit E, Consultant's Administration. 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 The Consultant's Project Manager shall be responsible for the Consultant's day-to-day activities as related to this Contract and shall coordinate with District's Contract Project Manager on a regular basis.

7.2 Consultant's Staff Identification

All of Consultant's employees assigned to District facilities are required to have a District Identification (ID) badge on their person and visible at all times.

7.2.1 Consultant is responsible to ensure that employees have obtained a District ID badge before they are assigned to work in a District facility. Consultant personnel may be asked to leave a District facility by a District representative if they do not

have the proper District ID badge on their person.

7.2.2 Consultant shall notify the District within one business day when staff is terminated from working under this Contract. Consultant shall retrieve and return an employee's ID badge to the District on the next business day after the employee has terminated employment with the Consultant.

7.2.3 If District requests the removal of Consultant's staff, Consultant shall retrieve and return an employee's ID badge to the District on the next business day after the employee has been removed from working on the District's Contract.

7.3 Background and Security Investigations

7.3.1 Each of Consultant's staff performing services under this Contract, who is in a designated sensitive position, as determined by District in District's sole discretion, shall undergo and pass a background investigation to the satisfaction of District as a condition of beginning and continuing to perform services under this Contract. Such background investigation may include, but shall not be limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice. The fees associated with the background investigation shall be at the expense of the Consultant, regardless if the member of Consultant's staff passes or fails the background investigation.

7.3.2 If a member of Consultant's staff does not pass the background investigation, District may request that the member of Consultant's staff be immediately removed from performing services under the Contract at any time during the term of the Contract. District will not provide to Consultant or to Consultant's staff any information obtained through the District's background investigation.

7.3.3 District, in its sole discretion, may immediately deny or terminate facility access to any member of Consultant's staff that does not pass such investigation to the satisfaction of the District or whose background or conduct is incompatible with District facility access.

7.3.4 Disqualification of any member of Consultant's staff pursuant to this Paragraph 7.3 shall not relieve Consultant of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.4 Confidentiality

7.4.1 Consultant shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, District policies concerning

information technology security and the protection of confidential records and information.

7.4.2 Consultant shall indemnify, defend, and hold harmless District, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Consultant, its officers, employees, agents, or subcontractors, to comply with this Paragraph 7.4, as determined by District in its sole judgment. Any legal defense pursuant to Consultant's indemnification obligations under this Paragraph 7.4 shall be conducted by Consultant and performed by counsel selected by Consultant and approved by District. Notwithstanding the preceding sentence, District shall have the right to participate in any such defense at its sole cost and expense, except that in the event Consultant fails to provide District with a full and adequate defense, as determined by District in its sole judgment, District shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Consultant for all such costs and expenses incurred by District in doing so. Consultant shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of District without District's prior written approval.

7.4.3 Consultant shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.

7.4.4 Consultant shall sign and adhere to the provisions of the "Consultant Acknowledgement and Confidentiality Agreement", Exhibit F.

8.0 STANDARD TERMS AND CONDITIONS

8.1 AMENDMENTS

8.1.1 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 Consultant and by the Fire Chief or authorized designee.

8.1.2 The District's Board of Supervisors or Chief Executive Officer 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 Executive Officer. To implement such changes, an Amendment to the

Contract shall be prepared and executed by the Consultant and by the Fire Chief or authorized designee.

8.1.3 The Fire Chief or authorized designee may at his 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. To implement an extension of time, an Amendment to the Contract shall be prepared and executed by the Consultant and by the Fire Chief or authorized designee.

8.2 ASSIGNMENT AND DELEGATION

8.2.1 The Consultant shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of District, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, District consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. 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.

8.2.2 Shareholders, partners, members, or other equity holders of Consultant may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Consultant to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of District in accordance with applicable provisions of this Contract.

8.2.3 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, shall be a material breach of the Contract which may result in the termination of this Contract. In the event of such termination, District shall be entitled to pursue the same remedies against Consultant as it could pursue in the event of default by Consultant.

8.3 AUTHORIZATION WARRANTY

The Consultant represents and warrants that the person executing this Contract for the Consultant is an authorized agent who 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.

8.4 BUDGET REDUCTIONS

In the event that the District's Board of Supervisors adopts, in any fiscal year, a District Budget which provides for reductions in the salaries and benefits paid to the majority of District employees and imposes similar reductions with respect to District Contracts, the District reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Consultant under this Contract shall also be reduced correspondingly. The District's notice to the Consultant regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Consultant shall continue to provide all of the services set forth in this Contract.

8.5 COMPLAINTS

The Consultant shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

8.5.1 Within ten (10) business days after Contract effective date, the Consultant shall provide the District with the Consultant's policy for receiving, investigating and responding to user complaints.

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

8.5.3 If the District requests changes in the Consultant's policy, the Consultant shall make such changes and resubmit the plan within five (5) business days for District approval.

8.5.4 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.

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

8.5.6 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.

8.5.7 Copies of all written responses shall be sent to the District's Project Manager within three (3) business days of mailing to the complainant.

8.6 COMPLIANCE WITH APPLICABLE LAW

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

8.6.2 Consultant shall indemnify, defend, and hold harmless District, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Consultant, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by District in its sole judgment. Any legal defense pursuant to Consultant's indemnification obligations under this Paragraph 8.6 shall be conducted by Consultant and performed by counsel selected by Consultant and approved by District. Notwithstanding the preceding sentence, District shall have the right to participate in any such defense at its sole cost and expense, except that in the event Consultant fails to provide District with a full and adequate defense, as determined by District in its sole judgment, District shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Consultant for all such costs and expenses incurred by District in doing so. Consultant shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of District without District's prior written approval.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Consultant hereby assures that it will comply with Subchapter VI 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:**

This Contract is subject to the provisions of the District'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, a copy of which is attached as Exhibit G and incorporated by reference into and made a part of this Contract.

8.8.2 **Written Employee Jury Service Policy.**

1. Unless the Consultant has demonstrated to the District's satisfaction either that the Consultant is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Consultant qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the 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 Contractor and has received or will receive an aggregate sum of $50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the 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 the 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 the Consultant is not required to comply with the Jury Service Program when the Contract commences, the Consultant shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Consultant shall immediately notify the District if the Consultant at any time either comes within the Jury Service Program's definition of "Consultant" or if the Consultant no longer qualifies for an exception to the Jury Service Program. In either event, the 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 the Consultant demonstrate, to the District's satisfaction that the Consultant either continues to remain outside of the Jury Service Program's definition of "Consultant" and/or that the 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 the 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. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Contract.

8.10 CONSIDERATION OF HIRING DISTRICT 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 District employees who are targeted for layoff or qualified, former District employees who are on a re-employment list during the life of this Contract.

8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

8.11.1 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 District will refer GAIN/GROW participants by job category to the Consultant.

8.11.2 In the event that both laid-off District employees and GAIN/GROW participants are available for hiring, District employees shall be given first priority.

8.12 CONSULTANT 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 or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Consultant may have with the County.

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 a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Consultant's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, 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 County or any other public entity.

8.12.4 **Contractor Hearing Board**

1. If there is evidence that the Consultant may be subject to debarment, the Department will notify the Consultant in writing of the evidence which 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.

2. 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 Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. 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.

4. If a Consultant has been debarred for a period longer than five (5) years, that Consultant may after the debarment has been in effect for at least five (5) 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 Consultant 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.

5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Consultant has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) 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 supporting 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.

6. 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.

8.12.5 **Subcontractors of Consultant**

These terms shall also apply to Subcontractors of District Consultant.

8.13 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 District Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Consultant will also encourage its Subcontractors, if 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. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

8.14 CONSULTANT'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

8.14.1 The Consultant acknowledges that the District has established a goal of ensuring that all individuals who benefit financially from the District through 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 District and its taxpayers.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) 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 in 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, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 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 impose other penalties as specified in this Contract.

8.16 DAMAGE TO DISTRICT FACILITIES, BUILDINGS OR GROUNDS

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

8.16.2 If the 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 the Consultant by cash payment upon demand.

8.17 EMPLOYMENT ELIGIBILITY VERIFICATION

8.17.1 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.

8.17.2 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.

8.18 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 Amendments prepared pursuant to sub-paragraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments 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.

8.19 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.

8.20 FORCE MAJEURE

8.20.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").

8.20.2 Notwithstanding the foregoing, a default by a subcontractor of Consultant shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Consultant and such subcontractor, and without any fault or negligence of either of them. In such case, Consultant shall not be liable 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 Consultant to meet the required performance schedule. As used in this sub-paragraph, the term “subcontractor” and “subcontractors” mean subcontractors at any tier.

8.20.3 In the event Consultant's failure to perform arises out of a force majeure event, Consultant agrees to use commercially reasonable best efforts to obtain goods

or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

8.21 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.

8.22 INDEPENDENT CONSULTANT STATUS

8.22.1 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.

8.22.2 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.

8.22.3 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.

8.22.4 The Consultant shall adhere to the provisions stated in sub-paragraph 7.4 - Confidentiality.

8.23 INDEMNIFICATION

The Consultant shall indemnify, defend and hold harmless the District, its Special Districts, 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 Consultant shall not be obligated to indemnify the District for liability arising directly from the District's sole negligence.

8.24 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Consultant's indemnification of District, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Consultant shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Sections 8.24 and 8.25 of this Contract. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Consultant pursuant to this Contract. The District in no way warrants that the Required Insurance is sufficient to protect the Consultant for liabilities which may arise from or relate to this Contract.

8.24.1 **Evidence of Coverage and Notice to District**

- Certificate(s) of insurance coverage (Certificate) satisfactory to District, and a copy of an Additional Insured endorsement confirming District and its Agents (defined below) has been given Insured status under the Consultant's General Liability policy, shall be delivered to District at the address shown below and provided prior to commencing services under this Contract.
- Renewal Certificates shall be provided to District not less than 10 days prior to Consultant's policy expiration dates. The District reserves the right to obtain complete, certified copies of any required Consultant and/or Sub-Contractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Consultant identified as the contracting party in this Contract. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand ($50,000.00) dollars, and list any District required endorsement forms.
- Neither the District's failure to obtain, nor the District's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other

insurance documentation or information provided by the Consultant, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

Consolidated Fire Protection District of Los Angeles County
Materials Management Division / Contracts Section
5801 S. Eastern Ave., Ste 100
Commerce, CA 90040

Consultant also shall promptly report to District any injury or property damage accident or incident, including any injury to a Consultant employee occurring on District property, and any loss, disappearance, destruction, misuse, or theft of District property, monies or securities entrusted to Consultant. Consultant also shall promptly notify District of any third party claim or suit filed against Consultant or any of its Sub-Contractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against Consultant and/or District.

8.24.2 **Additional Insured Status and Scope of Coverage**

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively District and its Agents) shall be provided additional insured status under Consultant's General Liability policy with respect to liability arising out of Consultant's ongoing and completed operations performed on behalf of the District. District and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Consultant's acts or omissions, whether such liability is attributable to the Consultant or to the District. The full policy limits and scope of protection also shall apply to the District and its Agents as an additional insured, even if they exceed the District's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

8.24.3 **Cancellation of Insurance**

Except in the case of cancellation for non-payment of premium, Consultant's insurance policies shall provide, and Certificates shall specify, that District shall receive not less than thirty (30) days advance written notice by mail of any cancellation of the Required Insurance. Ten (10) days prior notice may be given to District in event of cancellation for non-payment of premium.

8.24.4 **Failure to Maintain Insurance**

Consultant's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which District immediately may withhold payments due to Consultant, and/or suspend or terminate this Contract. District, at its sole discretion, may obtain damages from Consultant resulting from said breach.

8.24.5 **Insurer Financial Ratings**

Coverage shall be placed with insurers acceptable to the District with A.M. Best ratings of not less than A:VII unless otherwise approved by District.

8.24.6 **Consultant's Insurance Shall Be Primary**

Consultant's insurance policies, with respect to any claims related to this Contract, shall be primary with respect to all other sources of coverage available to Consultant. Any District maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Consultant coverage.

8.24.7 **Waivers of Subrogation**

To the fullest extent permitted by law, the Consultant hereby waives its rights and its insurer(s)' rights of recovery against District under all the Required Insurance for any loss arising from or relating to this Contract. The Consultant shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 **Sub-Contractor Insurance Coverage Requirements**

Consultant shall include all Sub-Contractors as insureds under Consultant's own policies, or shall provide District with each Sub-Contractor's separate evidence of insurance coverage. Consultant shall be responsible for verifying each Sub-Contractor complies with the Required Insurance provisions herein, and shall require that each Sub-Contractor name the District and Consultant as additional insureds on the Sub-Contractor's General Liability policy. Consultant shall obtain District's prior review and approval of any Sub-Contractor request for modification of the Required Insurance.

8.24.9 **Deductibles and Self-Insured Retentions (SIRs)**

Consultant's policies shall not obligate the District to pay any portion of any Consultant deductible or SIR. The District retains the right to require Consultant to reduce or eliminate policy deductibles and SIRs as respects the

District, or to provide a bond guaranteeing Consultant's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.10 **Claims Made Coverage**

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Contract. Consultant understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

8.24.11 **Application of Excess Liability Coverage**

Consultants may use a combination of primary and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

8.24.12 **Separation of Insureds**

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

8.24.13 **Alternative Risk Financing Programs**

The District reserves the right to review, and then approve, Consultant use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The District and its Agents shall be designated as an Additional Covered Party under any approved program.

8.24.14 **District Review and Approval of Insurance Requirements**

The District reserves the right to review and adjust the Required Insurance provisions, conditioned upon District's determination of changes in risk exposures.

8.25 INSURANCE COVERAGE

8.25.1 **Commercial General Liability** insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming District and its Agents as an additional insured, with limits of not less than:

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

8.25.2 **Automobile Liability** insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than $1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Consultant's use of autos pursuant to this Contract, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

8.25.3 **Workers Compensation and Employers' Liability** insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than $1 million per accident. If applicable to Consultant's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

8.25.4 **Unique Insurance Coverage**

- **Professional Liability/Errors and Omissions**

  Insurance covering Consultant's liability arising from or related to this Contract, with limits of not less than:

  $1 million per claim
  $3 million aggregate
  Further, Consultant understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

8.26 LIQUIDATED DAMAGES

8.26.1 If, in the judgment of the Fire Chief or his authorized designee, the Consultant is deemed to be non-compliant with the terms and obligations assumed hereby, the Fire Chief or his authorized designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Consultant's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Consultant from the District, will be

forwarded to the Consultant by the Fire Chief or his authorized designee, in a written notice describing the reasons for said action.

8.26.2 If the Fire Chief or his authorized designee determines that there are deficiencies in the performance of this Contract that the Fire Chief or his authorized designee deems are correctable by the Consultant over a certain time span, the Fire Chief or his authorized designee, will provide a written notice to the Consultant to correct the deficiency within specified time frames. Should the Consultant fail to correct deficiencies within said time frame, the Fire Chief or his authorized designee, may: (a) Deduct from the Consultant's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or (b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Consultant to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars ($100) per day per infraction, or as specified in the Performance Requirements Summary (PRS) Chart, as defined in Appendix C, Technical Exhibit 2, hereunder, and that the Consultant shall be liable to the District for liquidated damages in said amount. Said amount shall be deducted from the District's payment to the Consultant; and/or (c) Upon giving five (5) days notice to the Consultant for failure to correct the deficiencies, the District may correct any and all deficiencies and the total costs incurred by the District for completion of the work by an alternate source, whether it be District forces or separate private consultant, will be deducted and forfeited from the payment to the Consultant from the District, as determined by the District.

8.26.3 The action noted in sub-paragraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the Consultant to recover the District cost due to the failure of the Consultant to complete or comply with the provisions of this Contract.

8.26.4 This sub-paragraph shall not, in any manner, restrict or limit the District's right to damages for any breach of this Contract provided by law or as specified in the PRS or sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the District's right to terminate this Contract as agreed to herein.

8.27 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.

8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION

8.28.1 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.

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

8.28.3 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.

8.28.4 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, physical or mental disability, marital status, or political affiliation.

8.28.5 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.

8.28.6 The Consultant shall allow District representatives access to the Consultant's employment records during regular business hours to verify compliance with the provisions of this sub-paragraph 8.28 when so requested by the District.

8.28.7 If the District finds that any provisions of this sub-paragraph 8.28 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 and Housing 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.

8.28.8 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.

8.29 NON EXCLUSIVITY

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

8.30 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) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

8.31 NOTICE OF DISPUTES

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

8.32 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 Earned 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.

8.33 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 H of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

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 Exhibits 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 Fire Chief or authorized designee 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 the Consultant; all information obtained in connection with the District's right to audit and inspect the 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; and
- 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 Project 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 record relating to this Contract. All such material, including, but not limited to, all financial records, bank

statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and 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. Subject to applicable law, 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 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 County'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

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Consultant agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.40 SUBCONTRACTING

8.40.1 The requirements of this Contract may not be subcontracted by the Consultant **without the advance approval of the District**. Any attempt by the Consultant to subcontract without the prior consent of the District may be deemed a material breach of this Contract.

8.40.2 If the Consultant desires to subcontract, the Consultant shall provide the following information promptly at the District's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the District.

8.40.3 The Consultant shall indemnify and hold the District harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Consultant employees.

8.40.4 The Consultant shall remain fully responsible for all performances required of it under this Contract, including those that the Consultant has determined to subcontract, notwithstanding the District's approval of the Consultant's proposed subcontract.

8.40.5 The District's consent to subcontract shall not waive the District's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Consultant is responsible to notify its Subcontractors of this District right.

8.40.6 The District's Project Director is authorized to act for and on behalf of the District with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the District, Consultant shall forward a fully executed subcontract to the District for their files.

8.40.7 The Consultant shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the District's consent to subcontract.

8.40.8 The Consultant shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the District from each approved Subcontractor. Before any Subcontractor employee may perform any work hereunder, the Consultant shall ensure delivery of all such documents to:

Consolidated Fire Protection District of Los Angeles County
Materials Management Division / Contracts Section
5801 S. Eastern Ave., Ste 100
Commerce, CA 90040

8.41 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of the Consultant to maintain compliance with the requirements set forth in sub-paragraph 8.14 - Consultant's Warranty of Adherence to County's Child Support Compliance Program, shall constitute default under this Contract. Without limiting the rights and remedies available to the District under any other provision of this Contract, failure of the Consultant to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the District may terminate this Contract pursuant to sub-paragraph 8.43 - Termination for Default and pursue debarment of the Consultant, pursuant to County Code Chapter 2.202.

8.42 TERMINATION FOR CONVENIENCE

8.42.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the District, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Consultant 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 ten (10) days after the notice is sent.

8.42.2 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.

8.42.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Consultant under this Contract shall be maintained by the Consultant in accordance with sub-paragraph 8.38, Record Retention AND Inspection/Audit Settlement.

8.43 TERMINATION FOR DEFAULT

8.43.1 The District may, by written notice to the Consultant, terminate the whole or any part of this Contract, if, in the judgment of District's Project Director:

- Consultant has materially breached this Contract; or
- 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.

8.43.2 In the event that the District terminates this Contract in whole or in part as provided in sub-paragraph 8.43.1, 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.

8.43.3 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 8.43.2 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 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, the term "Subcontractor(s)" means Subcontractor(s) at any tier.

8.43.4 If, after the District has given notice of termination under the provisions of this sub-paragraph 8.43, it is determined by the District that the Consultant was not in default under the provisions of this sub-paragraph 8.43, or that the default was excusable under the provisions of sub-paragraph 8.43.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to sub-paragraph 8.42 - Termination for Convenience.

8.43.5 The rights and remedies of the District provided in this sub-paragraph 8.43 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.44 TERMINATION FOR IMPROPER CONSIDERATION

8.44.1 The District may, by written notice to the Consultant, immediately terminate the right of the Consultant to proceed under this District if it is found that consideration, in any form, was offered or given by the Consultant, either directly or through an intermediary, to any 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.

8.44.2 The Consultant shall immediately report any attempt by a District officer or employee to solicit such improper consideration. The report shall be made either to the District manager charged with the supervision of the employee or to the District Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

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

8.45 TERMINATION FOR INSOLVENCY

8.45.1 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.

8.45.2 The rights and remedies of the District provided in this sub-paragraph 8.45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.46 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

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.

8.47 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.

8.48 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.

8.49 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 8.49 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.50 WARRANTY AGAINST CONTINGENT FEES

8.50.1 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.

8.50.2 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.

8.51 WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Consultant acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers. Unless Consultant qualifies for an exemption or exclusion, Consultant warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

8.52 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Failure of Consultant to maintain compliance with the requirements set forth in Paragraph 8.51 "Warranty of Compliance with County's Defaulted Property Tax Reduction Program" shall constitute default under this contract. Without limiting the rights and remedies available to District under any other provision of this contract, failure of Consultant to cure

such default within 10 days of notice shall be grounds upon which District may terminate this contract and/or pursue debarment of Consultant, pursuant to County Code Chapter 2.206.

9.0 UNIQUE TERMS AND CONDITIONS

9.1 CONSULTANT'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

The District is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Contract, the Consultant provides services to the District and the Consultant receives, has access to, and/or creates Protected Health Information as defined in Exhibit I in order to provide those services. The District and the Consultant therefore agree to the terms of Exhibit I, Consultant's Obligations As a "Business Associate" Under Health Insurance Portability and Accountability Act of 1996 (HIPAA)

9.2 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM

9.2.1 This Contract is subject to the provisions of the County's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

9.2.2 The Consultant shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.

9.2.3 The Consultant shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a District official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

9.2.4 If the Consultant has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the District any difference between the contract amount and what the District's costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and

3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and OAAC of this information prior to responding to a solicitation or accepting a contract award.

9.3 OWNERSHIP OF MATERIALS, SOFTWARE AND COPYRIGHT

9.3.1 District shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "materials") which are originated or created through the Consultant's work pursuant to this Contract. The Consultant, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in the District all of the Consultant's right, title and interest in and to such original materials, including any copyright, patent and trade secret rights which arise pursuant to the Consultant's work under this Contract.

9.3.2 During the term of this Contract and for five (5) years thereafter, the Consultant shall maintain and provide security for all of the Consultant's working papers prepared under this Contract. District shall have the right to inspect, copy and use at any time during and subsequent to the term of this Contract, any and all such working papers and all information contained therein.

9.3.3 Any and all materials, software and tools which are developed or were originally acquired by the Consultant outside the scope of this Contract, which the Consultant desires to use hereunder, and which the Consultant considers to be proprietary or confidential, must be specifically identified by the Consultant to the District's Project Manager as proprietary or confidential, and shall be plainly and prominently marked by the Consultant as "Proprietary" or

"Confidential" on each appropriate page of any document containing such material.

9.3.4 The District will use reasonable means to ensure that the Consultant's proprietary and/or confidential items are safeguarded and held in confidence. The District agrees not to reproduce, distribute or disclose to non-District entities any such proprietary and/or confidential items without the prior written consent of the Consultant.

9.3.5 Notwithstanding any other provision of this Contract, the District will not be obligated to the Consultant in any way under sub-paragraph 9.3.4 for any of the Consultant's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required by sub-paragraph 9.3.3 or for any disclosure which the District is required to make under any state or federal law or order of court.

9.3.6 All the rights and obligations of this sub-paragraph 9.3 shall survive the expiration or termination of this Contract.

9.4 PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION

9.4.1 The Consultant shall indemnify, hold harmless and defend District from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Consultant's work under this Contract. District shall inform the Consultant as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Consultant's defense and settlement thereof.

9.4.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that District's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Consultant, at its sole expense, and providing that District's continued use of the system is not materially impeded, shall either:

- Procure for District all rights to continued use of the questioned equipment, part, or software product; or

- Replace the questioned equipment, part, or software product with a non-questioned item; or
- Modify the questioned equipment, part, or software so that it is free of claims.

The Consultant shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Consultant, in a manner for which the questioned product was not designed nor intended.

9.5 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

9.5.1 This Contract is subject to the provisions of the District's ordinance entitles Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

9.5.2 Consultant shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.

9.5.3 Consultant shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a District official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.

9.5.4 If Consultant has obtained District certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the District any difference between the contract amount and what the District's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the contract; and

3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the certifying department of this information prior to responding to a solicitation or accepting a contract award.

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 Board of Supervisors has caused this Contract to be executed on its behalf by the Chairman 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, MD., INC.

By _____
Signature

President
Title

CONSOLIDATED FIRE PROTECTION DISTRICT
OF LOS ANGELES COUNTY

By _____
Zev Yaroslavsky, Chairman, Board of Supervisors

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

44 DEC 20 2011

SACHI A. HAMAI
EXECUTIVE OFFICER

ATTEST:

SACHI HAMAI
Executive Officer-Clerk
of the Board of Supervisors

By _____
DEPUTY

APPROVED AS TO FORM:

Andrea Sheridan Ordin
County Counsel

By _____
Senior Deputy County Counsel

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

ATTACHMENT B

REQUIRED FORMS - EXHIBIT 7

REQUEST FOR LOCAL SBE PREFERENCE PROGRAM CONSIDERATION AND CBE FIRM/ORGANIZATION INFORMATION FORM

INSTRUCTIONS: All proposers responding to this solicitation must complete and return this form for proper consideration of the proposal.

I. LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM:

Firm Name: FRANKLIN D. PRATT, MD, INC.

County Vendor Number: 50586601

☒ I AM NOT → A Local SBE certified by the County of Los Angeles Office of Affirmative Action Compliance (OAAC) as of the date of this proposal submission.

☐ I AM

☐ As an *eligible* Local SBE, I request this proposal be considered for the Local SBE Preference. (Attach Local SBE Certification letter issued by County of Los Angeles OAAC)

II. FIRM/ORGANIZATION INFORMATION: The information requested below is for statistical purposes only. On final analysis and consideration of award, contractor/vendor will be selected without regard to race/ethnicity, color, religion, sex, national origin, age, sexual orientation or disability.

Business Structure: ☐ Sole Proprietorship ☐ Partnership ☒ Corporation ☐ Non-Profit ☐ Franchise
☐ Other (Please Specify) _____

Total Number of Employees (including owners): THREE

Race/Ethnic Composition of Firm. Please distribute the above total number of individuals into the following categories:

Race/Ethnic Composition	Owners/Partners/ Associate Partners		Managers		Staff	
	Male	Female	Male	Female	Male	Female
Black/African American						
Hispanic/Latino						1
Asian or Pacific Islander						
American Indian						
Filipino						
White	1	1				

III. PERCENTAGE OF OWNERSHIP IN FIRM: Please indicate by percentage (%), how ***OWNERSHIP*** of the firm is distributed.

	Black/African American	Hispanic/ Latino	Asian or Pacific Islander	American Indian	Filipino	White
Men	%	%	%	%	%	90 %
Women	%	%	%	%	%	10 %

IV. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERAN BUSINESS ENTERPRISES: *If your firm is currently certified as a minority, women, disadvantaged or disabled veteran owned business enterprise by a public agency, complete the following and attach a copy of your proof of certification. (Use back of form, if necessary.)*

Agency Name	Minority	Women	Disadvantage	Disabled Veteran	Expiration Date

V. DECLARATION: I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE.

FRANKLIN D. PRATT	Franklin D Pratt	President	5/30/2011
Print Authorized Name	Authorized Signature	Title	Date

ATTACHMENT C

REQUIRED FORMS – EXHIBIT 15 (aka exhibit B)

PRICING SHEET

MEDICAL DIRECTOR - SPECIFIC PROPOSAL FOR MONTHLY BILL RATES

Name: FRANKLIN D. PRATT, MD, INC

Address: 3020 16TH ST.

City: SANTA MONICA State: CA Zip: 90402

Phone #: 310 849 9191 Fax #: 310 784 3789

Email: fpals@ucla.edu

24 Hr. Contact #: 310 849 9191

LA County WEBVEN Vendor # (required): 50586601
(Register at: http://doingbusiness.lacounty.gov/main_db.htm)

Monthly bill rate must include all overhead, insurance, benefits, training, mileage, memberships, registrations, subscriptions and profit. Rate submitted will be considered to include all applicable taxes, fees, costs, etc. Monthly rate is for 80 hours a month.

*Any work performed over 80 hours a month must be preapproved by the Fire Chief or authorized designee. Work performed over or under 80 hours a month will be compensated at an hourly rate * The hourly rate shall be determined by dividing the monthly rate by 80. A timecard shall be submitted along with monthly invoice to account for hours worked.*

COMPENSATION FOR: EMERGENCY MEDICAL PROGRAM DESIGN, IMPLEMENTATION, MANAGEMENT, AND SUPERVISION SERVICES:

$ 10,000.00 monthly

$ 125.00 *hourly

REIMBURSABLE EXPENSES SHALL BE REIMBURSED BASED ON POLICIES AND PROCEDURES AS STATED IN LOS ANGELES COUNTY CODE CHAPTER 5.40 AND **SHALL ONLY INCLUDE:**

- DEA Certificates
- Travel Expenses: Airfare, Parking, Transportation, and Lodging. Travel must be approved by the Fire Chief or authorized designee. NO Per Diem or other incidentals will be reimbursed.

Please note: Airfare and transportation must be arranged through the District's approved Travel Agency (Travel Store, Inc.) in order for expenses to be reimbursed. You must provide supporting documentation for each qualifying reimbursable expense

FRANKLIN D. PRATT, MD - PRESIDENT
Print Name/Title

NOV. 8, 2011
Date

Signature