

**AGREEMENT
BY AND BETWEEN
CONSOLIDATED FIRE AGENCIES
AND
SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT**

This Agreement is made and entered into by and between the Consolidated Fire Agencies, a Joint Powers Authority, duly authorized and existing under Government Code, § 6500 et seq. (hereinafter referred to as "CONFIRE") and the San Bernardino County Fire Protection District (hereinafter referred to as "BDC"). CONFIRE and BDC may be referred to individually as Party, or collectively Parties.

RECITALS

WHEREAS, CONFIRE submitted a Proposal in response to RFP # ICEMA23-ICEMA-4811, Advanced Life Support and Basic Life Support Ground Ambulance Services, Interfacility and Critical Care Transport Services for Exclusive Operating Areas in San Bernardino ("Proposal"); and,

WHEREAS, CONFIRE's Proposal included a provision for certain Member and Contract Agencies to provide Advanced Life Support ("ALS") and Basic Life Support ("BLS") Ground Ambulance Services and Interfacility Critical Care Transport Services (collectively referred to as "Transport Services"); and,

WHEREAS, BDC, a Member Agency of CONFIRE, committed to provide the following Transport Services: six (6) fully-equipped and staffed emergency ground ambulances and two equipped reserve emergency ground ambulances; and,

WHEREAS, BDC's commitment to provide Transport Services was included in CONFIRE's Proposal; and,

WHEREAS, CONFIRE was selected as the successful bidder for RFP# ICEMA23-ICEMA-4811 and entered into Contract Number 23-1282 with the San Bernardino County, a copy of which is attached hereto as **Attachment 1**, and incorporated herein by this reference; and,

WHEREAS, it is the intent of the parties hereto that in accordance with Contract Number 23-1282, BDC will provide the services herein described, subject to the terms and conditions contained herein and within Contract Number 23-1282.

TERMS

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants hereinafter contained and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals above are true and correct and are hereby incorporated into this Agreement by this reference.
2. **SCOPE OF WORK:**
 - A. BDC shall provide Services that include six (6) fully equipped and staffed emergency ground ambulances and two (2) fully equipped reserve emergency ground ambulances.
 - i. Such Services shall be provided in accordance with the terms and conditions of Contract Number 23-1282.
 - ii. BDC represents and warrants to CONFIRE that it has the necessary infrastructure, resources, personnel, training, and licenses to provide the Services under this Agreement in accordance with all terms of this Agreement.
 - B. CONFIRE and BDC understand and agree this agreement for Transport Services is

intended to apply to locations and calls within BDC's jurisdiction. Any request for response to a call for service outside of BDC's jurisdiction, or request for additional ground ambulances, may be accomplished via a separate mutual aid agreement; alternatively, the parties may, by written agreement signed by the parties, amend this agreement to provide for such additional resources.

3. PAYMENT:

CONFIRE shall compensate BDC for the Services provided as set forth below:

- A. Unit Hour Cost at a rate of One Hundred Sixty-Seven Dollars and Seventy-Two Cents (\$167.72). The Unit Hour Cost is reflective of the cost of providing the Service.
- B. Unit Hour Cost for BDC personnel labor without use of BDC ambulance and equipment will be reimbursed at a rate of One Hundred Fifty-Two Dollars and Eighty Cents (\$152.80).
- C. Payment shall be made to BDC on a quarterly basis based upon invoices that are prepared from CAD data, reflective of the in-service hours for BDC.
- D. CONFIRE will review the reimbursement rates annually on or before March 1 of each year and the Parties will mutually agree to any adjustment in the reimbursement rate.

4. TERM OF AGREEMENT:

- A. Effective Date: This Agreement shall become effective on October 1, 2024, the date specified for services in Contract Number 23-1282.
- B. Term: This Agreement shall remain in full force and effect from the Effective Date until September 30, 2029, unless terminated earlier as set forth in Paragraph 20 of this Agreement. This Agreement may be extended by an additional five (5) year term upon the extension of Contract Number 23-1282.

5. MODIFICATIONS TO AGREEMENT: A review of the Agreement terms may be initiated at any time by either Party upon written notice to the other. The parties agree to negotiate in good faith and deal fairly with respect to performance under this Agreement and any proposed modifications. This Agreement may be modified only in writing and with the approval of both BDC and CONFIRE through each entity's governing body.

6. EMPLOYEE STATUS/WORKERS' COMPENSATION: It is expressly understood that in the performance of the Services herein provided for, BDC shall be, and is, an independent contractor and is not an agent or employee of CONFIRE. BDC has and shall retain the right to exercise full control and supervision of the Services and full control over the employment, direction, assignment, compensation, and discharge of all persons employed by BDC and assisting in the performance of Services hereunder. BDC shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, workers' compensation, withholding, and all regulations governing such matters.

7. INDEMNIFICATION:

BDC agrees to indemnify, defend (with counsel reasonably approved by CONFIRE) and hold harmless CONFIRE and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the performance of this Agreement by BDC, and/or its officers, employees, agents, contractors or volunteers, including the acts, errors, or omissions of BDC and for any costs or expenses incurred by CONFIRE on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. BDC's indemnification obligation shall

not apply to CONFIRE's negligence or "willful" misconduct within the meaning of Civil Code Section 2782.

CONFIRE agrees to indemnify, defend (with counsel reasonably approved by BDC) and hold harmless BDC and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the performance of this Agreement by CONFIRE, and/or its officers, employees, agents, contractors or volunteers, including the acts, errors, or omissions of CONFIRE and for any costs or expenses incurred by BDC on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CONFIRE's indemnification obligation shall not apply to BDC's negligence or "willful" misconduct within the meaning of Civil Code Section 2782.

In the event BDC and/or CONFIRE is found to be comparatively at fault for any claim, action, loss, or damage which results from their respective obligations under the Agreement, BDC and/or CONFIRE shall indemnify the other to the extent of its comparative fault.

8. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES

BDC shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the BDC, its agents, representatives, or employees.

A. Minimum Scope and Limit of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$3,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if BDC has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$3,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) Insurance appropriate to the BDC's profession, with limit no less than \$3,000,000 per occurrence or claim, \$3,000,000 aggregate. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the BDC must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work. A copy of the claims reporting requirements must be submitted to the CONFIRE for review.

If the BDC maintains broader coverage and/or higher limits than the minimums shown above, then CONFIRE requires and shall be entitled to the broader coverage and/or higher limits maintained by the BDC. Any available insurance proceeds in excess of the specified minimum

limits of insurance and coverage shall be available to the CONFIRE.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. The CONFIRE, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the BDC including materials, parts, or equipment furnished in connection with such work or operations.
2. General liability coverage can be provided in the form of an endorsement to the BDC's insurance at least as broad as one of the following ISO ongoing operations Forms: CG 20 10 or CG 20 26 or CG 20 33 (not allowed from subcontractors), or CG 20 38; **and** one of the following ISO completed operations Forms: CG 20 37, CG 20 39 (not allowed from subcontractors), or CG 20 40.

C. Primary Coverage

For any claims related to this contract, the BDC's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the CONFIRE, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the CONFIRE, its officers, officials, employees, or volunteers shall be excess of the BDC's insurance and shall not contribute with it.

D. Notice of Cancellation

BDC shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, BDC shall forthwith obtain and submit proof of substitute insurance.

E. Waiver of Subrogation

BDC hereby grants to CONFIRE a waiver of any right to subrogation which any insurer of said BDC may acquire against the CONFIRE by virtue of the payment of any loss under such insurance. BDC agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the CONFIRE has received a waiver of subrogation endorsement from the insurer. However, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the CONFIRE for all work performed by the Contractor, its employees, agents and subcontractors.

F. Self-Insured Retentions

Self-insured retentions must be declared to and approved by the CONFIRE. The CONFIRE may require the BDC to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or CONFIRE.

G. Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CONFIRE.

H. Verification of Coverage

BDC shall furnish the CONFIRE with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to CONFIRE before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the BDC's obligation to provide them. The CONFIRE reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

I. Subcontractors

BDC shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that CONFIRE is an additional insured on insurance required from subcontractors.

J. Special Risks or Circumstances

CONFIRE reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

9. BDC RECORDS:

BDC shall maintain all records and books pertaining to the delivery of Services under this Contract and demonstrate accountability for Agreement performance as set forth in Contract Number 23-1282.

All records shall be complete and current and comply with all Agreement requirements. Such records include but are not limited to patient care reports. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Agreement.

All records relating to BDC's personnel, consultants, subcontractors, Services/Scope of Work, and expenses pertaining to this Agreement shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue, and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles, and other standards for accountancy.

CONFIRE, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of BDC in the delivery of Services provided under this Contract. BDC shall cooperate fully in any auditing or monitoring conducted. BDC shall cooperate with CONFIRE in implementing, monitoring, and evaluating this Contract and comply with any and all reporting requirements established by CONFIRE. BDC shall not disclose any protected health information or any other record or information protected by state and/or federal law to CONFIRE, State, and Federal government under this section of the Agreement.

All records pertaining to Services delivered and all fiscal, statistical, and management books and records shall be available for examination and audit by CONFIRE representatives for a period of three years after final payment under this Contract or until all pending CONFIRE, State, and Federal audits are completed, whichever is later.

10. WAIVER: No waiver of a breach of any provision of this Agreement will constitute a waiver of any

other breach or of such provision. Failure of either Party to enforce at any time, or from time to time, any provision of this agreement will not be construed as a waiver thereof. The remedies herein reserved will be cumulative and additional to any other remedies in law or equity.

11. **PARTIAL INVALIDITY:** Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions will be deemed severable and will not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

12. **NOTICES:** All notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice or may be served by certified mail, return receipt requested, to the following addresses:

**San Bernardino County
Fire Protection District**
Attn: Dan Munsey, Fire Chief
598 S Tippecanoe, 2nd Floor
San Bernardino, CA 92415

**Consolidated Fire Agencies
Joint Powers Authority**
Attn: Nathan Cooke
1743 Miro Way
Rialto, CA 92376

13. **APPLICABLE LAW:** At all times during the term of this Agreement, CONFIRE and BDC shall comply with all applicable laws, ordinances, rules, and regulations of the United States of America, the State of California, including all agencies and subdivisions thereof, and the Inland Counties Emergency Medical Agency.

14. **VENUE:** The venue of any action or claim brought by any party to the Agreement will be the Superior Court of San Bernardino County. Each party hereby waives any law or rule of the court that would allow them to request or demand a change of venue. If any action or claim concerning the Agreement is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to San Bernardino County.

15. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who the prevailing party is. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

16. **CONTRACT ASSIGNABILITY:** Without the prior written consent of neither CONFIRE nor BDC may assign or subcontract its obligations under this Agreement either in whole or in part.

17. **CONFIDENTIALITY:** Pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health ("HITECH") Act, regulations have been promulgated governing the privacy of individually identifiable health information. BDC and CONFIRE acknowledge that they are a covered entity and subject to the requirements of HIPAA and HITECH, and their implementing regulations. BDC and CONFIRE agree to comply fully with the terms of HIPAA and HITECH and the regulations promulgated thereunder and to ensure any subcontractors utilized to fulfill Services pursuant to this Contract comply with said provisions. BDC and CONFIRE further agree to comply with the requirements of all other applicable federal and state laws/regulations that pertain to the protection of health information.

18. **RELEASE OF INFORMATION:** No news releases, advertisements, public announcements, or photographs arising out of the Agreement or BDC's relationship with CONFIRE may be made or used without prior written approval of CONFIRE.

19. TIME OF THE ESSENCE: Time is of the essence in the performance of this Agreement and of each of its provisions.
20. CORRECTION OF PERFORMANCE DEFICIENCIES:
- A. Failure by BDC to comply with any of the provisions, covenants, requirements, or conditions of this Contract shall be a material breach of this Agreement.
 - B. In the event of a non-cured breach, CONFIRE may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Agreement:
 - A. Afford BDC thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of CONFIRE; and/or
 - B. Terminate this Agreement immediately and be relieved of the payment of any consideration to BDC. In the event of such termination, CONFIRE may proceed with the work in any manner deemed proper by CONFIRE. The cost to CONFIRE shall be deducted from any sum due to BDC under this Agreement, and the balance, if any, shall be paid by BDC upon demand.
21. LEGALITY AND SEVERABILITY: The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders, and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall remain in full effect.
22. EMPLOYMENT DISCRIMINATION: During the term of the Contract, BDC shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. BDC shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, and other applicable Federal, State, and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
23. DEBARMENT AND SUSPENSION: BDC certifies that neither it nor its principals or employees are presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website: <https://www.sam.gov>). BDC further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.
24. ENTIRE AGREEMENT: This Agreement, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete, and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations, or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty, or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each

Party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

- 25. **MISCELLANEOUS:** BDC shall ensure all personnel providing Services under this Agreement have all required licenses and certifications required by the State of California and the Inland Counties Emergency Medical Agency, and as specifically set forth in Contract Number 23-1282.
- 26. **DISPUTES:** In the event of a dispute, the parties shall use their best efforts to settle the dispute through negotiation with each other in good faith.

IN WITNESS WHEREOF, BDC, and CONFIRE have caused this Agreement to be executed by their authorized agents.

San Bernardino County Fire Protection District

►

Dawn Rowe, Chair, Board of Directors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD
Lynna Monell, Secretary

By _____
Deputy

Consolidated Fire Agencies

(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form
►
Rick Luczak, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
►
Date _____

Reviewed/Approved by Department
►
Date _____

Attachment 1
Agreement for Ground Ambulance Medical Transportation Services