



## **Sacramento Regional Fire/EMS Communications Center**

10230 Systems Parkway, Sacramento, CA 95827-3007

(916) 228-3070 – Fax (916) 228-3079

### **A G E N D A**

**Thursday, May 11, 2017**

**10:30 a.m.**

#### **SPECIAL FINANCE COMMITTEE MEETING**

**Sacramento Regional Fire/EMS Communications Center**

**10230 Systems Parkway - Sacramento, CA 95827-3006**

#### **COMMITTEE MEMBERS:**

Deputy Chief Chris Costamagna

Deputy Chief Chad Wilson

Call to Order

Chairperson

Roll Call Committee Members

Secretary

**PUBLIC COMMENT:** *An opportunity for members of the public to address the Governing Board on items within the subject matter jurisdiction of the Finance Committee.*

#### **OPEN SESSION:**

- |   |      |       |
|---|------|-------|
| 1. Discussion/Review of <a href="#">Revised Social Media Policy</a><br><i>(Social Media Policy to follow under separate cover.)</i> | Page | 2-6   |
| 2. Discussion of <a href="#">Contract for Fire Service Medical Director</a>   | Page | 7-26  |
| 3. Discussion of <a href="#">Lease with Sacramento Metropolitan Fire District</a> for<br>3121 Gold Canal Drive, Rancho Cordova, CA  | Page | 27-52 |

#### **ADJOURNMENT:**

The next regularly scheduled Finance Committee Meeting is Tuesday, June 13, 2017.

LOCATION: 10230 Systems Parkway, Sacramento, CA 95827

TIME: 10:30 a.m.

Distribution: Committee Members, Alternates

Posted at: Administration Office and website: [www.srfecc.ca.gov](http://www.srfecc.ca.gov)

#### **DISABILITY INFORMATION:**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Chief Executive's Office at (916) 228-3070. Notification at least 48 hours prior to the meeting will enable the Center to make reasonable arrangements to ensure accessibility to this meeting.

#### **POSTING:**

This is to certify that I posted a copy of agenda at 10230 Systems Parkway and on the Center's website: [www.srfecc.ca.gov](http://www.srfecc.ca.gov) on May 4, 2017.

A handwritten signature in black ink that reads "Jenice Parker".

Clerk of the Board

**SACRAMENTO REGIONAL PUBLIC SAFETY COMMUNICATIONS CENTER  
MANUAL OF POLICIES**

**POLICY:** 3.008  
**TITLE:** Social Media  
**ADOPTED:** [REDACTED]  
**REVISED:** [REDACTED]

**Purpose**

Use of social media presents risks and carries with it responsibilities. To assist employees in making responsible decisions about their use of social media, ~~the Center~~ SRPSCC has established these guidelines for ~~the~~ appropriate use of social media. This policy applies to all employees and to ~~any~~ contractors engaged in social media on behalf of SRPSCC as part of their duties.

**Background**

~~The~~ SRPSCC encourages the use of social media technologies to enhance communication, collaboration, and ~~exchange of information~~ ~~exchange~~ in support of ~~the~~ SRPSCC's mission. By openly sharing knowledge, best practices, and lessons learned within ~~the~~ SRPSCC, ~~as well as~~ with and from other federal, state, and local partners, and with and from the public, effective solutions and efficiencies ~~can be provided~~ to enhance excellence in the business of government ~~can be provided~~.

The use of social media technology follows the same standards of professional malpractice and conduct associated with all other work undertaken by SRPSCC staff. Common sense and sound judgment help avoid the most vexing issues.

**Guidelines**

“Social media” is an umbrella term that encompasses various activities that integrate technology, social interaction, and content creation.

1. Social media uses many technologies and forms, such as blogs, wikis, photo and video sharing, podcasts, social networking, mashups, and virtual worlds.
2. Social media includes all means of communicating or posting information or content of any sort on the Internet (by way of illustration and not limitation, consider: Facebook, Twitter, Tumblr, Flickr, Instagram, a web log or blog, journal, diary, personal web site, web bulletin board or chat room).

3. ~~This policy refers to It does not matter whether the communications or-and~~ postings regarding SRPSCC ~~whether or not the platform~~ is associated or affiliated with ~~the Center~~ SRPSCC.

An employee is entirely responsible for what he/she posts online. Before creating **any** online content, an employee should consider the risks and/or rewards that are involved. Conduct that adversely affects job performance, the performance of fellow employees, or otherwise adversely affects clients, customers, vendors, suppliers, or people who work on behalf of the ~~Center~~ SRPSCC's business interests, may result in disciplinary action up to and including termination.

### **Guiding Principles**

~~SRFECC~~ SRPSCC employees and contractors should:

1. Know and follow SRPSCC conduct guidelines which, among other factors, prohibit activities **while representing SRPSCC in an official capacity** such as:
  - a. Engaging in vulgar or abusive language, personal attacks of any kind, or offensive terms targeting individuals or groups.
  - b. Endorsement of commercial products, services, or entities.
  - c. Endorsement of political parties, candidates, or groups.
  - d. Lobbying members of government using SRPSCC or any other appropriated resource.
2. Understand that published content is persistent in the public domain. When an SRPSCC employee or contractor is representing SRPSCC in an official capacity, SRPSCC is responsible for the content that is published on blogs, wikis or any other form of user-generated media. SRPSCC employees and contractors should always assume that communications are in the public domain, available for ~~publishing~~ **publication** or discussion in all forms of media.
3. ~~Coordinate his/her writing with the Chief Executive Director when discussing SRPSCC or SRPSCC related matters on social media. When in doubt, consult the Chief Executive Director.~~ **When discussing SRPSCC or any SRPSCC-related matters on social media, employees should first consult the Chief Executive Director and if needed on a regular basis, coordinate writing, postings, etc. with the Chief Executive Director.**
4. ~~Consider a~~ **Use a** disclaimer if publishing SRPSCC-related content to any website outside of SRPSCC's official online presence (this may include SRPSCC websites as well as SRPSCC's official presence on third party sites). For example: *"These postings are my own and do not necessarily represent SRPSCC's positions, strategies or opinions."* An SRPSCC employee or contractor should never use or reference his/her formal position

when writing in a non-official capacity. ~~When in doubt, consult the Chief Executive Director.~~

5. Consider whether personal thoughts **if and/or when they published**, even in clearly personal venues, may be misunderstood as expressing a SRPSCC positions. Those in leadership roles, by virtue of their position, must **understand** ~~assume~~ that employees and those outside ~~the~~ SRPSCC will read what is written. A public blog is not the place to communicate SRPSCC policies to SRPSCC employees. SRPSCC employees should assume that **any social media posting** ~~their thoughts are~~ **is** in the public domain and can be published or discussed in all forms of media. SRPSCC employees and contractors have no expectation of privacy in their postings.
6. **Should** ~~Respect~~ respect copyright, fair use, and financial disclosure laws.
7. Always protect sensitive information, such as personally identifiable information. Conversations that are meant to be tentative, pre-decisional or internal to SRPSCC should not be published **and/or** reported unless permission is granted by the Board **and/or** the Chief Executive Director.
8. ~~Be~~ **Be** aware of their association with ~~the~~ SRPSCC in **any** online social networks. If an SRPSCC employee identifies themselves as such, or has a **public-facing** position for which their SRPSCC association is known to the general public, profiles and related content (even ~~if it is~~ of a personal and not an official nature) should be consistent with presentation as a SRPSCC professional and appropriate with the public trust associated with their position. SRPSCC employees and contractors have no expectation of privacy in their postings.
9. ~~Never Remain focused on member agencies, customers, and achieving SRPSCC's mission. Use of social media tools should never at a time, or in a manner, that interferes with primary duties:~~ **remain focused on member agencies, customers and achieving the mission of SRPSCC.**
10. Ensure use **of any social media** complies with applicable mandates, such as the California Public Records Act.

### **Disciplinary Action**

Inappropriate posting(s) (including ~~those that include~~ discriminatory remarks, **any forms of** harassment, ~~and~~ threats of violence, **and/or** similar inappropriate or unlawful conduct) will not be tolerated and may subject an employee to disciplinary action up to and including termination.

### **Respectfulness**

Employees should always be courteous to fellow employees, clients, customers, vendors, and suppliers. Employees are more likely to resolve work problems by speaking directly with co-workers or supervisor(s) than by posting complaints on social media. Nevertheless, if an employee decides to post complaints or criticism, he/she should avoid using statements, photographs, video

or audio that: (1) are malicious, obscene, threatening or intimidating; (2) disparage employees, clients, customers, vendors or suppliers; or (3) might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation, or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or SRPSCC policy.

### **Honesty and Accuracy**

Employees should ~~make sure to~~ always be honest and accurate when posting information or news. If a mistake is made, it should be corrected quickly. Information or rumors that are known to be false about ~~the Center, fellow~~ SRPSCC employees, consultants, clients, customers, vendors, suppliers, and/or competitors should never be posted.

### **All Content Posted Should Be Appropriate and Respectful**

The confidentiality of trade secrets and confidential information should be maintained. Trade secrets may include information regarding the development of systems, processes, products, know-how and technology. An employee should not post internal reports, policies, procedures or other internal business-related confidential communications. An employee should not create a link from his/her blog, website or other social networking site to a ~~Center~~ SRPSCC website without identifying himself/herself as a ~~Center~~ SRPSCC employee.

### **Social Media at Work**

1. Unless work-related and authorized, employees should not use their ~~Center~~ SRPSCC email address or ~~Center~~ SRPSCC equipment to register on any form of social media.
2. Employees may use personal social media during working time provided such use is consistent with this policy and does not interfere with assigned duties.

### **Personal Opinions Only**

~~E~~An employees should not represent themselves as a spokesperson for ~~the Center~~ SRPSCC. If ~~the Center~~ SRPSCC is a ~~the~~ subject of any content that an employee is creating, he/she must be clear and open about the fact that he/she is an employee, and clarify that his/her views do not represent those of ~~the Center~~ SRPSCC, fellow employees, customers, suppliers or people working on behalf of ~~the Center~~ SRPSCC. If an employee publishes a blog or online post ~~that~~ which is related to his/her work or is associated with subjects related to ~~the Center~~ SRPSCC, he/she must clarify that he/she is not speaking on behalf of ~~the Center~~ SRPSCC.

Content shall not be posted on a social media site that contains images of SRPSCC equipment, uniforms, or logos, unless first ~~must be~~ approved by ~~the chain of command or by the~~ Chief Executive Director.

## **No Retaliation**

The Board prohibits taking adverse action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

**INDEPENDENT CONTRACTOR AGREEMENT FOR SPECIAL SERVICES  
Fire Services Medical Director**

THIS AGREEMENT (“Agreement”) is by and between the Sacramento Regional Public Safety Communications Center (“Center”) and The Permanente Medical Group (“TPMG”). Together, Center and TPMG are referred to as the Parties.

**RECITALS**

**WHEREAS**, the Center needs a licensed physician to provide oversight of all medical aspects of both the fire and ~~EMS rescue~~ divisions of the member and contracting fire agencies of the Center who are participants in the Sacramento County Emergency Medical Services Agency (SCEMSA); and

**WHEREAS**, Dr. Kevin E. Mackey (“Dr. Mackey” or “Medical Director”) is qualified and willing to provide these services; and

**WHEREAS**, TPMG has agreed to assign Dr. Mackey to perform these services.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained in this Agreement, and in exchange for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

**1. Incorporation of Recitals and Exhibits.**

The preceding recitals, and all subsequent Exhibits, are incorporated as though fully set forth in this Agreement. The included Exhibits are:

- Exhibit A-1 Scope of Services
- Exhibit A-2 Annual Goals
- Exhibit B Compensation
- Exhibit C General Terms and Conditions
- Exhibit D Insurance and Indemnification

**2. Term of Agreement.**

a. This Agreement shall be effective \_\_\_\_\_, 2017 (“Anniversary Date”) and shall remain in effect until as terminated in accordance with the provisions set forth in Section 2.b. below or in Section 4 of Exhibit C (“Term”).

b. Given the sensitive nature of Dr. Mackey’s position, and the difficulty of replacing Dr. Mackey, nothing in this Agreement shall prevent, limit, or otherwise

interfere with the right of Dr. Mackey to terminate this Agreement at any time, **provided** Dr. Mackey has first given at least sixty (60) days' written notice to the Sacramento County Fire Chiefs Association and the Center of his scheduled date of termination.

**3. Independent Contractor.**

- a. TPMG enters into this Agreement as an Independent Contractor.
  - (1) In the performance of this Agreement through the assignment of Dr. Mackey to perform the Services, all actions of TPMG and Dr. Mackey shall be those of an independent contractor.
  - (2) Neither Dr. Mackey nor any of TPMG's other employees are, or shall be considered, officers, employees or agents, of the Center. As such, they are not entitled to benefits of any kind or nature normally provided to employees of the Center, and/or to which Center's employees are normally entitled, including, but not limited to, State Unemployment Compensation, CalPERS Retirement, or Workers' Compensation.
  - (3) TPMG is solely responsible for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security, and income taxes with respect to TPMG's employees.
  - (4) TPMG agrees that Dr. Mackey will be the only person performing work under this Agreement.
  
- b. Dr. Mackey
  - (1) Dr. Mackey, in the performance of his obligations pursuant to this Agreement, is only subject to the control or direction of the Center as to the designation of tasks to be performed and the results to be accomplished. The Center shall have no right of control over the manner in which the work is to be performed (including the means and methods), but rather only as to its outcome.
  - (2) Under no circumstances shall Dr. Mackey look to the Center as his employer, or as a partner, agent, or principal.
  - (3) Dr. Mackey shall not be entitled to any benefits accorded to Center employees, including by way of illustration and not limitation, Workers' Compensation, disability insurance, CalPERS retirement, vacation or sick pay.
  - (4) Dr. Mackey shall have no power or authority to bind the Center in any respect.



c. Nothing in this Agreement, or in the services to be performed pursuant to this Agreement, shall be construed to be inconsistent with this Independent Contractor relationship or status.

**4. Scope of Services.**

TPMG shall furnish to the Center the services described in Exhibit A-1 and Exhibit A-2 (“Services”).

**5. Compensation.**

TPMG shall receive payment, as specified in Exhibit B, for Services satisfactorily rendered pursuant to this Agreement.

**6. General Terms and Conditions.**

Exhibit C sets forth the General Terms and Conditions that are part of this Agreement.

**7. Insurance and Indemnification.**

Exhibit D sets forth the Insurance and Indemnification provisions that are a part of this Agreement.

**8. Notice.**

Any notice required by this Agreement may be given either by personal service or by deposit (postage prepaid) in the U.S. Mail addressed as follows:

To Center:

Sacramento Regional Public Safety  
Communications Center  
10230 Systems Parkway  
Sacramento, CA 95827  
Attention: Chief Executive Director

To TPMG:

The Permanente Medical Group  
[address]  
[city, state, zip]  
Attention: \_\_\_\_\_

**[SIGNATURES ON PAGE 4]**

The Parties have executed this Agreement on the dates indicated below.

**SACRAMENTO REGIONAL PUBLIC COMMUNICATIONC CENTER**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**THE PERMANENTE MEDICAL GROUP**

By: \_\_\_\_\_

Name: Richard Isaacs, M.D., FACS

Its: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Jay Goldman M.D.

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**DR. KEVIN E. MACKEY**

\_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Sandra D. Parker

**Exhibit A-1 to  
Independent Contractor Agreement for Special Services**

**SCOPE OF SERVICES**

**1. General.**

- a. Dr. Mackey shall provide, during the Term of this Agreement, the Fire Service Medical Director/Medical Oversight functions that are outlined in this Scope of Services (A-1) and Annual Goals (A-2).
- b. TPMG represents and warrants that Dr. Mackey has the qualifications, experience, and ~~facilities~~ faculties to properly perform required services in a thorough, competent, and professional manner.
- c. Medical Director must:
  - (1) be familiar with State statutes relating to California Health and Safety Code Title 22, Sacramento County Emergency Medical Services Agency (SCEMSA) protocols, as well as the rules and regulations pertaining to the above;
  - (2) be familiar with the State's Mandatory Reporting Regulations, and the Federal Controlled Substances Act;
  - (3) possess valid licensure with the Drug Enforcement Agency for controlled substances procurement/disposal;
  - (4) possess a valid California license as a medical doctor;
  - (5) be NIMS (National Incident Management System) compliant;
  - (6) possess a valid California Driver License, Class C; and
  - (7) possess documentation verifying his legal right to work in the United States.
- d. This is a Department of Health and Human Services Category I position. Tasks associated with this position involve exposure to blood, body fluids, and tissues.
- e. TPMG agrees that services shall be performed and completed in the manner of, and according to the professional standards observed by, a competent practitioner of the profession in which Dr. Mackey is engaged.
- f. Dr. Mackey shall not, either during or after the term of this Agreement, make public any reports or articles, or disclose to any third party any information previously identified and/or marked as confidential information related to the

work of the Center or the operations or procedures of the Center without the prior written consent of the Center's Chief Executive Director.

- g. Dr. Mackey agrees that, during the term of this Agreement, he shall not take any action that would either create the appearance of partiality, or a conflict of interest.

## 2. Summary.

The Medical Director is responsible for:

- a. Medical Oversight (both direct and indirect) associated with both the fire and ~~rescue-EMS~~ divisions of the member and contract agencies of the Center who are participants in the SCEMSA;
- b. providing oversight and direction concerning fire service medical issues including Emergency Medical Dispatch (EMD);
- c. providing medical consultation to major support functions;
- d. providing on-scene support under the direction of the Incident Commander or his/her designee;
- e. applying specialized medical knowledge to assure safety in field emergency medical services operations, including Emergency Medical Dispatch (EMD);
- f. making decisions and providing expert consultation on a broad range of medical considerations; and

## 3. Essential Services.

Listed below are essential services that will be performed by Medical Director each year that this Agreement is in effect.

- a. Narcotics.

The Medical Director will:

- (1) Coordinate the continual maintenance and monitoring of narcotic security with all ALS fire based providers dispatched by the Center who are participants in the SCEMSA.

*Notes:*

- (a) *This will require that the Medical Director have unrestricted access to all narcotic utilization records for each ALS provider and personnel, when requested.*
- (b) *The EMS Chief for each dispatched agency will provide the Medical Director with a weekly report on narcotic utilization, with details worked out by the Medical Director and the EMS ~~Officers~~Chiefs.*

(2) Conduct a bi-annual system-wide narcotic inventory, plus other inspections as necessary to generate with DEA-acceptable reports.

- (a) All substances must be kept current and have appropriate authorization signatures to demonstrate accountability.
- (b) Register and manage all controlled substances ~~that~~ which are used in accordance with local, state, and federal statutes and regulations.
- (c) Medical Director will assure comprehensive record keeping and security measures for controlled substances in accordance with law.

*Note: Dedicated bi-annual inspection (usually takes between a half a day and a full day) to rotate ambulances for narcotic inspection, with dedicated EMS personnel including the EMS Chief to conduct the inspections.*

b. Quality Assurance.

The Medical Director will:

- (1) Participate in quality assurance investigations as needed or requested.
  - (a) All EMS ~~Officers~~ Chiefs will be required to notify and involve the Medical Director when a quality assurance investigation regarding patient care is referred to human resources, is likely to involve discipline, or is referred to the Sacramento County Emergency Medical Services Agency and/or the State EMS Authority.
- (2) Initiate patient care quality assurance investigations as needed.
- (3) Lead a quarterly quality improvement meeting, comprised of representation from the Center, Member agencies, and contracting agencies, to address each measure and the specific measures for each PI objective.

- c. Maintain, and oversee an ~~a~~Automatic External ~~e~~Defibrillator program to be practiced under his medical license. This will be done in compliance with all state laws, rules and regulations.
- d. Maintain liaison with other physicians, including other Fire Service Medical Directors and local emergency department physicians.
- e. Attend regional, state, and national meetings directly related to his role as the Center's Medical Director.
- f. Interact with regional, state and local EMS authorities to ensure that standards, needs and requirements are met and resource utilization is optimized.
- g. Oversee all EMS post exposure prophylaxis program.
- h. Report to County Fire Chiefs of the Center on a bi-monthly basis or as requested.
- i. Conduct training concerning treatment and transportation protocols for EMT and EMT-P, and will have access to implement immediate alterations or amendments.
- j. Represent the Fire Service to the EMS System, as well as represent the medical community to the Fire Service.
- k. Observe, monitor, and make recommendations as to the availability/quality of EMS care and transportation provided by the Center and its member and contracting agencies.
- l. Provide medical oversight and expertise to continuous quality improvement (CQI) programs by reviewing and analyzing EMS effectiveness, system trends, and needs in an effort to ensure EMS system excellence.
- m. Develop and assist in the formulation of policies and procedures.
- n. Participate in call reviews with emergency dispatch personnel, firefighters/paramedics, and firefighter/EMTs.
- o. Assist in problem solving in field clinical decision making.
- p. Participate with member agencies in investigations and/or disciplinary actions of EMS personnel.
- q. Respond to activation of (1) the EOC (Emergency Operations Center), and/or (2) FOC (FEMA Operations Center).
- r. ~~Have~~Provide oversight of TEMS (Tactical Emergency Medical Support) protocol.

s. ~~Have~~Provide oversight of the Center's adopted EMD Protocol (currently Medical Priority Dispatch System (MPDS)).

t. Receive automatic response notifications of the following incidents, and shall respond in accordance with a previously established plan:

(1) Level 3 ~~or higher~~ HazMat for firefighter evaluation and care;

(2) Multi-alarm (three or more) structure/wildland fires to assist in rehab and firefighter care;

(3) Firefighter injury with Code 3 response to hospital;

~~(54) Center or agency personnel experience a high-level exposure to a potential infectious disease.~~

~~(45)~~ As requested by EMS Chief or higher (e.g. sick building, large scale MCI, etc.)

~~(5) Center or agency personnel experience a high-level exposure to a potential infectious disease.~~

u. Provide coordinated-care (pit crew) CPR training for the Center and for every member agency and contract agency of the Center, including bi-annual dedicated EMS training system-wide for cardiac arrest care.

v. In coordination with agency personnel, measure cardiac arrest metrics, including CodeSTAT / RescueNET reviews of every adult medical cardiac arrest with direct feedback to the company officer as soon as possible, ideally before the conclusion of the rotation.

w. Provide bi-monthly reports of cardiac arrest performance divided out by department and shift, as well as an aggregate report of the entire fire service.

x. Meeting Attendance.

The Medical Director will attend the following meetings on behalf of the Center, and its member and contract agencies:

(1) Sacramento County: Medical Advisory Committee and Operational Advisory Committee~~and Operational Oversight Committees~~

(2) Sacramento County Fire Chiefs Association

(3) Emergency Medical Directors Association of California (quarterly meetings)

*Notes:*

(a) *Estimated costs for attendance at this meeting (airfare, hotel, ground transportation and daily meal allowance) equals Two Thousand One Hundred Dollars (\$2,100.00).*

(b) *Annual dues = Three Hundred Dollars (\$300.00).*

(4) National Association of EMS Physicians (annual meeting)

*Notes:*

(a) *Estimated costs for attendance at this meeting (airfare, hotel, ground transportation and daily meal allowance) equals Three Thousand Dollars (\$3,000.00).*

(b) *Annual dues = Five Hundred Twenty-Five Dollars (\$525.00).*

(5) Gathering of Eagles Annual Conference

*Note: Estimated costs for attendance at this meeting (airfare, hotel, ground transportation and daily meal allowance) equals Two Thousand Five Hundred Dollars (\$2,500.00).*

y. Permissions and training on the use of target safety for posting training.

z. In addition to the training and education responsibilities set forth above, the Medical Director will meet with each academy class conducted by either the Center or a member agency at least once to present a one-hour lecture on quality improvement in the fire service, the role of the fire service medical director, and recognizing “sick, not sick.”



**Exhibit A-2 to  
Independent Contractor Agreement for Special Services**

**ANNUAL GOALS**

1. For 2017/2018, Annual Goals include:

a. Endotracheal Intubation.

Develop standards and quality measures for adult and pediatric endotracheal intubation, which shall include a complete review of all adult and pediatric intubations including objective measures of success in airway management (oxygen saturation, end tidal CO2 measurement and waveform capnography).

***Note: This will require that the Medical Director have unrestricted access to all ePCRs and patient data for every patient contact.***

b. Video-Assisted Intubations.

Complete review of all video-assisted intubations with direct performance feedback to the operator.

***Note: This will require that the Medical Director have unrestricted access to all video recordings and to personnel to discuss cases.***

c. Quality Improvement.

(1) Coordinate with the EMS ~~officers~~ Chiefs, EMS nurses, and EMS staff to identify at least three (3) specific patient-centered goals and measures that will be a uniform focus of all agencies dispatched by the Center.

(a) These measures will include airway management, cardiac arrest performance, and twelve-lead transmission.

(b) Develop focused training on basic 12-lead EKG reading/interpretation.

- Train personnel on proper 12-lead transmission (including decisions to transmit, why transmission is important, etc.);
- Implement a quality improvement process to track and follow 12-lead transmissions with feedback to the company officers on non-STEMI 12-lead transmissions.

- (2) Each agency will need:
- (a) The capability to provide information on all cardiac arrests immediately following the arrest by either (a) upload to the server (wi-fi) or (b) download to a thumb drive;
  - (b) Physiocontrol LP-12 fire department will need to purchase Code STAT (approximately \$13,000). Zoll fire departments MAY need to purchase the Enterprise version of Rescue NET;
  - (c) To dedicate the time of an EMS captain for one (1) hour each day to perform CPR performance reviews, and send them to the Medical Director.

(3) Website Development.

- (a) The Medical Director will: develop a Medical Director component of the Center's website, which will contain:
- a "Case of the Week,"
  - educational postings,
  - links to useful websites.
- (b) The website will serve as a central source of information for all fire personnel from their Medical Director.

2. For 2018/2019 and subsequent years:

- a. The Medical Director will work with the Center, and its member agencies and contract agencies, to develop Annual Goals for the Medical Director that are designed to improve the delivery of EMS services.
- b. Those Annual Goals shall become, each year, a new Exhibit A-2 to this Agreement.

**Exhibit B to  
Independent Contractor Agreement for Special Services**

**COMPENSATION**

**1. Compensation.**

a. Base Amount.

In exchange for providing the services described in Exhibit A to this Agreement, TPMG shall be paid One Hundred Twenty-Five Thousand Dollars (\$125,000) per fiscal year (July 1 through June 30). Except as noted in 1.b. and 1.c. below, this annual amount is “all” inclusive.

b. Travel.

Medical Director will be reimbursed for costs associated with out-of-county travel for attendance at key state and national EMS meetings. Travel and the amount of reimbursement shall be approved in advance by the Center’s Governing Board in accordance with a written request submitted by the Medical Director.

c. Membership Dues.

Upon written request of the Medical Director, Center shall consider payment for other memberships that enhance the Medical Director’s ability to perform agreed-upon services.

**2. Payment.**

a. Schedule.

Payment will be made quarterly in arrears on the following dates:

- September 30 (Q1)
- December 31 (Q2)
- March 30 (Q3)
- June 30 (Q4)

b. Process.

Payment shall be made (for all undisputed amounts) within thirty (30) calendar days after TPMG submits an invoice to the Center for Services actually completed.

**3. Evaluation.**

A yearly evaluation will be performed on Dr. Mackey’s Anniversary Date.

**4. Services Outside Scope.**

If Dr. Mackey is requested to perform services that he feels are outside of his Scope of Services (see Exhibit A to this Agreement), Dr. Mackey may submit a written request (in advance of performing the work) to the Center's Chief Executive Director and Sacramento County Fire Chiefs Association asking for a review of the requested service and whether additional compensation is warranted.

**5. Other.**

1. Vehicle.

Dr. Mackey will be assigned a Response Vehicle (with logo) that is equipped with a Mobile Data Computer and the ability to respond Code 3 to emergencies. Code 3 responses are not permitted unless Dr. Mackey has completed an Emergency Vehicle Operations Course.

2. Office Space.

Dr. Mackey will be given a dedicated office or space with building access at the headquarters office of each of the four Center member agencies.

- a. Dr. Mackey is required to spend sixty-five (65) hours of dedicated office time per month with member agencies.
- b. Hours at each agency to be agreed upon in advance and noticed to each agency to allow for planned visits or personnel contacts.

**Exhibit C to  
Independent Contractor Agreement for Special Services**

**GENERAL TERMS AND CONDITIONS**

1. **Standard of Care.** Dr. Mackey's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California fire agencies.
2. **Originality of Services.** TPMG agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the Center and/or used in connection with this Agreement, shall be wholly original to TPMG and shall not be copied in whole or in part from any other source, except those submitted to TPMG by the Center as a basis for such services.
3. **Product.** TPMG understands and agrees that all matters produced under this Agreement shall become the property of the Center and cannot be used without the Center's express written permission. The Center shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the Center. TPMG consents to the use of TPMG's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
4. **Termination.**
  - a. **Without Cause by the Center.** The Center may, at any time, with or without reason, terminate this Agreement and compensate TPMG only for services satisfactorily rendered to the date of termination. Written notice by the Center shall be sufficient to stop further performance of services by TPMG. Notice shall be deemed given when received by TPMG or no later than three (3) days after the day of mailing, whichever is sooner.
  - b. **Without Cause by TPMG.** TPMG may not terminate this Agreement without cause.
  - c. **With Cause by the Center.** The Center may terminate this Agreement upon giving written notice of intent to terminate for cause. Cause shall include:
    - (1) material violation of this Agreement by TPMG; or

- (2) any act by TPMG exposing the Center to liability to others for personal injury or property damage; or
- (3) TPMG is adjudged bankrupt, TPMG makes a general assignment for the benefit of creditors, or a receiver is appointed on account of TPMG's insolvency.

Written notice by the Center shall contain the reasons for such intent to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, the Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the Center may secure the required services from another contractor. If the expense, fees, and/or costs to the Center exceed the cost of providing the service pursuant to this Agreement, TPMG shall immediately pay the excess expense, fees, and/or costs to the Center upon the receipt of the Center's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to the Center.

- d. **With Cause by TPMG.** TPMG may terminate this Agreement upon giving of written notice to terminate for cause. Cause shall include:
  - (1) material violation of this Agreement by the Center; or
  - (2) any act by the Center exposing TPMG to liability to others for personal injury or property damage; or
  - (3) the Center is adjudged bankrupt, the Center makes a general assignment for the benefit of creditors or a receiver is appointed on account of the Center's insolvency.

Written notice by TPMG shall contain the reasons for such intention to terminate and unless ~~within thirty (30) calendar days after that notice~~ the condition or violation ~~shall~~ cease, or satisfactory arrangements for the correction thereof be made, this Agreement ~~shall upon the expiration of~~ shall terminate thirty (30) calendar days after the written notice is give-~~cease and terminate~~.

The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to TPMG.

- e. The decision to terminate this Agreement by the Center, whether with or without cause, shall only be made by a unanimous vote of the Center's Governing Board.
  - f. Upon termination, TPMG shall provide the Center ~~will~~ with all documents produced, maintained or collected by TPMG pursuant to this Agreement, whether or not such documents are final or draft documents.
5. **Indemnification/Defense/Hold Harmless.** To the furthest extent permitted by California law, TPMG shall, at its sole expense, defend, indemnify, and hold harmless the Center, the State of California, and their agents, representatives, officers, consultant, employees, trustees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, personal injury, death, property damage, and consultants' and/or attorneys' fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted, or suffered by TPMG in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The Center shall have the right to accept or reject any legal representation that TPMG proposes to defend the indemnified parties.
6. **Insurance.** TPMG shall procure and maintain at all times it performs any portion of the Services the insurances specified in Exhibit D to this Agreement.
7. **Confidentiality.** TPMG and TPMG's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services ("Confidential Information"), and shall not disclose Confidential Information, including information derived from Confidential Information, to any person not a party to this Agreement without the express prior written consent of the Center, except as required by law or as necessary for TPMG's agents, personnel, employee(s), and/or subcontractor(s) to perform the Services. If TPMG or any of TPMG's agents, personnel, employee(s), and/or subcontractor(s) is served with any subpoena, court order, or other legal process seeking disclosure of any Confidential Information, both

TPMG and the person served shall promptly send to the Center notice(s) of the legal process, but in no event shall do so any later than forty-eight (48) hours or such shorter time frame as necessary ~~to~~ so that the Center may exercise any applicable legal rights and remedies. TPMG shall require its agents, personnel, employee(s), and/or subcontractor(s), as a condition of their retention, appointment, employment, or contract, to agree to comply with the provisions of this Section, and shall not permit its agents, personnel, employee(s), and/or subcontractor(s) access to Confidential Information in the absence of such agreement being effective. The obligations imposed in this Section shall survive the termination of this Agreement.

8. **Conflict of Interest.** Through its execution of this Agreement, TPMG acknowledges that it is familiar with the provisions of Gov. Code § 1090 et seq. and Chapter 7 of the Political Reform act of 1974 (Gov. Code § 87100 et seq.), and certifies that it does not know of any facts that constitute a violation of those provisions. In the event TPMG receives any information subsequent to execution of this Agreement that might constitute a violation of these provisions, TPMG agrees it shall immediately notify the Center of this information.
9. **Approval of Legislative Body.** This Agreement shall not be binding upon the Center until the Center's Governing Board has approved all terms and conditions contained herein.
10. **Disputes.** In the event of a dispute between the Parties as to performance of the Services, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, TPMG shall neither rescind the Agreement nor stop performing the Services.
11. **Limitation of Liability.** Other than as provided in this Agreement, the Center's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall the Center be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
12. **Compliance with Laws.** TPMG shall observe and comply with all rules and regulations of the Governing Board of the Center and all federal,

state, and local laws, ordinances and regulations. TPMG shall give all notices required by law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If TPMG observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, TPMG shall notify the Center, in writing, and, at the sole option of the Center, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon TPMG's receipt of a written termination notice from the Center. If TPMG performs any work ~~that which~~ is in violation of any laws, ordinances, rules or regulations, without first notifying the Center of the violation, TPMG shall bear all costs arising therefrom.

**13. Permits/Licenses.** TPMG and all TPMG's employees or agents shall secure and maintain in force all permits and licenses that are required by law in connection with the furnishing of Services pursuant to this Agreement.

~~**14. Safety and Security. TPMG is responsible for maintaining safety in the performance of this Agreement. TPMG shall be responsible to ascertain from the Center the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.**~~

**1514. Anti-Discrimination.** It is the policy of the Center that, in connection with all work performed under contracts, there ~~by be~~ no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender express, age, sexual orientation, or military and veteran status, or any other class or status protected by applicable law, and therefore, TPMG agrees to comply with applicable federal and state laws including, but not limited to the California Fair Employment and Housing Act beginning with Gov. Code § 12900 and Labor Code § 1735. In addition, TPMG agrees to require like compliance by all its subcontractor(s).

**1615. Audit.** TPMG shall establish and maintain books, records, and systems of account in accordance with generally accepted accounting principles, reflecting all business operations of TPMG transacted under this Agreement. TPMG shall retain these books, records, and systems of account during the Term of this Agreement and

for three (3) years thereafter. TPMG shall permit the Center, its agents, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts form all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the Center shall give reasonable prior notice to TPMG and shall conduct audit(s) during TPMG's normal business hours, unless TPMG otherwise consents.

**1716. Evaluation of TPMG and Subordinates.**

The Center may evaluate TPMG in any manner which is permissible under the law. The Center's evaluation may include, without limitation:

- a. requesting that the Center's employee(s) evaluate TPMG and the TPMG's employees and subcontractors and each of their performance;
- b. announced and unannounced observance of TPMG, TPMG's employee(s), and/or subcontractor(s).

**1817. Time is of the Essence.** Time is of the essence in the performance of Services and the timing requirements agreed upon by the Parties, if any, shall be strictly adhered to unless otherwise modified in writing in accordance with Section ~~27 26~~ of this Exhibit C. TPMG shall commence performance, and shall complete all required Services no later than the dates agreed upon by the Parties. Any Services for which times for performance are not specified shall be commenced and completed by TPMG in a reasonably prompt and timely manner based upon the circumstances and direction communicated to TPMG by the Center.

**1918. Provisions Required by Law Deemed**

**Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted and this Agreement shall be read and enforced as though it were included. If through mistake or otherwise, any provision is not inserted or is not correctly inserted, then upon application of either Party, the Agreement shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments in the subject, which are in effect as of the date of this Agreement, and any later changes which do not materially and substantially alter the positions of the Parties.



- | **2019. Assignment and Successors.** Neither the Center nor TPMG shall, without the prior written consent of the other Party, assign the benefit or in any way transfer their respective obligations under this Agreement. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and, except as otherwise provided herein, upon their executors, administrators, successors, and assigns.
- | **2120. Severability.** In the event that any provision of this Agreement shall be construed to be illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof, but such illegal or invalid provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal or invalid provision had never been included herein, unless to do so would frustrate the intent and purpose of this Agreement.
- | **2221. Force Majeure.** No Party shall be liable to any other Party for any loss or damage of any kind or for any default or delay in the performance of its obligations under this Agreement (except for payment obligations) if and to the extent that the same is caused, directly or indirectly, by fire, flood, earthquake, elements of nature, epidemics, pandemics, quarantines, acts of God, acts of war, terrorism, civil unrest or political, religious, civil or economic strife, or any other cause beyond a Party's reasonable control.
- | **2322. Venue/Governing Laws.** This Agreement shall be governed by the laws of the State of California and venue shall be in Sacramento County.
- | **2423. Attorney's Fees.** If suit is brought by either Party to enforce any of the terms of this Agreement, each Party shall bear its own attorney's fees and costs.
- | **2524. Exhibits.** All Exhibits referred to in this Agreement are incorporated in this Agreement and made a part of this Agreement as if fully set forth herein.
- | **2625. Entire Agreement.** This Agreement represents the entire agreement between the Center and TPMG and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended or modified only by an agreement in writing, signed by both the Center and TPMG.
- | **2726. Modification.** This Agreement may be amended at any time by the written agreement of the Center and TPMG.
- | **2827. Waiver.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
- | **2928. Authority.** The individual executing this Agreement on behalf of TPMG warrants that he/she is authorized to execute this Agreement on behalf of TPMG and that TPMG will be bound by the terms and conditions contained herein.
- | **3029. Headings and Construction.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include

plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared the same. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs, and subsections are to this Agreement.

**3130. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, when signed by all of the Parties hereto, shall constitute one and the same instrument. A facsimile or electronic signature shall be as valid as an original.



**Exhibit D to  
Independent Contractor Agreement for Special Services**

**INSURANCE AND INDEMNIFICATION**

**1. Insurance.**

a. TPMG shall procure and maintain at all times it performs any portion of the Services the following insurances with minimum limits equal to the amounts indicated below.

- (1) Commercial General Liability and Automobile Liability Insurance. Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect TPMG, the Center, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from the performance of any portion of the Services. (Form CG 0001 and CA 0001)
- (2) Workers' Compensation and Employers' Liability Insurance. Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, TPMG shall be required to secure Workers' Compensation insurance coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.
- (3) Professional Liability (Errors and Omissions). Professional Liability (Errors and Omissions) Insurance as appropriate to TPMG's profession.

Type of Coverage	Minimum Coverage
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	<b>\$1,000,000</b> <b>\$1,000,000</b>
<b>Automobile Liability Insurance – Any Auto</b> Each Occurrence General Aggregate	<b>\$1,000,000</b> <b>\$1,000,000</b>
<b>Professional Liability</b>	<b>\$1,000,000</b>
<b>Workers' Compensation</b>	<b>Statutory Limits</b>
<b>Employers' Liability</b>	<b>\$1,000,000</b>

b. TPMG shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered in duplicate to the Center and approved by the Center. Certificates and insurance policies shall include the following:

- (1) A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the Center, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after the date of mailing the notice."

- (2) Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- (3) An endorsement stating that the Center and the State and their representatives, employees, trustees, officers, consultants, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that TPMG's insurance policies shall be primary to any insurance or self-insurance maintained by the Center.
- (4) All policies shall be written on ~~an~~-a per occurrence form, except for Professional Liability, which shall be on a claims-made form.

**2. Indemnification.**

- a. TPMG agrees to hold harmless and indemnify the Center, officers, agents, and employees from and against any and all losses, liability, or damages arising out of, in consequence of, or resulting from the negligent acts and/or omissions of Dr. Mackey.
- b. The Center agrees to hold harmless and indemnify TPMG, its officers, agents, and employees from and against any and all losses, liability, or damages arising out of, in consequence of, or resulting from the negligent acts and/or omissions of the Center.
- c. TPMG shall name the Center as an additional insured on its General Liability and Medical Malpractice/Professional Liability insurance, and shall provide a Certificate of Insurance evidencing this coverage to the Center prior to, or contemporaneously with, execution of this Agreement. All insurance policies shall require that the Center be provided with thirty (30) days' notice of cancellation of any such policies. Such insurance shall be primary. Any insurance maintained by the Center shall be in excess of and not in contribution with insurance required under this Agreement.
- d. The Center agrees to indemnify and hold harmless Dr. Mackey for any and all clinical issues related to care provided by employees of the Member Agencies. In addition, the Center will assume all costs, liabilities, and penalties associated with an investigation and/or prosecution related to clinical issues related to care provided by an employee of the Member Agencies.



**AGREEMENT FOR LEASE OF  
REAL PROPERTY**

**SACRAMENTO REGIONAL FIRE/EMS  
COMMUNICATIONS CENTER**

**3121 GOLD CANAL DRIVE  
RANCHO CORDOVA, CA 95670**

**AGREEMENT FOR LEASE OF REAL PROPERTY**  
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**AGREEMENT FOR LEASE OF REAL PROPERTY**

**3121 Gold Canal Drive, Rancho Cordova, CA 95670**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between the SACRAMENTO METROPOLITAN FIRE DISTRICT, an autonomous Special District established under California Health and Safety Code Section 13800, hereafter "District," and SACRAMENTO REGIONAL FIRE/EMS COMMUNICATIONS CENTER, a Joint Powers Authority organized pursuant to the provisions of the California Government Code Section 6500, hereafter "Lessee."

**WHEREAS**, District owns certain real property located at 3121 Gold Canal Drive in the City of Rancho Cordova, California; and

**WHEREAS**, Lessee provides dispatching services to several emergency response agencies in Sacramento County; and

**WHEREAS**, Lessee desires to lease that certain real property from District to conduct Lessee's business; and

**WHEREAS**, District is willing to grant the same to Lessee, upon the promises, terms, conditions, and covenants set forth herein.

**NOW, THEREFORE**, for consideration of the promises, terms, conditions, and covenants contained herein, District and Lessee hereby agree as follows:

# Article 1 Definitions

As used herein, the following words and phrases shall have the meanings set forth below:

## **1.01 Anniversary Date**

"Anniversary Date" shall mean the first day of a Lease Year.

## **1.02 Commencement Date**

"Commencement Date" shall mean the date the Agreement is effective which shall be June 1, 2017.

## **1.03 Chief**

"Chief" shall mean the Fire Chief of the Sacramento Metropolitan Fire District and his or her authorized representatives.

## **1.04 District**

"District" shall mean Sacramento Metropolitan Fire District, an autonomous Special District, as represented by the Sacramento Metropolitan Fire District Board of Directors.

## **1.05 Execution Date**

"Execution Date" shall mean the date the Agreement is approved and executed by the Chief.

## **1.06 Gross Revenues**

"Gross Revenues" means all monies received by or due to Lessee, subtenants, or any other person selling goods or services for a profit in, at or from the Leased Premises for cash, credit or otherwise, without reservation or deduction for uncollected amounts, credit card fees or charges, or collection costs, including, but not limited to:

1. All rental transactions, sales, meeting facilities charges, catering fees, restaurant and other services occurring on the Leased Premises as authorized pursuant to Article 2.03 A of this Agreement;
2. Any income resulting from transactions originating in, at, or from the Leased Premises, including customer parking, and deposits not refunded to customers; and
3. Compensation of any kind received from a distributor or manufacturer for promoting or advertising any product on the Leased Premises or elsewhere at SMF.

"Gross Revenues" of Lessee, and any other person selling goods or services for a profit in, at or from the Leased Premises shall exclude:

1. All sums or credits received in settlement of claims for loss or damage to merchandise.
2. All sales taxes, retailers' excise taxes, transaction taxes, or similar equivalent taxes paid to or collected by or payable by Lessee, or any other person selling goods or services for a profit in, at or from the Leased Premises, as are first approved in writing by the County as excludable items.
3. The amount of any gratuities paid or given by customers to or for employees of Lessee, or any other person selling goods or services for a profit in, at or from the Leased Premises.

### **1.07 Sign**

"Sign" shall mean any advertising sign, billboard, identification sign or symbol, poster, or other similar device, regardless of content.

### **1.08 Leased Premises**

"Leased Premises" shall mean those certain premises leased by Lessee, more particularly described by Article 2.02.

### **1.09 Lease Year**

"Lease Year" shall mean a period of twelve (12) consecutive calendar months beginning June 1 and ending May 31.

### **1.10 Trade Fixtures**

"Trade Fixtures" shall mean, but will not be limited to: all fixtures, furnishings, equipment, and machinery used in connection with Lessee's required or permitted activities pursuant to this Agreement, whether or not such machinery or equipment is bolted or otherwise attached to the Leased Premises; and all other miscellaneous personal property affixed in such a manner that they can be readily removed without damage to the remainder of the Leased Premises and without substantially changing the character of the improvements. All non-affixed items, including point of sale equipment, moveable furnishings, safes, racks, telephone equipment, and non-affixed display fixtures, shall be deemed to be Trade Fixtures for the purposes of this Agreement.

*The remainder of this page intentionally left blank.*



## **Article 2 Special Conditions**

### **2.01 Term**

#### **A. Initial Term**

The term of this Agreement shall be for three years, commencing on June 1, 2017 and terminating on May 31, 2020.

Whenever the word "Term" is used hereafter in this Agreement it shall mean the Term as set forth in this Section.

#### **B. Option to Extend**

Lessee, with the consent of District, may extend this Agreement upon the expiration of the Initial Term for up to two (2) additional one (1) year terms. If Lessee prefers to exercise this option, Lessee shall give written notice to District of its desire to renew the Agreement not less than 90 days prior to expiration of the Agreement. If the District consents to the Term extension, Lessee's rental of the Leased Premises shall be upon the same terms, covenants and conditions contained in this Agreement.

### **2.02 Description of Leased Premises**

District hereby leases to Lessee the entire premises at 3121 Gold Canal Drive, Rancho Cordova, CA 95670, hereinafter Leased Premises.

Except as provided herein, all Leased Premises are leased in their "as is" condition and without any expressed or implied representations or warranties of any kind whatsoever.

### **2.03 Use of the Leased Premises**

#### **A. Permitted Use**

Subject to the limitations set forth in Section 2.03(b), and elsewhere in this Agreement, Lessee may use the Leased Premises for any or all of the following purposes, but for no other purposes:

1. Lessee shall have the right to use the Leased Premises as a dispatch center in support of Lessee's normal operations.
2. Lessee shall have the right and privilege to operate a Training Center, including the right to rent rooms, meeting facilities and provide other services incidental to and normally provided by a concessionaire.

Lessee's use of Leased Premises shall at all times be in accordance with and comply with all applicable federal, State, and local laws, regulations, and ordinances.

#### **B. Limitations**

Lessee shall use the Leased Premises in accordance with the following limitations and all other applicable terms, promises, conditions, and covenants contained

herein. Lessee shall not engage in any commercial activity at the Leased Premises other than as provided in Section 2.03 (a), without first obtaining the required permits or agreements from District.

## **2.04 Rent**

Lessee shall pay Rent to District during the Term of the Agreement as follows:

### **A. Time and Manner of Payment**

Lessee shall pay all Rent in advance, in equal monthly installments, at the District's accounting office, at the address shown for District under Section 2.12 herein, on the first day of each calendar month throughout the Term of this Agreement.

### **B. Rent**

Commencing April 1, 2017, Rent shall be paid on the first day of each and every calendar month throughout the Term of this Agreement and without prior notice thereof. Lessee shall pay to District Rent in the amount of One Thousand Five Hundred Dollars (\$1,500) per month.

### **C. Percentage Rent**

1. For the right and privilege to operate a Training Center, as described in Article 2.03 A, Lessee shall pay Percentage Rent on Lessee's Gross Revenues as defined in Article 1.06 and shall be equal to fifteen percent (15%) of Gross Revenues.

Percentage Rent shall be computed for each month of the Term on or before the fifteenth (15th) day of the calendar month immediately following the month in which such Gross Revenues were generated. Lessee shall submit a Monthly Report as required by Article 3.31 hereof, and pay to District the Percentage Rent due.

2. The first Fifty Thousand Dollars (\$50,000) in Gross Revenues per Lease Year shall be excluded from the Percentage Rent requirement specified in this Section.

## **2.05 Security Deposit**

### **A. Deposit Amount**

Lessee shall deposit with the District a Security Deposit in the sum equivalent to three month's Rent, initially Four Thousand Five Hundred and 00/100ths Dollars (\$4,500.00). Such deposit shall be in the form of an irrevocable, automatically renewing, bank letter of credit, performance bond obtained from a company that has an A.M. Best's rating of no less than A:VII or other security satisfactory to the District, in a form approved by the Chief. Upon notice from the Chief, this requirement may be removed until such time that a Security Deposit is required from Lessee. Documents evidencing this deposit must provide that the same shall remain in full force and effect for a period extending two months following any termination or cancellation of this Agreement as herein provided. At all times upon request of District, Lessee will increase the amount on deposit with District to an amount equivalent to at least three months of monthly rental payment due.

## **B. Conditions of Deposit**

The sum paid by Lessee for the Security Deposit shall be held by District for Lessee, and shall not be subject to the claim of any creditor of District. District may use such deposit, or any portion thereof, for payment of any sum owed to District by Lessee with respect to this Agreement, and such use may be without prior notice to Lessee. If any portion of such deposit is used to correct such a default, Lessee shall pay to District, upon demand therefore, such sums as are needed to return the full amount of the deposit with District to an amount equivalent to three month's Rent, and such payment shall be made to District by Lessee within fifteen (15) days of such demand. District shall not be responsible for paying any interest or additional charges or costs during the period in which such deposit is held.

Within fifteen (15) days of applying such deposit to correct a default or to pay amounts due or owing upon termination of this Agreement, District shall provide Lessee with an accounting of such deposit application. Upon termination of this Agreement, such deposit less any amounts due or owing to District by Lessee shall be refunded to Lessee.

## **C. Waiver of Deposit**

District shall waive the Security Deposit requirement specified in Paragraph A of this Section as long the District is a member of the Sacramento Regional Fire/EMS Communications Center Joint Powers Authority.

## **2.06 Additional Fees, Charges and Rentals**

Lessee shall pay to District additional fees, charges and rentals in the event of any of the following:

- a) If District has paid any sum or sums, or has incurred any obligation or expense, for which Lessee has agreed to pay or reimburse District, or for which Lessee is otherwise responsible;
- b) If District is required or elects to pay any sum or sums, or incur any obligation or expense, because of the failure, neglect or refusal of Lessee to perform or fulfill any of the promises, terms, conditions or covenants required of it herein; or
- c) Pursuant to any separate agreement between the parties not contained herein.

Lessee's obligations pursuant to this Section shall include all interest, cost, damages, and penalties in conjunction with such sums so paid or expenses so incurred by District, which may be added by District to any installment of fees, charges, and rents payable herein. Each and every part of such payment by District shall be recoverable by District in the same manner and with like remedies as if it were expressly set forth herein.

For all purposes under this Section, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by District for or in connection with any work done or material furnished shall be prima facie evidence against Lessee that the amount of such payment was necessary and reasonable.

Lessee shall pay District pursuant to this Section within thirty (30) days following demand therefor.

## **2.07 Interest Charges Applied To Late Payments**

If Lessee is in arrears for seven (7) days or more following the due date of any amount payable to the District herein, the parties acknowledge that additional clerical, accounting and other work will be performed which would not otherwise be needed absent the late payment. In addition, because the actual charges as a result of the late payment are difficult to identify, the parties hereby agree that Lessee shall pay as a reasonable interest charge for the late payment the amount of Five percent (5%) computed as an annual percentage rate, applicable from the date such payment was due to the date the actual payment is received by the District. If the maximum charge permitted by law is less than the foregoing amount, then the rate shall be such amount determined to be the maximum legal amount. These interest charges shall be calculated and posted on a monthly basis, and shall be prorated by the number of days in the month.

## **2.08 Utilities**

Lessee, at Lessee's sole cost and expense, shall make its own arrangements and pay for all charges assessed for any and all other utilities including, but not limited to, electricity, gas, water, sanitary sewer, telephone and communication services, including any and all connection and metering charges, as billed directly to Lessee by utility companies furnishing such services or as billed by District. If billed by District, Lessee shall pay standard nondiscriminatory rates and charges including, but not limited to, administrative charges as may be established by District from time to time, within thirty (30) days following the date of such billing.

Lessee agrees that any and all such charges for any and all such services shall be paid before their delinquency and that District shall be protected and held harmless by Lessee there from. District shall not be liable to Lessee for any interruption in or curtailment of any utility service, nor shall any such interruption or curtailment constitute a constructive eviction or grounds for rental abatement in whole or in part herein.

## **2.09 Maintenance of Leased Premises**

### **A. Responsibility of District**

Throughout the Term of this Agreement, District shall provide the following maintenance to the Leased Premises:

- 1) Repair and patch roof, as necessary. Clean and clear gutters as necessary.
- 2) Provide structural maintenance and/or structural repair to the Leased Premises, including exterior walls, roof and foundation.
- 3) Maintain, repair and perform preventative maintenance of heating, ventilation, air conditioning equipment and filters.
- 4) Maintain, repair, and perform all ordinary preventative maintenance of electrical (including relamping and ballast replacement) and all subsurface plumbing systems.
- 5) Maintain, repair and replace exterior doors and windows as needed.
- 6) Maintain, repair and replace the parking lot surfaces as needed.

## **B. Responsibility of Lessee**

Except as otherwise expressly provided in Section 2.09 (A), during the Term of this Agreement, Lessee shall at its sole cost and expense perform all other maintenance and repair, including but not limited to:

- 1) Maintain, repair and perform all ordinary preventative maintenance and upkeep of the Leased Premises. Such maintenance and repair shall include all appliances and fixtures within Lessee's Leased Premises.
- 2) Maintain, repair and replace any improvements, alterations, or additions caused by Lessee whether Lessee has or has not obtained advance authorization from District in accordance with Section 2.10 of this Agreement.
- 3) Clean and perform all janitorial service within the Leased Premises.
- 4) Provide pest control services necessary to maintain the Leased Premises in a pest and vermin free condition.
- 5) Provide landscaping services necessary for the upkeep of the Leased Premises.

As between District and Lessee, Lessee shall be solely responsible for the cost of any repair or maintenance to the Leased Premises resulting from the negligent acts or omissions of Lessee, its officers, agents, employees, invitees, suppliers, or contractors. In the event of such damage, District may elect to perform such repair or maintenance itself, at Lessee's sole cost and expense, or require Lessee to perform the same at Lessee's sole cost and expense. Provided, however, if such repair or maintenance is not of an emergency nature, as determined by the Chief, in his sole discretion, District shall give Lessee five (5) days advance written notice of its election in such matter.

Lessee agrees to take good care of the Leased Premises and to return the same at the termination of this Agreement in as good order and condition as when received, excepting ordinary wear and tear and natural decay.

### **2.10 Improvements or Alterations**

Lessee shall make no alterations or improvements, including repairs, to Leased Premises without the prior written approval of the Chief which shall set forth the procedures applicable to the alteration. To obtain the Chief's written authorization, Lessee agrees to submit written specifications of the modifications requested. The Chief's approval shall not waive any local, State or federal requirements governing such alterations and improvements. All alterations, improvements or repairs made to the Leased Premises will be at the sole cost and expense of Lessee.

### **2.11 Insurance**

Throughout the term of this Agreement, Lessee for itself and its officers, representatives, agents, employees, guests, patrons, contractors, subcontractors, licensees, invitees, volunteers and suppliers shall maintain in full force and effect the forms of insurance specified herein:

- A. Lessee shall pay for and maintain insurance throughout the life of this Lease with general liability coverage of One Million Dollars (\$1,000,000).

- B. Lessee shall furnish District with proof on insurance and an endorsement issued by an insurer approved by District showing the coverage to be in force and showing District as a named insured for the current Term.
- C. Any insurance policies required by this Lease shall not be amended or cancelled without thirty (30) days' prior written notice being given to District.
- D. In the event Lessee does not have the required certificate(s) of insurance and/or binder(s) evidencing the proper insurance coverage, or the required insurance coverage lapses, this Agreement shall be terminated at District's option by the Chief giving written notice to Lessee.

**2.12 Notices**

Any notice, demand, request, consent or approval required pursuant to this Agreement shall be in writing and either served personally or sent by U.S. Mail, overnight courier or email. Such matters shall be addressed to the other party at the following address:

**When to District:**

Sacramento Metropolitan Fire District  
 ATTN: Property Manager  
 10545 Armstrong Ave #200  
 Mather, CA 95655

**When to Lessee:**

SRFECC  
 10230 Systems Parkway  
 Sacramento, CA 95827-3007

or to any other address as either party may designate to the other by giving fifteen (15) days prior written notice. All communications shall be deemed received upon delivery if personally delivered or when delivered by recognized overnight delivery service, or within five (5) business days following deposit in the mail, if sent by mail. If sent by email, notice shall be presumed to have been received by the recipient upon printed confirmation by email that the following email addresses are used:

**When to District:**

Frye.Jeff@metrofire.ca.gov

**When to Lessee:**

tmurray@srfecc.ca.gov

If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified in this Section. Either Party, by notice given under this Section, may designate different addresses to which subsequent notices will be sent.

## **Article 3 General Conditions**

### **3.01 Acceptance of Leased Premises**

Lessee hereby accepts the Leased Premises in its "as-is" condition existing at the commencement of the Term hereof. Taking possession of the Leased Premises by Lessee shall be conclusive evidence that the condition thereof is satisfactory to Lessee. District makes no representation or warranty that the Leased Premises are suitable for the uses to which Lessee shall be restricted pursuant to this Agreement.

### **3.02 Accord and Satisfaction**

No payment by Lessee or receipt by District of a lesser amount than the rent, fees and/or charges due to be made by Lessee herein shall be deemed to be other than on account of the rent, fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as rent, fees and/or charges shall be deemed an accord and satisfaction, and District may accept such check or payment without prejudice to District's right to recover the balance of such rent, fees and/or charges or to pursue any other remedy provided in this Agreement.

### **3.03 Assignment, Transfer, and Subletting**

#### **A. Assignment and Transfer**

Lessee shall have no right to assign, mortgage, pledge, or otherwise transfer this Agreement, either voluntarily or by operation of law, in whole or in part, without the prior written consent of District in each instance. Such consent shall be subject to the standards and conditions specified in this Section, provided, however, that this Agreement may be assigned in its entirety without such consent to any successor in interest of Lessee with, or into which, the Lessee may merge or consolidate, or which may succeed to the assets of the Lessee or the major portion of its assets; provided further, that such succeeding entity or purchaser executes and delivers to District an instrument in a form satisfactory to the District assuming the obligations of Lessee as if it were the original Lessee herein and a transfer to such entity shall not defeat or undermine the purposes of this Agreement.

#### **B. Subletting**

Lessee shall have no right to sublease all or any part of the Leased Premises without the prior written consent of District. As to such a sublease, the Chief is authorized to give or revoke such written consent as the agent of the District. Each sublease shall be in a form satisfactory to the Chief. The Chief's consent shall be subject to the standards and conditions specified in this Section.

#### **C. Information Required by District**

In connection with any proposed assignment or sublease, Lessee shall submit an initial request to the Chief in writing, which shall be accompanied by the following:

- 1) The name and legal composition of the proposed assignee or Lessee;
- 2) The proposed effective date of such assignment or sublease;
- 3) The proposed assignee's or Lessee's intended use and operations at the Leased Premises, and any other information Chief may reasonably require relating to the impact of the intended use;
- 4) Such information as to the proposed assignee's or Lessee's financial responsibility, standing, and financing capability as is available;
- 5) A written consent of the proposed assignee or Lessee to all the terms and conditions of this Agreement and said assignee's or Lessee's consent to the incorporation of the terms and conditions of this Agreement into any assignment or sublease;
- 6) All the terms and conditions upon which the proposed assignment or sublease is to be made; and
- 7) Such other information as the Chief may reasonably require to make a judgment regarding an assignment or sublease.

Within thirty (30) days of receipt of such written request, the Chief may give written notice to Lessee of any additional information as may be reasonably required in order to make a determination regarding the proposed assignment or sublease.

#### **D. No Release of Lessee's Liability**

No assignment shall release Lessee of Lessee's obligation herein or alter the primary liability of Lessee to pay the minimum monthly Rent and other payments required herein, and to perform all other obligations to be performed by Lessee herein. District may accept Rent from any person other than Lessee pending approval or disapproval of such assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent shall constitute a waiver or estoppel of District's right to exercise its remedies for the breach of any of the terms or conditions of this Section of this Agreement. Consent to one assignment shall not be deemed a waiver of the necessity for consent for any subsequent assignment. In the event of default by any assignee or Lessee of Lessee, or any successor of Lessee, in the performance of any of the terms hereof, District may proceed directly against Lessee without the necessity of exhausting remedies against said assignee or Lessee. District may consent to subsequent assignments of this Agreement or amendments or modifications to this Agreement with assignees of Lessee without notifying Lessee, or any successor of Lessee, and without its or their consent thereto and such action shall not relieve Lessee of liability under this Agreement.

#### **E. District Processing Fee**

In the event that Lessee, or a mortgagee of Lessee, requires or requests District's review, investigation, processing, recordation, or any other consideration of Lessee's proposed sublease, assignment or other transfer permitted in accordance with this Section, estoppel certificates, documentation regarding Lessee's financing of its leasehold interest, or any other documentation, Lessee agrees that as a condition precedent to the District's review, Lessee shall reimburse District for all District's reasonable costs, including but not limited to, all of District's staff labor, which shall



include any consultants and attorney fees, all postage (both first class and express mail) and all materials used or expended in completing District's review. Lessee shall make said reimbursement to District within thirty (30) days after District's written request is received by Lessee. District may terminate this Agreement should Lessee not pay the District's reimbursement described in this Section within thirty (30) days of receipt.

### **3.04 Authority of Agreement**

Lessee warrants and represents that it has the right, power, and legal capacity to enter into, and perform its obligations under this Agreement, and no approvals or consents of any persons are necessary in connection with it. The execution, delivery, and performance of this Agreement by the undersigned Lessee representatives have been duly authorized by all necessary corporate action of Lessee, and this Agreement will constitute a legal, valid, and binding obligation of Lessee, enforceable in accordance with its terms.

### **3.05 Authority of the Chief**

The Chief shall administer this Agreement on behalf of District. Unless otherwise provided herein or required by applicable law, the Chief shall be vested with all rights, powers, and duties of District herein. With respect to matters herein subject to the approval, satisfaction, or discretion of District or the Chief, the decision of the Chief in such matters shall be final.

### **3.06 California Law**

This Agreement shall be interpreted and enforced in accordance with the statutory and decisional law of the State of California. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumption or inferences concerning its terms or interpretation may be construed against any party to this Agreement. Any litigation filed by Lessee or District against the other regarding the terms of this Agreement, performance of a party's obligations under this Agreement, or any other reason related in any way to this Agreement, shall be filed in a federal or State court of competent jurisdiction located in Sacramento, California.

### **3.07 Certified Access Specialist**

Statement Regarding a Certified Access Specialist – Pursuant to California Civil Code §1938, the SUCCESSOR AGENCY states that the Premises:

Have not undergone an inspection by a Certified Access Specialist (CASp).

Have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards and a disability access inspection certificate has been issued pursuant to California Civil Code §55.51 et seq.

Have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

### **3.08 Chronic Delinquency**

In the event of a Chronic Delinquency (as hereinafter defined), at District's option, District shall have the right, in addition to all other remedies under this Agreement and at law, to require that Rent be paid by Lessee quarterly, in advance. This provision shall not limit in any way nor be construed as a waiver of the rights and remedies of District provided herein or by law in the event of delinquency. "Chronic Delinquency" shall mean failure by Lessee to pay Rent, or any other payments required to be paid by Lessee under this Agreement, within three (3) days after written notice thereof for any three (3) months (consecutive or nonconsecutive) during any twelve (12) month period.

### **3.09 Compliance with Law**

Lessee shall not, in connection with any of its activities or operations, use any of the District's facilities or permit the same to be used by any of its officers, representatives, agents, employees, contractors, subcontractors, licensees, subtenants, invitees, or suppliers for any illegal purpose. Lessee is responsible for obtaining all licenses, permits, and other governmental and private permissions necessary for, or related to, all Lessee's activities on the Leased Premises.

Lessee shall comply with all applicable ordinances, laws, rules, and regulations of any city, District, State, federal government or agency that has jurisdiction to pass laws or ordinances or to make and enforce rules and regulations governing conduct on and operations at the Leased Premises.

### **3.10 District's Remedies**

Pursuant to Section 1951.2 of the California Civil Code:

- a) In the event that Lessee breaches this Agreement and abandons the property before the end of the Term hereof, or if Lessee's right to possession is terminated by District because of a breach of this Agreement, this Agreement terminates. Upon such termination, the District may recover from Lessee:
- b) The "worth at the time of award" of the unpaid Rent which had been earned at the time of termination;
- c) The "worth at the time of award" of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided;
- d) Any other amount necessary to compensate District for all the detriment proximately caused by Lessee's failure to perform its obligations under this

Agreement, or which in the ordinary course of things would be likely to result therefrom.

- e) Efforts by District to mitigate the damages caused by Lessee's breach of this Agreement do not waive District's right to recover damages pursuant to said Section 1951.2 and this Section 3.09.
- f) Nothing in this Section 3.09 affects the right of District under this Agreement to indemnification for liability arising prior to the termination of this Agreement for personal injuries or property damage, as herein provided.
- g) Notwithstanding the foregoing, in the event of Lessee's breach of this Agreement and abandonment of the Leased Premises, pursuant to Section 1951.4 of the California Civil Code, District may, at its sole option, elect to continue this Agreement and enforce all its rights and remedies herein against Lessee, including the right to recover the Rent as it becomes due.

### **3.11 Cumulative Remedies**

No remedy or election herein shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

### **3.12 Damage or Destruction of Improvements**

In the event that any or all of the improvements located in or on the Leased Premises shall suffer partial or substantial destruction at any time during the Term of this Agreement, the respective rights and obligations of the parties hereto with respect to reconstruction, repairing, and/or restoring such improvements and/or with respect to the matter of the continuance or termination of this Agreement following any such destruction, shall be controlled by the provisions of this Section.

#### **A. Definitions**

For the purpose of this Agreement, the following definitions shall apply: 1) the term "Partial Destruction" as used herein, shall be deemed to mean a destruction of improvements to such an extent that the then currently estimated total costs of restoring the destroyed improvements to as good a condition of habitability and/or usability (for those certain uses herein authorized and intended therefore) as existed immediately prior to the occurrence of any such destruction shall not exceed fifteen percent (15%) of the then current estimated total replacement costs of all of the improvements on the Leased Premises (excluding land and personal properties); 2) the term "Substantial Destruction" as used herein, shall be deemed to mean a destruction of improvements to such an extent that the then current estimated total costs of restoring the destroyed improvements to as good a condition of habitability and/or usability (for those certain uses herein authorized and intended therefore) as existed immediately prior to the occurrence of any such destruction shall exceed fifteen percent (15%) of the then current estimated total replacement costs of all of the improvements on the Leased Premises (excluding land and personal properties).

#### **B. Repair Obligations and Rights of Termination**

In the event the District-owned improvements located in or on the Leased Premises shall suffer Partial or Substantial Destruction at any time during the Term hereof, then:

- 1) District may, but shall not be obligated to, perform the reconstruction, repair, and/or restoration of such improvements.
- 2) If the destruction is substantial, either party may cancel and terminate this Agreement as of the date of the occurrence of such destruction by giving written notice to the other party within sixty (60) days after such destruction.
- 3) If within sixty (60) days after the date of any partial destruction District has not completed the reconstruction, repair, and/or restoration of the destroyed improvements, then, at any time prior to the completion of such reconstruction, repair and/or restoration by District, Lessee may cancel and terminate this Agreement by service of a minimum of thirty (30) days advance written notice upon District.
- 4) If within sixty (60) days after the date of any substantial destruction, District has not commenced the reconstruction, repair or restoration of the destroyed improvements or if such action has been commenced during said period but the Leased Premises shall not have been fully reconstructed, repaired or restored to a tenantable condition within one hundred twenty (120) days following the date of such Substantial Destruction, then, at any time prior to the completion of such reconstruction, repair or restoration by District, Lessee may cancel and terminate this Agreement by service of a minimum of thirty (30) days advance written notice upon District.

#### **C. Limitation on District's Obligations**

The foregoing provisions of this Section 3.11 notwithstanding, District shall not be liable for or obligated to reconstruct, repair, restore, reinstall, or replace any improvements or any furnishings, fixtures, or equipment, or other personal property, installed, placed, located in, on or about the Leased Premises by Lessee, Lessee's employees, agents, representatives, tenants, or Lessees.

#### **D. The Payment of Rent**

In the event any or all of the District improvements located in or on the Leased Premises shall suffer either Partial or Substantial Destruction at any time during the Term hereof, the Rent due to be paid by Lessee shall be paid to the date of such destruction and shall then be abated to the extent that the Leased Premises are untenable, so that Lessee shall only be obligated to pay Rent on those portions of the Leased Premises that are tenantable.

#### **E. Destruction**

Lessee waives the provisions of California Civil Code Sections 1932(2) and 1933(4) which relate to termination of leases when the thing leased is destroyed and agrees that such event shall be governed by the provisions of this Section 3.11.

### **3.13 Early Termination by District**

District may terminate this Agreement prior to expiration of the Term hereof upon the happening of one or more of the following events:

- a) Lessee fails to make any payment of Rent or any other required payment, as and when due herein, where such failure continues for a period of fifteen (15) days following service of notice thereof upon Lessee by District;

- b) Lessee makes a general assignment for the benefit of its creditors;
- c) Lessee files a voluntary petition, or becomes the subject of an involuntary petition, in any proceedings in Bankruptcy Court;
- d) Lessee vacates or abandons the Leased Premises for a period of thirty (30) days or more;
- e) Lessee fails to obtain or maintain any of the insurance coverage set forth in Article 2.11 of this Agreement. The Chief may, in his sole discretion, immediately terminate this Agreement;
- f) Lessee defaults in performance of any promise, term, condition, or covenant required of it herein (other than those expressly set forth in Subsections (a) and (e) above, wherein no further default notice is required), provided Lessee fails to cure such default within thirty (30) calendar days following receipt of written notice of such default from District. However, if the nature of such default is such that it cannot reasonably be cured within such period, Lessee shall be deemed to have cured such default if within such period Lessee commences performance thereof and thereafter diligently prosecutes the same to completion.

Early termination by District pursuant to this Section 3.12 shall be upon not less than fifteen (15) days advance written notice to Lessee, which notice shall state the basis of such termination and the effective date thereof. Upon the effective date of such termination, District may take possession of the Leased Premises, without further notice or demand to Lessee. Failure to serve notice of termination upon the happening of any of the events described in this Section shall not operate to bar or destroy District's right to thereafter declare such termination upon the subsequent happening of any such event.

### **3.14 Early Termination by Lessee**

If Lessee is legally compliant, and not in default of its payments or any other obligations under the Agreement to the District herein, Lessee may terminate this Agreement prior to expiration of the Term under the following terms and conditions:

- a) If the District defaults in the performance of any promise, term, condition or covenant required of it to be performed herein, provided District fails to cure such default within sixty (60) calendar days following receipt of written notice of such default from Lessee, Lessee may terminate its Agreement with thirty (30) days written notice to the Chief. However, if the nature of such default is such that it cannot reasonably be cured within such period, District shall be deemed to have cured such default if within such period District commences performance thereof and thereafter diligently prosecutes the same to completion.

In the event of early termination by Lessee pursuant to this Section, Lessee shall pay Rent to District, up to and including the date of such termination.

### **3.15 Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein.

### **3.16 Execution and Approval of Agreement**

Submission of this document by District for review, examination or execution by Lessee does not constitute a reservation of an option to lease space, and this document shall not be effective as a lease agreement, or otherwise, unless and until approved by the Board of Directors of the District and/or executed by the officer authorized by said Board.

### **3.17 Force Majeure**

Neither District nor Lessee shall be deemed to be in breach of this Agreement if either is prevented from performing any of its obligations herein by reason of strike, boycott, labor dispute, embargo, shortage of energy or materials, act of God, act of a public enemy, act of a superior governmental authority, weather conditions, rebellion, riot, sabotage, or any other circumstance for which it is not responsible, which is not within its control and which cannot be modified or overcome by reasonable efforts of the prevented party.

### **3.18 Headings**

The headings of the articles and sections of this Agreement are inserted only as a matter of convenience and for reference, and do not define or limit the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

### **3.19 Hold Over**

If Lessee remains in possession of the Leased Premises following the expiration or sooner termination of this Agreement, such hold over shall not be deemed to constitute an extension or renewal of this Agreement, but shall merely create a tenancy from month-to-month which either party hereto may terminate upon thirty (30) days advance written notice to the other. In the event of such hold over, Lessee shall perform all terms, promises, conditions and covenants required of it hereunder, but shall pay Rent to District in such amounts as may be designated by the Chief, which in no case shall be less than that in effect immediately prior to such expiration or sooner termination of this Agreement.

### **3.20 Indemnification of District**

Lessee shall indemnify, defend, and hold harmless District, its Board of Directors, officers, chiefs, agents, employees and volunteers ("Indemnified Parties") from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, (collectively, "Claims") arising out of or resulting from the performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder, except that Claims do not include those arising out of, pertaining to, or relating to the active negligence, sole negligence, or willful misconduct of the Indemnified Parties.

### **3.21 Independent Contractor**

Lessee is not an employee or agent of District by reason of this Agreement, or otherwise. Lessee is an independent contractor, and as between District and Lessee, Lessee shall be solely responsible for its acts and omissions arising from or relating to its operations or activities at Leased Premises.

### **3.22 Interpretation of Agreement**

Nothing herein contained shall be construed or interpreted, in any manner whatsoever, as limiting, relinquishing or waiving any of the rights of ownership enjoyed by District.

### **3.23 Invalid Provisions**

In the event of any covenant, condition or provision of this Agreement, or the application thereof to any person, entity, or circumstances, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person, entity, or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated, provided that such invalidity, voiding or unenforceability of such covenant, condition or provision does not materially prejudice either party in its respective rights and obligations contained in the then remaining valid covenants, conditions or provisions of this Agreement.

### **3.24 Licenses and Permits**

Lessee shall obtain, at its sole cost and expense, all necessary licenses and permits required for construction of improvements or installation of equipment on the Leased Premises, and any other licenses or permits necessary for the conduct of Lessee's operations.

### **3.25 Nonwaiver of Rights**

No waiver of default by either party hereto of any of the terms, promises, covenants, or conditions hereof to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, promises, covenants, or conditions herein contained, to be performed, kept, and observed by such other party.

### **3.26 Notice of Claims and Suit**

Lessee shall give District prompt and timely written notice of any personal injury or other accident claims, and of any lawsuit coming to its knowledge when either such claim or lawsuit arises out of or is in any way connected with the Leased Premises, the operations of Lessee hereunder, which in any way, directly, indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Agreement.

Such notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of such claim by an officer, agent, or employee of either party, and if given within ten (10) calendar days following the date of service of process upon either party with respect to any such lawsuit.

### **3.27 Nuisance and Waste**

Lessee shall not erect, nor permit to be erected, any nuisance on the Leased Premises, or permit any waste thereof. Lessee shall not permit any trash or garbage to accumulate on or about the Leased Premises.

### **3.28 Prohibition of Liens**

Lessee shall pay promptly, as due, all persons supplying labor and materials for any alteration of, or improvement to, the Leased Premises, and shall permit no lien or claim to be filed or prosecuted against District on account of such labor and materials furnished.

### **3.29 Peaceable Use and Enjoyment**

Lessee shall, upon payment of the fees and charges as herein required, and subject to performance and compliance by Lessee of the covenants, conditions and agreements on the

part of Lessee to be performed and complied with herein, peaceably have and enjoy the rights, uses and privileges of the Leased Premises.

### **3.30 Release of Liability**

District shall not be liable for, and is hereby released from any and all liability to Lessee, to Lessee's insurance carrier or to anyone claiming under or through Lessee, for any loss or damage whatsoever to the property or effects of Lessee resulting from the discharge of water or other substance from pipes, sprinklers, conduits, containers, appurtenances thereof, or fixtures thereto; or from any damage resulting from the discharge or failure of electric current, regardless of cause or origin, except the active negligence, sole negligence, or willful misconduct of District, its employees or agents.

### **3.31 Removal of Lessee's Property**

If Lessee is not in default as to the payment of any rent, fee, or other charge payable to District herein, Lessee may remove its inventory, Trade Fixtures and furnishings from the Leased Premises upon expiration or sooner termination of this Agreement. If Lessee does not elect, or otherwise fails to remove the same, or any part thereof, within thirty (30) days following District's regaining possession of the Leased Premises, District may, at its option, either require such removal at Lessee's sole cost and expense, or keep such property, in which latter event, title to the same shall vest in District without any obligation to pay Lessee with respect thereto.

### **3.32 Reports and Reports**

Lessee shall prepare and maintain an adequate set of records, in a format and detail acceptable to the District, documenting all of Lessee's Gross Revenues. Lessee shall also provide District with any other reasonable financial or statistical reports which the Chief may, from time to time, request by written notice to Lessee.

All such reports required of Lessee shall be prepared in accordance with generally accepted accounting principles and reported on a cash basis.

#### **A. Monthly Report**

Lessee shall submit a Monthly Report concurrent with each monthly submittal of Percentage Rent payments to the District Accounting Division at the following address:

Metro Fire Accounting  
10545 Armstrong Ave, Suite 200  
Mather, CA 95655  
Frye.Jeff@metrofire.ca.gov

Lessee shall submit a written report and an electronic Monthly Report, in a format and detail as required by the District, of all Lessee's Gross Revenues at the Leased Premises under this Agreement during the preceding calendar month. Such report shall show Gross Revenues and shall include a summary of all activities of the previous month. Both the written and electronic Monthly Reports shall be submitted no later than the fifteenth (15<sup>th</sup>) day of the following month in which such Gross Revenues were generated at the Leased Premises.

#### **B. Annual Report**

Lessee shall submit to the District at the address specified for Metro Fire Accounting above, for the approval of the District, an Annual Report for each Lease



Year throughout the Term of this Agreement, not later than sixty (60) calendar days following the last day of each Lease Year.

Said Annual Report shall be prepared by an independent CPA and shall be in a format and in detail satisfactory to the District. This Annual Report shall serve as a certified annual financial statement setting forth all business transacted at the Leased Premises by Lessee under the terms of this Agreement during the preceding Lease Year. Such Annual Report shall include, but not necessarily be limited to, Lessee's Gross Revenues, Rent and other payments due to the District, the CPA's audit and examination of source documents from which Monthly Reports are based, and a certified opinion as to the accuracy of Lessee's submitted Monthly Reports. Lessee shall bear the entire cost of such reports.

**C. Delinquent Annual Report**

If Lessee is delinquent for ten (10) days or more in furnishing to the District any annual report required under this Agreement, Lessee shall pay the District a One Hundred Dollars and 00/100ths (\$100.00) late fee for each month, or partial month, that the annual report is delinquent, as liquidated damages for the additional administrative costs incurred by the District in processing, reviewing, and demanding the delinquent annual report. The parties have agreed that this is a fair and reasonable estimate of the District's costs incurred in processing a delinquent annual report. Imposition of such a late fee shall not constitute a waiver of any other remedies available to the District due to Lessee's failure to timely provide the monthly or annual reports or pay the report late fee.

**D. Delinquent Monthly Report**

If Lessee is delinquent in furnishing to the District any monthly report required under this Agreement, Lessee shall pay the District a Ten Dollars and 00/100ths (\$10.00) late fee for day, that the monthly report is delinquent, as liquidated damages for the additional administrative costs incurred by the District in processing, reviewing, and demanding the delinquent monthly report. The parties have agreed that this is a fair and reasonable estimate of the District's costs incurred in processing a delinquent monthly report. Imposition of such a late fee shall not constitute a waiver of any other remedies available to the District due to Lessee's failure to timely provide the monthly reports or pay the report late fee.

**3.33 Retention of Records**

Lessee shall retain all its books, records of account, and supporting documents pertaining to the uses permitted under this Agreement for not less than four (4) calendar years following expiration or sooner termination of this Agreement. Lessee shall retain all such books, records of account, and supporting documents at a location within the County of Sacramento, and shall keep and maintain the same in accordance with accepted professional accounting principles.

**3.34 Right of Entry**

The Chief shall have the right, throughout the Term of this Agreement, to enter the Leased Premises for any lawful purpose, including the purpose of determining whether Lessee is complying with its obligations herein. Lessee shall normally be given twenty-four (24) hours' notice prior to exercise of such right, except in the event entry is necessary for safety or environmental purposes. Such entry by District shall not be deemed to excuse Lessee's

performance of any promise, term, condition, or covenant required of it by this Agreement, and shall not be deemed to constitute waiver thereof by District.

### **3.35 Risk Reduction**

Lessee shall neither use nor permit the use of the Leased Premises in such a manner as to increase the risk which would affect the rate of insurance thereon in excess of that in existence at the commencement of the Term hereof.

### **3.36 Successors and Assigns**

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the parties hereto.

### **3.37 Surrender of Leased Premises**

District is not required to give Lessee any notice to quit possession of the Leased Premises upon expiration or sooner termination of this Agreement. Lessee shall peaceably surrender possession of the Leased Premises upon expiration or sooner termination of this Agreement in as good order and condition as when received, excepting reasonable wear, destruction by lightning or other natural causes, or fire not caused by the acts or omissions of Lessee, its officers, agents, employees, subcontractors, customers, invitees, or other persons doing business with Lessee or on the Leased Premises with the consent of Lessee.

### **3.38 Taxes**

Lessee shall, at its sole cost and expense, pay any and all taxes for which it is responsible, or which may be assessed against it.

#### **A. Possessory Interest and Property Taxation**

Under this Agreement a possessory interest subject to property taxation may be created. Pursuant to California Revenue and Taxation Code Section 107.6 and Government Code Section 53340.1, notice is hereby given that such possessory interest may be subject to property taxation and special taxation pursuant to Chapter 25, Division 2 of the Government Code (Mello Roos Community Facilities Act of 1982), and that the party in whom the possessory interest is vested may be subject to the payment of property taxes and special taxes levied on such interest.

Lessee shall pay any and all taxes, assessments, and other charges of whatsoever character that may be levied or charged upon Lessee's interest as herein may be created, improvements, operations, or right to use the Leased Premises.

#### **B. Right to Contest Taxes**

Nothing within this Section 3.51 shall be deemed to limit any of Lessee's rights to appeal the amount, applicability or validity of any such taxes, assessment, or charges in accordance with the rules, regulations, statutes or ordinances governing the appeal process of the authorities making such levies or assessments; and provided, further, that if Lessee contests any assessment made by the Assessor of District, such contest shall not be initiated in the name of the District, and District shall not be obligated to cooperate therewith.

If at any time payment of any tax or assessment becomes necessary to prevent any forfeiture or loss, Lessee shall pay such tax or assessment to prevent such forfeiture or loss.

**3.39 Time is of the Essence**

Time is of the essence in the performance of this Agreement.

**3.40 Title to the Leased Premises**

Title to the Leased Premises is and shall remain vested in the District.

**3.41 Title to Leasehold Improvements**

Title to all Leasehold Improvements made by Lessee shall at all times during the Term remain in Lessee. Upon expiration or sooner termination of this Lease, title to all such Leasehold Improvements shall, at the written election of the Chief, vest in the District without payment of any further consideration to Lessee; except that in lieu of taking title to such Leasehold Improvements, the Chief shall have the option to require Lessee to remove any or all of such Leasehold Improvements, at Lessee's sole cost, within sixty (60) days after such expiration or termination. Chief shall exercise the District's option to require Lessee to remove any or all of such Leasehold Improvements, at Lessee's sole cost, by providing notice to Lessee within sixty (60) days of expiration of this Lease. In the event of sooner termination pursuant to this Lease, said exercise of such option shall not be required and Chief may designate the disposition of the Leasehold improvements.

**3.42 Trash and Garbage**

Lessee shall be responsible for the proper collection, transportation and placement of garbage, trash, and refuse associated with their operation in the furnished receptacle(s).

At the sole discretion of the Chief, Lessee may be required, at its sole cost and expense, to provide a complete and proper arrangement for the adequate sanitary handling and disposal away from the Leased Premises of all trash, garbage, and other refuse resulting from, or in any way associated with, Lessee's operations herein. Such arrangements shall include, but not be limited to, the use of suitable covered metal receptacles at the Leased Premises for such garbage, trash and other refuse. Lessee shall be given thirty (30) days written notice of such requirement.

**3.43 Vehicular and Equipment Parking**

Vehicular and equipment parking by Lessee, its employees, agents, licenses, suppliers, subcontractors, customers, guests or invitees shall be restricted to the parking lot on the Leased Premises.

**3.44 Execution of Agreement**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the day and year fully executed by all parties, but effective as of the date set forth in Article 2.01.

Sacramento Metropolitan Fire District

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sacramento Regional Fire/EMS Communications Center

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_