



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

May 17, 2016

47 May 17, 2016

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


LORI GLASGOW
EXECUTIVE OFFICER

Dear Supervisors:

AGREEMENT BETWEEN THE CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY AND THE LOS ANGELES COUNTY FIRE DEPARTMENT FOUNDATION (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

The Consolidated Fire Protection District of Los Angeles County (District) seeks approval for an affiliation agreement (Agreement) with the Los Angeles County Fire Department Foundation (Foundation), a California 501(c)(3) nonprofit corporation, for the provision of services contemplated in this Agreement by the Foundation to the District.

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

1. Approve and instruct the Chair to sign the attached Agreement between the District and Foundation.
2. Delegate authority to the Fire Chief, or his designee, to enter into the Agreement to execute all future amendments, modifications, extensions, augmentations, and termination relative to the Agreement, as necessary.
3. Approve District employees to serve on the Foundation's Board of Directors or key Foundation positions.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Foundation will work collaboratively with the District to create partnerships that provide funding resources for community outreach and emergency preparedness programs, youth programs, training programs, and other programs that will further the District's values and mission. These essential programs will enhance the District's relationship with its communities and help accomplish the County's mission to "enrich lives through effective and caring service."

The Foundation was incorporated in 2015 under the Nonprofit Public Benefit Corporation Law to operate as a Nonprofit Public Benefit Corporation for charitable and educational purposes. The Foundation is not organized for the private gain of any person.

The Foundation's Board of Directors was originally designed to be comprised of non-County personnel. However, during the formation process, it was proposed that the Fire Chief or his designee serve as a member of the Foundation's Board of Directors. To ensure a conflict of interest did not exist, a review of several foundations affiliated with other Los Angeles County Departments was conducted. This review revealed that County personnel did serve on these Boards as officers directly involved with policy making, administration, and operations. As a result, the Foundation's Board of Directors will be modeled like those of other County departments' foundations wherein the District employees will serve on the Board of Directors, pending Board's approval. County Counsel has approved the current make-up of the Foundation's Board of Directors, as it is consistent with other foundations affiliated with Los Angeles County.

The term of the Agreement is open and will remain in effect unless and until terminated. The District or the Foundation may terminate this Agreement without cause upon a 30-day written notice to the other.

The Foundation agrees to the following:

- Provide youth and community-based educational opportunities to the citizens of Los Angeles County and other services as deemed necessary by the District Fire Chief.
- Make provision for the use of its programs and any technologies developed in collaboration with the District.
- May solicit donations, including but not limited to, equipment, monetary, advertising, and other related resources, from private entities and apply for grants to support the obligations within this Foundation Agreement, in consultation with the District.
- Represent the District and/or Fire Chief at professional associations as mutually agreed upon as resources are available.
- Will not use County time, materials, or resources to engage in social media activities, unless authorized by the District Fire Chief.
- Provide financial information and/or reports upon request.

The District agrees to the following:

- Assist the Foundation in providing the following services (as legally permissible): technology support, personnel releases, administrative and program staff support, temporary and occasional use of space, utilities, supplies, travel/transportation or other resources on an as-needed basis to the extent that these resources are available and are in the best interest of the District and County.
- Account for all costs incurred to support and monitor the Foundation and ensure such costs are accounted for or tracked separately from District costs (i.e., costs attributable to salaries, employee benefits, office space, office supplies, utilities, etc.).
- Ensure costs incurred on behalf of the Foundation are commensurate with the volume and significance of the benefit received. The District will notify the Foundation concerning any cost-benefit concerns related to this Agreement.
- Ensure Foundation activities are in the best interest of the District and the public.
- Have no duty of payment, obligation or liability to the Foundation, its employees, officers, agents, or vendors or subcontractors.

Implementation of Strategic Plan Goals

Approval of the Agreement is consistent with Los Angeles County Strategic Plan Goal No.1, Operational Effectiveness/Fiscal Sustainability, to maximize the effectiveness of processes, structure, operations, and strong fiscal management to support timely delivery of customer-oriented and efficient public services; and Goal No.2, Community Support and Responsiveness, by enriching the lives of Los Angeles County residents by providing enhanced services, and effectively planning and responding to economic, social, and environmental challenges.

FISCAL IMPACT/FINANCING

The District's costs incurred on behalf of the Foundation will be monitored to ensure that they are commensurate with the volume and significance of the benefit received. Any costs associated with the District's support would not be significant and would be funded through the District's Fiscal Year 2016-17 Executive Budget Unit, Services and Supplies appropriation. There is no impact on net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This Agreement will be administered by the District and is being entered into pursuant to the County Fiscal Manual (CFM), in order to set forth the respective duties and obligations of the District and Foundation with respect to the continued relationship and activities of each, including financial and conflict of interest reporting, and the use of District resources.

The CFM, Chapter 16, Departmental Foundations/Support Groups, requires the District to obtain Board approval if foundation boards and other key foundation positions are filled by District employees.

The Foundation is a duly incorporated nonprofit public benefit corporation registered with the State of California and is authorized by law to provide the services contemplated by this Agreement.

County Counsel has approved the Agreement as to form.

ENVIRONMENTAL DOCUMENTATION

This project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 16031 (b)(3) of the CEQA Guidelines as the Agreement addresses incidental matters related to the provision of District services and thus it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The approval of this Agreement and the implementation of the Foundation will provide an avenue for accepting and soliciting donations to fund youth and community-based programs that are currently underfunded or non-funded. These community outreach and emergency preparedness programs, youth programs, and training programs are essential in helping the District accomplish its mission to “enrich lives through effective and caring service” and will greatly improve the District’s relationships with its communities.

The District will collaborate with each Supervisorial District to actively promote the Foundation’s work on these essential youth and community-based programs.

CONCLUSION

Upon approval, please instruct the Executive Officer of the Board to return two executed original Agreements and two copies of the adopted Board Letter to:

Consolidated Fire Protection District of Los Angeles County
Executive Support Division
Attention: Heidi Oliva, Administrative Services Manager III
1320 North Eastern Avenue
Los Angeles, CA 90063

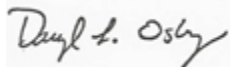
The District will forward one executed original to the Foundation for their records.

The Honorable Board of Supervisors

5/17/2016

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Respectfully submitted,

A handwritten signature in cursive script, reading "Daryl L. Osby". The signature is written in black ink on a light-colored background.

DARYL L. OSBY

FIRE CHIEF, FORESTER & FIRE WARDEN

DLO:heo

Enclosures

c: Sachi Hamai
Jim Jones
County Counsel
Scott Kuhn
Auditor-Controller
Ben Polk
Derric Johnson
Maria Chong-Castillo
Rick Velasquez
Sussy Nemer

**AGREEMENT BY AND BETWEEN
CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY
AND
LOS ANGELES COUNTY FIRE DEPARTMENT FOUNDATION**

This AGREEMENT is made and entered into this 17th day of May, 2016, by the **CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY**, referred to as "**DISTRICT**" and the **LOS ANGELES COUNTY FIRE DEPARTMENT FOUNDATION**, referred to as "**FOUNDATION**", a California nonprofit corporation.

WHEREAS, DISTRICT and FOUNDATION enter into this Agreement pursuant to the County Fiscal Policy, Chapter 16, Departmental Foundations/Support Groups, in order to set forth their respective duties and obligations with respect to the continued relationship and activities of each, the receipt and use of donated funds and equipment, and the use of DISTRICT resources.

WHEREAS, DISTRICT, pursuant to Section 13861 of the Health and Safety Code, is authorized to affiliate with FOUNDATION in accordance with the terms and conditions set forth herein to render services; and

WHEREAS, FOUNDATION was incorporated in 2015 under the Nonprofit Public Benefit Corporation Law to operate as a Nonprofit Public Benefit Corporation for charitable and educational purposes (i.e. community outreach and emergency preparedness programs, youth programs, training programs, etc.); and the FOUNDATION is not organized for the private gain of any person.

WHEREAS, FOUNDATION is a duly incorporated domestic non-profit corporation registered with the State of California and is authorized by law to provide the services contemplated by this Agreement;

WHEREAS, FOUNDATION Board of Directors or officers may be DISTRICT employees directly involved with the FOUNDATION policymaking or its administration and operations. The Fire Chief may serve as Chairperson of the Board of Directors;

WHEREAS, FOUNDATION is qualified by reason of experience and organization to provide the services contemplated by this Agreement.

NOW THEREFORE, in consideration of the foregoing conditions herein contained, DISTRICT and FOUNDATION do hereby agree to the following:

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1. TERM OF AGREEMENT

The term of this Agreement is open, remaining in effect unless and until terminated pursuant to the applicable terms hereof, during which time FOUNDATION may perform the services provided for herein.

2. FOUNDATION OBLIGATIONS

FOUNDATION agrees to provide the following services to the DISTRICT:

- a. FOUNDATION will provide educational opportunities (i.e. community outreach and emergency preparedness programs, youth programs, training programs, etc.) to the citizens of Los Angeles County and other services as deemed necessary by the DISTRICT Fire Chief.
- b. FOUNDATION will make provision for the use of its programs and any technologies developed in collaboration with the DISTRICT.
- c. FOUNDATION may solicit donations, including but not limited to, equipment, monetary, advertising, and other related resources, from private entities and apply for grants to support the obligations within this foundation agreement, in consultation with the DISTRICT.
- d. FOUNDATION will represent the DISTRICT and/or DISTRICT Fire Chief at professional associations as mutually agreed upon as resources are available.
- e. FOUNDATION will provide goodwill to the DISTRICT.
- f. FOUNDATION will not use County time, materials, or resources to engage in social media activities, unless otherwise authorized by the DISTRICT Fire Chief.
- g. FOUNDATION shall satisfactorily provide the following information and/or reports to the DISTRICT:
 - i. Upon DISTRICT'S request, submit annually to DISTRICT the Annual Reporting Form for Foundation Activities.
 - ii. Upon written request not less than 30 days notice, FOUNDATION will make available to DISTRICT and the Los Angeles County Auditor-Controller their compiled financial statements.
 - iii. FOUNDATION will provide an account of the tangible/intangible benefits provided to DISTRICT in a narrative form that describes the programs/services provided.

- iv. Upon request, FOUNDATION shall produce documentation illustrating costs incurred by the DISTRICT on behalf of the FOUNDATION.
- v. Upon written request no less than 30 days, the FOUNDATION will disclose to potential donors the types of items, activities, and programs for which contributions or donations will be used.
- vi. FOUNDATION will maintain secure tax-exempt status and any required business license(s) if it solicits monetary donations from the public.

3. DISTRICT OBLIGATIONS

- a. DISTRICT will assist FOUNDATION in providing the aforementioned services by providing, as legally permissible, the following: technology support, personnel releases, administrative and program staff support, temporary and occasional use of space, utilities, supplies, travel/transportation or other resources on an as needed basis to the extent that these resources are available and are in the best interest of the DISTRICT and County.
- b. DISTRICT will account for all costs incurred to support and monitor the FOUNDATION and ensure such costs are accounted for or tracked separately from DISTRICT costs (i.e., costs attributable to salaries, employee benefits, office space, office supplies, utilities, etc.).
- c. DISTRICT costs incurred on behalf of the FOUNDATION should be commensurate with the volume and significance of the benefit received (i.e., FOUNDATION benefit to DISTRICT should outweigh the DISTRICT's costs incurred in maintaining the relationship). The DISTRICT will notify FOUNDATION concerning any cost-benefit concerns related to this Agreement.
- d. DISTRICT will monitor to ensure FOUNDATION activities are in the best interest of the DISTRICT and the public and discontinue the relationship if benefits received do not outweigh the costs incurred.
- e. DISTRICT shall have no duty of payment, obligation or liability to FOUNDATION, its employees, officers, agents, or vendors or subcontractors.
- f. All DISTRICT employees engaging in FOUNDATION activities will do so in an off-duty capacity, unless such activities are within the scope of this Agreement, or are otherwise authorized by the DISTRICT Fire Chief.

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4. FOUNDATION EMPLOYEES AND EQUIPMENT

FOUNDATION agrees that FOUNDATION has secured or will secure at FOUNDATION's own expense all persons, employees and equipment required beyond the aforementioned DISTRICT services to perform the services required under this Agreement and that all such services will be performed under FOUNDATION supervision, by persons authorized by law to perform such services. This is not intended to limit "In-Kind Donations" from the DISTRICT.

5. CONFLICT OF INTEREST

- a. FOUNDATION and its subsidiaries and its agents and employees shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. FOUNDATION warrants that it is not now aware of any fact which creates a conflict of interest. If the FOUNDATION hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest it shall immediately make full written disclosure of such fact to DISTRICT. Full written disclosure shall include, with limitation, identification of all persons implicated, and a complete description of all relevant circumstances.
- b. FOUNDATION and its subsidiaries' board of directors and key positions may be filled by individuals who are DISTRICT employees.

6. TERMINATION

DISTRICT or FOUNDATION may terminate this Agreement without cause upon a 30 day written notice. All operations under this Agreement shall cease effective the 30th day after receipt of notice of termination and both Parties' obligations under this Agreement shall cease on that date.

7. USE OF SERVICES

This Agreement is founded on the premise that the program contemplated is for furthering the objectives recited herein and that the services provided under this Agreement are within the power of DISTRICT to provide. In the event that program monitoring discloses that said services are not being used for that purpose or that FOUNDATION has adopted or amended its By Laws or amended its Articles of Incorporation with the result that, as determined by the DISTRICT Fire Chief or his designee, FOUNDATION policies or programs conflict with the purpose originally declared in FOUNDATION Articles of Incorporation or with the purpose of this Agreement, DISTRICT shall notify FOUNDATION immediately concerning any such conflict or potential conflict and shall provide FOUNDATION with 30 days to amend its By Law or Articles of Incorporation so as to resolve any such conflict or potential conflict. If, after 30 days notice the conflict or potential conflict has not been resolved, the DISTRICT Fire Chief may terminate this

Agreement forthwith, and FOUNDATION shall be entitled to no further services from the DISTRICT.

8. PROGRAM ADMINISTRATION

This Agreement will be administered by the DISTRICT.

9. CONFIDENTIALITY

FOUNDATION shall maintain the confidentiality of all records, including but not limited to DISTRICT records, in accordance with all applicable federal, state, and local laws, regulations, ordinances, and directives as to confidentiality and privileges.

DISTRICT shall maintain the confidentiality of all records, including but not limited to FOUNDATION records, in accordance with all applicable federal, state, and local laws, regulations, ordinances, and directives as to confidentiality and privileges.

10. INDEMNIFICATION

a. Except as otherwise provided in Section 10(b), FOUNDATION agrees to indemnify, defend and save harmless DISTRICT, its agents, officers and employees from and against any and all liability, expense, including reasonable defense costs and legal fees, claims for damages of any nature whatsoever, including but not limited to bodily injury, death, personal injury, or property damage arising from or connected with FOUNDATION operations, or its services hereunder including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or relating to this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnities. However, FOUNDATION shall not be liable to pay additional sums on account of judgments rendered against any director, for acts or omissions constituting bad faith, willful misfeasance or reckless disregard of duties.

b. DISTRICT agrees to indemnify, defend and save harmless any member of the Board of Directors of FOUNDATION from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever arising out of an action or omission to act provided such actions or omissions to act arose directly from the performance of duties within the scope of work to be performed under this Agreement. However, DISTRICT shall not be liable to pay additional sums on account of judgments rendered against any director, for acts or omissions constituting bad faith, willful misfeasance or reckless disregard of duties.

11. INDEPENDENT CONTRACTOR

Both parties hereto, in the performance of this Agreement, will be acting in an individual capacity and not as agent, employees, or agents of the other party. DISTRICT employees shall remain employees of DISTRICT notwithstanding the fact they are assisting the FOUNDATION.

12. ASSIGNMENT

This Agreement, or any provision hereof or any right or obligation arising hereunder, is not assignable by either party in whole or in part, without the express written consent of the other party.

13. BINDING EFFECT

All of the provisions of this Agreement and any amendment thereto shall extend to and be binding upon and inure to the benefits of the successors of the respective parties.

14. RETENTION OF RECORDS

FOUNDATION agrees that DISTRICT or any duly authorized representative shall have access to and the right to examine, audit, copy, excerpt, or transcribe any transaction, activity, time cards, or other records relating to this Agreement. Such material shall be kept and maintained by FOUNDATION at a location in Los Angeles County for a period of four (4) years after completion of this relationship, unless the DISTRICT provides written permission to dispose of such material prior to the end of such period.

15. COMPLIANCE WITH LAWS

- a. FOUNDATION shall comply in all respects with the anti-discrimination requirements of the Los Angeles County Code and all applicable federal, state, and local laws.
- b. The parties agree to comply with all applicable federal, state and local laws, rules, regulations, ordinances and directives insofar as they pertain to the performance of this Agreement.

16. NON-DISCRIMINATION AND CIVIL RIGHTS COMPLIANCE

- a. FOUNDATION hereby certifies and agrees that it will comply with Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title 1X of the Education Amendments of 1972, where applicable, and Title 43, part 17 of the Code of Federal Regulations Subparts A and B, to the end that no persons shall, on the grounds of race, creed, color, national origin, political affiliation, religion,

marital status, sex, sexual orientation, age or handicap, be subjected to discrimination under the privileges and use granted by this Agreement or under any project, program or activity supported by this Agreement.

- b. FOUNDATION agrees and certifies that the regulation provided in 16(a) of this Agreement shall apply to social media activities and materials posted on social media sites, such as Facebook, Twitter and the alike. FOUNDATION agrees and certifies that it will regularly monitor its social media sites to ensure compliance with stated regulations.
- c. FOUNDATION certifies and agrees that all persons employed thereby, are and shall be treated equally without regard to or because of race, creed, color, national origin, political affiliation, religion, marital status, sex, sexual orientation, age or handicap and in compliance with all federal and state laws prohibiting discrimination in employment, including but not limited to, the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; and the State Fair Employment Practices Acts.
- d. FOUNDATION certifies and agrees that subcontractors, bidders and vendors thereof are and shall be selected without regard to or because of race, creed, color, national origin, political affiliation, religion, marital status, sex, sexual orientation, age or handicap.
- e. All employment records shall be open for inspection and re-inspection at any reasonable time during the term of this Agreement for the purpose of verifying the practice of non-discrimination by FOUNDATION in the areas heretofore described.
- f. If DISTRICT finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which DISTRICT may determine to cancel, terminate, or suspend this Agreement. While DISTRICT reserves the right to determine independently that the non-discrimination provisions of this Agreement have been violated, in addition, a determination by California Fair Employment and Housing Commission and Equal Employment Opportunity Commission that FOUNDATION has violated state or federal non-discrimination laws or regulations shall constitute a finding by DISTRICT that FOUNDATION has violated the non-discrimination provisions of this Agreement.

17. RELIGIOUS PROSELYTIZING AND POLITICAL PROPAGANDIZING

FOUNDATION agrees that it will not perform or permit any religious proselytizing or political propagandizing in connection with the performance of this Agreement. Services under this Agreement will be used exclusively for performance of the work required under this Agreement and no services made available under this Agreement shall be used to promote any religious or political activities.

18. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of California.

19. SEVERABILITY

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

20. NOTICE

a. Any notice or notices required or permitted to be given pursuant to this Guideline may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested.

b. All notices to the DISTRICT shall be sent addressed to the following:

Fire Chief
The Consolidated Fire Protection District of Los Angeles County
1320 N. Eastern Avenue
Los Angeles, CA 90063

c. All notices to the FOUNDATION and its subsidiaries shall be sent addressed to the following:

Los Angeles County Fire Department Foundation
37518 Oak Hill Street
Palmdale, CA 93552

21. COORDINATORS

The DISTRICT's agreement coordinator, or another person designated by the DISTRICT Fire Chief, shall be the DISTRICT Director of Program and shall have the authority to administer the Agreement on behalf of DISTRICT. Said coordinator or designee shall be mutually acceptable to both the DISTRICT AND THE FOUNDATION. FOUNDATION shall provide a representative to be available to DISTRICT for consultation and assistance during the performance of this Agreement.

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IN WITNESS WHEREOF, FOUNDATION has executed this Agreement, or caused it to be duly executed and the DISTRICT, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

LOS ANGELES COUNTY FIRE DEPARTMENT
FOUNDATION:

James A. Kross

By James A. Kross
Name
President
Title



CONSOLIDATED FIRE PROTECTION DISTRICT
OF LOS ANGELES COUNTY

By Hilda F. Solis
Chair, Board of Supervisors

ATTEST:

LORI GLASGOW
Executive Officer-Clerk
of the Board of Supervisors

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

By Rachelle Smitherman
DEPUTY

LORI GLASGOW
Executive Officer
Clerk of the Board of Supervisors

By Rachelle Smitherman
Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By Scott Kuhn
Scott Kuhn
Principal Deputy County Counsel

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

47

MAY 17 2016

Lori Glasgow
LORI GLASGOW
EXECUTIVE OFFICER

78488