

INDEPENDENT CONTRACTOR AGREEMENT
Piggyback Contract By and Between Consolidated Fire Agencies and Wittman Enterprises, LLC to Provide EMS Billing and Collection Services

This agreement (“Agreement”) is by and between the Consolidated Fire Agencies (“CONFIRE”) and Wittman Enterprises (“Contractor”) (together, they are referred to as “Parties,” and individually, as a “Party”).

RECITALS

1. WHEREAS Public Contract Code section 10298 permits CONFIRE to utilize alternative procurement processes.
2. WHEREAS the City of Chula Vista in 2020 engaged in a Request for Proposal (RFP) P04-20/21, EMS Billing and Collection Services, pursuant to Chula Vista Municipal Code section 2.56.080 and identified Contractor as the most qualified among those submitting.
3. WHEREAS the City of Chula Vista and Contractor entered into an agreement that provided the following provision: Public Agency Participation (e.g. city, county, public corporation, political subdivision, school district, or water authority) may want to participate in this award of this contract based on RFP P04-20/21.
4. WHEREAS CONFIRE intends to utilize the “Public Agency Participation” allowed for in the agreement between Wittman and the City of Chula Vista.
5. WHEREAS, CONFIRE and Contractor will be bound by the terms and conditions set forth in the agreement between the City of Chula Vista and Wittman and entered into pursuant to RFP P04-20/21.

NOW THEREFORE, CONFIRE and Contractor enter into this Agreement according to the terms and conditions set forth in the Contract between the City of Chula Vista and as set forth specifically below.

AGREEMENT

1. EXHIBITS

This Agreement has multiple Exhibits. Any Exhibit that is specified in this Agreement is by this reference made a part of it.

Exhibits include:

- Exhibit A: Agreement By and Between the City of Chula Vista and Wittman LLC (Piggyback Contract)
- Exhibit B: Additional Terms and Conditions

2. ORDER OF PRIORITY AND SUBSTITUTION

- a. In the event of any conflict or consistency amount the following documents, the order of precedence will be: (1) The body of this Agreement; (2) Exhibit B, Additional Terms and Conditions; (3) Exhibit A, Piggyback Contract.
- b. In Exhibit A, Piggyback Contract the term City shall be substituted with CONFIRE.

3. EFFECTIVE DATE AND TERM

- a. This Agreement is effective on December 1, 2023 (“Effective Date”).
- b. Unless terminated or otherwise cancelled in accordance with a provision of this Agreement, the term of this Agreement shall be: (i) from the Effective Date to (ii) September 30, 2024.

4. INDEPENDENT CONTRACTOR

Contractor, in the performance of this Agreement, is and shall act as an independent contractor. Contractor understands and agrees that Contractor and all of Contractor’s employees shall not be considered officers, employees, agents, partner, or joint venture of CONFIRE, and are not entitled to benefits of any kind or nature normally provided employees of CONFIRE and/or to which CONFIRE’s employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker’s Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor’s employees.

5. SCOPE OF SERVICES

Contractor shall furnish to CONFIRE the services described in Exhibit A, Scope of Work and Payment Terms, Paragraph 2, Entitled “Required Services”.

6. COMPENSATION

Contractor shall receive payment, for Services satisfactorily rendered pursuant to this Agreement, as specified in Exhibit A, Piggyback Contract, Scope of Work and Payment Terms, Paragraph 4, entitled “Compensation”.

7. ADDITIONAL TERMS AND CONDITIONS

The Additional Terms and Conditions are set forth in Exhibit B.

8. INSURANCE

CONFIRE shall adhere to all Insurance Requirements set forth in Exhibit A, Piggyback Contract.

9. 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 CONFIRE:
Consolidated Fire Agencies
Attn: Nathan Cooke,
Interim Director
1743 Miro Way
Rialto, CA 92376
Email: ncooke@confire.org

To Contractor:
Wittman Enterprises, LLC
Attn: Russ Harms,
Executive Director of Business
Development
11093 Sun Center Drive
Rancho Cordova, CA 95670
Email: rharms@webillems.com

With Legal Notice Copy to:
Lindsay Moore
Kingsley Bogard, LLP
600 Coolidge Drive, Suite 160
Folsom, CA 95630
Email: lmoore@kblegal.us

With Legal Notice Copy to:
Corinne Wittman-Wong,
Chief Executive Officer
11093 Sun Center Drive
Rancho Cordova, CA 95670
Email: cwittmanwong@webillems.com

10. LIMITATION OF LIABILITY

Other than as provided in this Agreement, CONFIRE’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 CONFIRE 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.

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

CONSOLIDATED FIRE AGENCIES

WITTMAN ENTERPRISES, LLC

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

EXHIBIT A
to AGREEMENT FOR SERVICES

City of Chula Vista
Contractor Agreement
With Wittman Enterprises, LLC
To Provide EMS Billing and Collection Services

**CITY OF CHULA VISTA
CONTRACTOR AGREEMENT
WITH WITTMAN ENTERPRISES, LLC
TO PROVIDE EMS BILLING AND COLLECTION SERVICES**

This Agreement is entered into effective as of April 1, 2021 (“Effective Date”) by and between the City of Chula Vista, a chartered municipal corporation (“City”) and **Wittman Enterprises, LLC**, a California Corporation, (“Contractor”) (collectively, the “Parties” and, individually, a “Party”) with reference to the following facts:

RECITALS

WHEREAS, City, through its Fire Department, is building its own emergency medical transport program, which is scheduled to be implemented in April 2021, and needs emergency medical billing and collection services for this program; and

WHEREAS, in September 2020 City initiated Request for Proposal (RFP) P04-20/21, EMS Billing and Collection Services, pursuant to Chula Vista Municipal Code section 2.56.080; and

WHEREAS, staff has identified Contractor as the most qualified among those submitting; and

WHEREAS, Contractor warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required of Contractor to City in accordance with the time frames and the terms and conditions of this Agreement.

[End of Recitals. Next Page Starts Obligatory Provisions.]

OBLIGATORY PROVISIONS

NOW, THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, City and Contractor hereby agree as follows:

1. SERVICES

1.1 Required Services. Contractor agrees to perform the services, and deliver to City the “Deliverables” (if any) described in the attached Exhibit A, incorporated into the Agreement by this reference, within the time frames set forth therein, time being of the essence for this Agreement. The services and/or Deliverables described in Exhibit A shall be referred to herein as the “Required Services.”

1.2 Reductions in Scope of Work. City may independently, or upon request from Contractor, from time to time, reduce the Required Services to be performed by the Contractor under this Agreement. Upon doing so, City and Contractor agree to meet and confer in good faith for the purpose of negotiating a corresponding reduction in the compensation associated with the reduction.

1.3 Additional Services. Subject to compliance with the City’s Charter, codes, policies, procedures and ordinances governing procurement and purchasing authority, City may request Contractor provide additional services related to the Required Services (“Additional Services”). If so, City and Contractor agree to meet and confer in good faith for the purpose of negotiating an amendment to Exhibit A, to add the Additional Services. Unless otherwise agreed, compensation for the Additional Services shall be charged and paid consistent with the rates and terms already provided therein. Once added to Exhibit A, “Additional Services” shall also become “Required Services” for purposes of this Agreement.

1.4 Standard of Care. Contractor expressly warrants and agrees that any and all Required Services hereunder shall be performed in accordance with the highest standard of care exercised by members of the profession currently practicing under similar conditions and in similar locations.

1.5 No Waiver of Standard of Care. Where approval by City is required, it is understood to be conceptual approval only and does not relieve the Contractor of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Contractor or its subcontractors.

1.6 Security for Performance. In the event that Exhibit A Section 4 indicates the need for Contractor to provide additional security for performance of its duties under this Agreement, Contractor shall provide such additional security prior to commencement of its Required Services in the form and on the terms prescribed on Exhibit A, or as otherwise prescribed by the City Attorney.

1.7 Compliance with Laws. In its performance of the Required Services, Contractor shall comply with any and all applicable federal, state and local laws, including the Chula Vista Municipal Code.

1.8 Business License. Prior to commencement of work, Contractor shall obtain a business license from City.

1.9 Subcontractors. Prior to commencement of any work, Contractor shall submit for City’s information and approval a list of any and all subcontractors to be used by Contractor in the performance of the Required Services. Contractor agrees to take appropriate measures necessary to ensure that all subcontractors and

personnel utilized by the Contractor to complete its obligations under this Agreement comply with all applicable laws, regulations, ordinances, and policies, whether federal, state, or local. In addition, if any subcontractor is expected to fulfill any responsibilities of the Contractor under this Agreement, Contractor shall ensure that each and every subcontractor carries out the Contractor's responsibilities as set forth in this Agreement.

1.10 Term. This Agreement shall commence on the earlier to occur of the Effective Date or Contractor's commencement of the Required Services hereunder, and shall terminate when the Parties have complied with all their obligations hereunder; provided, however, provisions which expressly survive termination shall remain in effect.

2. COMPENSATION

2.1 General. For satisfactory performance of the Required Services, City agrees to compensate Contractor in the amount(s) and on the terms set forth in Exhibit A, Section 4. Standard terms for billing and payment are set forth in this Section 2.

2.2 Detailed Invoicing. Contractor agrees to provide City with a detailed invoice for services performed each month, within thirty (30) days of the end of the month in which the services were performed, unless otherwise specified in Exhibit A. Invoicing shall begin on the first of the month following the Effective Date of the Agreement. All charges must be presented in a line item format with each task separately explained in reasonable detail. Each invoice shall include the current monthly amount being billed, the amount invoiced to date, and the remaining amount available under any approved budget. Contractor must obtain prior written authorization from City for any fees or expenses that exceed the estimated budget.

2.3 Payment to Contractor. Upon receipt of a properly prepared invoice and confirmation that the Required Services detailed in the invoice have been satisfactorily performed, City shall pay Contractor for the invoice amount within thirty (30) days. Payment shall be made in accordance with the terms and conditions set forth in Exhibit A and section 2.4, below. At City's discretion, invoices not timely submitted may be subject to a penalty of up to five percent (5%) of the amount invoiced.

2.4 Retention Policy. City shall retain ten percent (10%) of the amount due for Required Services detailed on each invoice (the "holdback amount"). Upon City review and determination of Project Completion, the holdback amount will be issued to Contractor.

2.5 Reimbursement of Costs. City may reimburse Contractor's out-of-pocket costs incurred by Contractor in the performance of the Required Services if negotiated in advance and included in Exhibit A. Unless specifically provided in Exhibit A, Contractor shall be responsible for any and all out-of-pocket costs incurred by Contractor in the performance of the Required Services.

2.6 Exclusions. City shall not be responsible for payment to Contractor for any fees or costs in excess of any agreed upon budget, rate or other maximum amount(s) provided for in Exhibit A. City shall also not be responsible for any cost: (a) incurred prior to the Effective Date; or (b) arising out of or related to the errors, omissions, negligence or acts of willful misconduct of Contractor, its agents, employees, or subcontractors.

2.7 Payment Not Final Approval. Contractor understands and agrees that payment to the Contractor or reimbursement for any Contractor costs related to the performance of Required Services does not constitute a City final decision regarding whether such payment or cost reimbursement is allowable and eligible for payment under this Agreement, nor does it constitute a waiver of any violation by Contractor of the terms of

this Agreement. If City determines that Contractor is not entitled to receive any amount of compensation already paid, City will notify Contractor in writing and Contractor shall promptly return such amount.

3. INSURANCE

3.1 Required Insurance. Contractor must procure and maintain, during the period of performance of Required Services under this Agreement, and for twelve months after completion of Required Services, the policies of insurance described on the attached Exhibit B, incorporated into the Agreement by this reference (the "Required Insurance"). The Required Insurance shall also comply with all other terms of this Section.

3.2 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions relating to the Required Insurance must be disclosed to and approved by City in advance of the commencement of work.

3.3 Standards for Insurers. Required Insurance must be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of A V or better, or, if insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. For Workers' Compensation Insurance, insurance issued by the State Compensation Fund is also acceptable.

3.4 Subcontractors. Contractor must include all sub-Contractors/sub-contractors as insureds under its policies and/or furnish separate certificates and endorsements demonstrating separate coverage for those not under its policies. Any separate coverage for sub-Contractors must also comply with the terms of this Agreement.

3.5 Additional Insureds. City, its officers, officials, employees, agents, and volunteers must be named as additional insureds with respect to any policy of general liability, automobile, or pollution insurance specified as required in Exhibit B or as may otherwise be specified by City's Risk Manager.. The general liability additional insured coverage must be provided in the form of an endorsement to the Contractor's insurance using ISO CG 2010 (11/85) or its equivalent; such endorsement must not exclude Products/Completed Operations coverage.

3.6 General Liability Coverage to be "Primary." Contractor's general liability coverage must be primary insurance as it pertains to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance provided by Contractor and in no way relieves Contractor from its responsibility to provide insurance.

3.7 No Cancellation. No Required Insurance policy may be canceled by either Party during the required insured period under this Agreement, except after thirty days' prior written notice to the City by certified mail, return receipt requested. Prior to the effective date of any such cancellation Contractor must procure and put into effect equivalent coverage(s).

3.8 Waiver of Subrogation. Contractor's insurer(s) will provide a Waiver of Subrogation in favor of the City for each Required Insurance policy under this Agreement. In addition, Contractor waives any right it may have or may obtain to subrogation for a claim against City.

3.9 Verification of Coverage. Prior to commencement of any work, Contractor shall furnish City with original certificates of insurance and any amendatory endorsements necessary to demonstrate to City that Contractor has obtained the Required Insurance in compliance with the terms of this Agreement. The words

“will endeavor” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives” or any similar language must be deleted from all certificates. The required certificates and endorsements should otherwise be on industry standard forms. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

3.10 Claims Made Policy Requirements. If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are required and are provided on a claims-made form, the following requirements also apply:

a. The “Retro Date” must be shown, and must be before the date of this Agreement or the beginning of the work required by this Agreement.

b. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the work required by this Agreement.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a “Retro Date” prior to the effective date of this Agreement, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of the work required by this Agreement.

d. A copy of the claims reporting requirements must be submitted to the City for review.

3.11 Not a Limitation of Other Obligations. Insurance provisions under this section shall not be construed to limit the Contractor’s obligations under this Agreement, including Indemnity.

3.12 Additional Coverage. To the extent that insurance coverage provided by Contractor maintains higher limits than the minimums appearing in Exhibit B, City requires and shall be entitled to coverage for higher limits maintained.

4. INDEMNIFICATION

4.1. General. To the maximum extent allowed by law, Contractor shall protect, defend, indemnify and hold harmless City, its elected and appointed officers, agents, employees and volunteers (collectively, "Indemnified Parties"), from and against any and all claims, demands, causes of action, costs, expenses, (including reasonable attorneys' fees and court costs), liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Contractor, its officials, officers, employees, agents, and contractors, arising out of or in connection with the performance of the Required Services, the results of such performance, or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses arising from the sole negligence or willful misconduct of the Indemnified Parties. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the Indemnified Parties in combination with the active or passive negligent acts or omissions of the Contractor, its employees, agents or officers, or any third party.

4.2. Modified Indemnity Where Agreement Involves Design Professional Services. Notwithstanding the forgoing, if the services provided under this Agreement are design professional services, as defined by California Civil Code section 2782.8, as may be amended from time to time, the defense and indemnity obligation under Section 1, above, shall be limited to the extent required by California Civil Code section 2782.8.

4.3 Costs of Defense and Award. Included in Contractor's obligations under this Section 4 is Contractor's obligation to defend, at Contractor's own cost, expense and risk, any and all suits, actions or other legal proceedings that may be brought or instituted against one or more of the Indemnified Parties. Subject to the limitations in this Section 4, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against one or more of the Indemnified Parties for any and all related legal expenses and costs incurred by any of them. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors, or vendors, CONTRACTOR will be obligated to pay for the CITY's defense until such time as a final judgement has been entered adjudicating the CITY as sole negligent. CONTRACTOR will be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and cost of litigation.

4.4. Contractor's Obligations Not Limited or Modified. Contractor's obligations under this Section 4 shall not be limited to insurance proceeds, if any, received by the Indemnified Parties, or by any prior or subsequent declaration by the Contractor. Furthermore, Contractor's obligations under this Section 4 shall in no way limit, modify or excuse any of Contractor's other obligations or duties under this Agreement.

4.5. Enforcement Costs. Contractor agrees to pay any and all costs City incurs in enforcing Contractor's obligations under this Section 4.

4.6 Survival. Contractor's obligations under this Section 4 shall survive the termination of this Agreement.

5. FINANCIAL INTERESTS OF CONTRACTOR.

5.1 Form 700 Filing. The California Political Reform Act and the Chula Vista Conflict of Interest Code require certain government officials and Contractors performing work for government agencies to publicly disclose certain of their personal assets and income using a Statement of Economic Interests form (Form 700).

In order to assure compliance with these requirements, Contractor shall comply with the disclosure requirements identified in the attached Exhibit C, incorporated into the Agreement by this reference.

5.2 Disclosures; Prohibited Interests. Independent of whether Contractor is required to file a Form 700, Contractor warrants and represents that it has disclosed to City any economic interests held by Contractor, or its employees or subcontractors who will be performing the Required Services, in any real property or project which is the subject of this Agreement. Contractor warrants and represents that it has not employed or retained any company or person, other than a bona fide employee or approved subcontractor working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants and represents that it has not paid or agreed to pay any company or person, other than a bona fide employee or approved subcontractor working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further warrants and represents that no officer or employee of City, has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds hereof, or in the business of Contractor or Contractor's subcontractors. Contractor further agrees to notify City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement. For breach or violation of any of these warranties, City shall have the right to rescind this Agreement without liability.

6. REMEDIES

6.1 Termination for Cause. If for any reason whatsoever Contractor shall fail to perform the Required Services under this Agreement, in a proper or timely manner, or if Contractor shall violate any of the other covenants, agreements or conditions of this Agreement (each a "Default"), in addition to any and all other rights and remedies City may have under this Agreement, at law or in equity, City shall have the right to terminate this Agreement by giving five (5) days written notice to Contractor. Such notice shall identify the Default and the Agreement termination date. If Contractor notifies City of its intent to cure such Default prior to City's specified termination date, and City agrees that the specified Default is capable of being cured, City may grant Contractor up to ten (10) additional days after the designated termination date to effectuate such cure. In the event of a termination under this Section 6.1, Contractor shall immediately provide City any and all "Work Product" (defined in Section 7 below) prepared by Contractor as part of the Required Services. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof. Contractor may be entitled to compensation for work satisfactorily performed prior to Contractor's receipt of the Default notice; provided, however, in no event shall such compensation exceed the amount that would have been payable under this Agreement for such work, and any such compensation shall be reduced by any costs incurred or projected to be incurred by City as a result of the Default.

6.2 Termination or Suspension for Convenience of City. City may suspend or terminate this Agreement, or any portion of the Required Services, at any time and for any reason, with or without cause, by giving specific written notice to Contractor of such termination or suspension at least fifteen (15) days prior to the effective date thereof. Upon receipt of such notice, Contractor shall immediately cease all work under the Agreement and promptly deliver all "Work Product" (defined in Section 7 below) to City. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof. Contractor shall be entitled to receive just and equitable compensation for this Work Product in an amount equal to the amount due and payable under this Agreement for work satisfactorily performed as of the date of the termination/suspension notice plus any additional remaining Required Services requested or approved by City in advance that would maximize City's value under the Agreement.

6.3 Waiver of Claims. In the event City terminates the Agreement in accordance with the terms of this Section, Contractor hereby expressly waives any and all claims for damages or compensation as a result of such termination except as expressly provided in this Section 6.

6.4 Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Contractor shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

6.5 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in San Diego County, State of California.

6.6 Service of Process. Contractor agrees that it is subject to personal jurisdiction in California. If Contractor is a foreign corporation, limited liability company, or partnership that is not registered with the California Secretary of State, Contractor irrevocably consents to service of process on Contractor by first class mail directed to the individual and address listed under "For Legal Notice," in section 1.B. of Exhibit A to this Agreement, and that such service shall be effective five days after mailing.

7. OWNERSHIP AND USE OF WORK PRODUCT

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced in whole or in part under this Agreement in connection with the performance of the Required Services (collectively "Work Product") shall be the sole and exclusive property of City. No such Work Product shall be subject to private use, copyrights or patent rights by Contractor in the United States or in any other country without the express, prior written consent of City. City shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such Work Product, without requiring any permission of Contractor, except as may be limited by the provisions of the Public Records Act or expressly prohibited by other applicable laws. With respect to computer files containing data generated as Work Product, Contractor shall make available to City, upon reasonable written request by City, the necessary functional computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. GENERAL PROVISIONS

8.1 Amendment. This Agreement may be amended, but only in writing signed by both Parties.

8.2 Assignment. City would not have entered into this Agreement but for Contractor's unique qualifications and traits. Contractor shall not assign any of its rights or responsibilities under this Agreement, nor any part hereof, without City's prior written consent, which City may grant, condition or deny in its sole discretion.

8.3 Authority. The person(s) executing this Agreement for Contractor warrants and represents that they have the authority to execute same on behalf of Contractor and to bind Contractor to its obligations hereunder without any further action or direction from Contractor or any board, principle or officer thereof.

8.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement after each Party has signed such a counterpart.

8.5 Entire Agreement. This Agreement together with all exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire Agreement between the Parties with respect to the subject matter contained herein. All exhibits referenced herein shall be attached hereto and are incorporated herein by reference. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded.

8.6 Record Retention. During the course of the Agreement and for three (3) years following completion of the Required Services, Contractor agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the performance of the Agreement, including accounting for costs and expenses charged to City, including such records in the possession of sub-contractors/sub-Contractors.

8.7 Further Assurances. The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the Parties.

8.8 Independent Contractor. Contractor is and shall at all times remain as to City a wholly independent contractor. Neither City nor any of its officers, employees, agents or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents ("Contractor Related Individuals"), except as set forth in this Agreement. No Contractor Related Individuals shall be deemed employees of City, and none of them shall be entitled to any benefits to which City employees are entitled, including but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits. Furthermore, City will not withhold state or federal income tax, social security tax or any other payroll tax with respect to any Contractor Related Individuals; instead, Contractor shall be solely responsible for the payment of same and shall hold the City harmless with respect to same. Contractor shall not at any time or in any manner represent that it or any of its Contractor Related Individuals are employees or agents of City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatsoever against City, or bind City in any manner.

8.9 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any Party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such Party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement at the places of business for each of the designated Parties as indicated in Exhibit A, or otherwise provided in writing.

8.10 Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

(End of page. Next page is signature page.)

**SIGNATURE PAGE
CONTRACTOR SERVICES AGREEMENT**

IN WITNESS WHEREOF, by executing this Agreement where indicated below, City and Contractor agree that they have read and understood all terms and conditions of the Agreement, that they fully agree and consent to bound by same, and that they are freely entering into this Agreement as of the Effective Date.

WITTMAN ENTERPRISES, LLC

DocuSigned by:
Corinne Wittman-Wong
FFAFD11C38A84F...
BY: _____
CORINNE WITTMAN-WONG
CEO

CITY OF CHULA VISTA

DocuSigned by:
Mary Casillas Salas
062BFD7C0386456...
BY: _____
MARY CASILLAS SALAS
MAYOR

ATTEST

DocuSigned by:
Kerry K. Bigelow
3074D104EAF342E...
BY: _____
Kerry K. Bigelow, MMC
City Clerk

APPROVED AS TO FORM

DocuSigned by:
Carol Trujillo
A21F5789ABB74ED...
BY: _____ For
Glen R. Googins
City Attorney

EXHIBIT A
SCOPE OF WORK AND PAYMENT TERMS

1. Contacts for Contract Administration and Legal Notice

A. City Contract Administration:

Emily Folker
276 Fourth Avenue, Building C, Chula Vista, CA 91910
619-409-5497
efolker@chulavistaca.gov

For Legal Notice Copy to:

City of Chula Vista
City Attorney
276 Fourth Avenue, Chula Vista, CA 91910
619-691-5037
CityAttorney@chulavistaca.gov

B. Contractor Contract Administration:

WITTMAN ENTERPRISES, LLC
11093 Sun Center Drive, Rancho Cordova, CA 95670
916-669-4628
rharms@webillems.com

For Legal Notice Copy to:

Corinne Wittman-Wong
11093 Sun Center Drive, Rancho Cordova, CA 95670
916-669-4608
cwittmanwong@webillems.com

2. Required Services

A. General Description:

The City of Chula Vista, through its Chula Vista Fire Department, is in need of Emergency Medical Services (EMS) billing and collection services for its program providing Advanced Life Support ambulance services to Chula Vista, Imperial Beach and the Bonita Sunnyside Fire District, in accordance with the terms, conditions and specifications contained in Request for Proposals (RFP) No.P04-20/21.

Billing and collection services are needed as of April 1, 2021. This contract will commence on April 1, 2021 for a period of 15 months, and at City's option, may be extended year-to-year (July through June) for up to three (3) option years, for a total of 51 months or to June 30, 2025.

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B. Detailed Description:

1. The CONTRACTOR shall provide detailed information on incomplete patient data. The City will provide electronic patient care records (ePCR) by providing access to our ePCR software. The City currently utilizes WATER's StreetEMS to capture patient data electronically, with a CAD download from TriTech. The City also uses a Fire Department data collection program WaterRMS into which EMS data is entered that references patient records. In the event a record is incomplete upon receipt, contractor shall obtain information.
2. In the event of any interruption in electronic provision, the CONTRACTOR must accept patient data via hard copy. CONTRACTOR must utilize a secure data transfer system such as SFTP for billing transfer or an alternative detailed description of the recommended process. The CONTRACTOR will also receive supplement patient information (such as FACE sheets, if available), via fax, email, or mail.
3. The software/hardware billing system will ensure complete and uninterrupted backup systems and a data recovery plan/system should a disaster occur. The CONTRACTOR is to provide their data recovery plan/system and provide information on data backups.
4. The CONTRACTOR will provide all software and hardware associated with the billing and collections process. The software will interface with WATER StreetEMS. Please provide description of the electronic file needed to transmit data from the City to CONTRACTOR and how that electronic file is to be created.
5. The CONTRACTOR will work to interface with San Diego Health Connect (HIE) aka "hub" on getting demographic/ billing/ and outcome data as it is available.
6. The CONTRACTOR will describe their audit process. The CONTRACTOR shall be responsible for reconciling ePCRs compared with CAD and WATER FireRMS data to ensure the following: a) there are no missing ePCRs, including ePCRs for each patient in a multiple patient incident, b) ePCRs meet minimum content criteria necessary to generate the appropriate fee schedule, c) fee schedules are accurate, d) billing codes are appropriate, e) reports are reviewed to capture itemized charges.
7. CONTRACTOR will screen each document for completeness of data and level of service; ALS1-2, BLS, AMA/ Releases/ DOA, medications and skills administered. Apply the appropriate ICD 10 diagnosis codes and procedure codes for billing purposes and demonstrate their ability to interpret ambulance transport data and provide accurate billing thereof. This will be inclusive of obtaining receiving hospital face sheets and patient/parent/guardian signature for authorization to bill.
8. The CONTRACTOR shall interface directly with ePCR vendor WATER. CONTRACTOR shall work with the City's Fire Department EMS staff to identify data input gaps, errors, or other data needs, and describe a means of obtaining solutions to these problems.
9. The CONTRACTOR shall bill electronically on the firm's secure server for the various claim types: Medicare, Medi-Cal, commercial insurances and private payers following all guidelines of CMS. CONTRACTOR should also process denials for all insurances including Medicare and Medi- Cal according to defined timelines.

10. The CONTRACTOR shall be responsible for obtaining demographic and insurance information from receiving hospitals.
11. The CONTRACTOR shall be responsible for obtaining “Assignment Authorization”, also known as “lifetime signature”, which allows CMS to pay the provider directly.
12. The CONTRACTOR shall provide postage for the mailing of all correspondence of the billing operation. The City will provide the CONTRACTOR the customer service instruments (Exhibit #2) and the HIPAA Notice of Patient Privacy brochure (Exhibit #3). Exhibits #s 2&3 are attached and may be modified at any time during the contract.
13. The CONTRACTOR will provide a liaison to the City. This individual shall be a full- time employee of the CONTRACTOR, have an extensive knowledge of EMS billing practices, as well as a grasp of EMS industry standard practices, and decision-making authority for problem resolution. This liaison shall be available during regular business hours, have an alternate contact available in his/her absence. The liaison shall provide overall management and coordination of the contract on the CONTRACTOR’S behalf and have access to technical assistance at all times.
14. The CONTRACTOR shall provide a minimum of six (6) hours of operational training and six (6) hours of management/finance training prior to the start of contractual services by the transfer of responsibilities to CONTRACTOR. The CONTRACTOR is to keep the City abreast on changes in the billing process and new requirements for data gathering as they occur. The CONTRACTOR shall also provide updates to the City on changes in federal and state laws related to services being provided. The CONTRACTOR also agrees to provide ongoing training throughout the contract as deemed necessary due to industry regulation changes, trends noted, product software changes; or to review services and how the CONTRACTOR and City can work together to further reduce debt owed, maintain medical protocols and ensure all services are accurately billed.
15. The CONTRACTOR will monitor all billing and regulatory changes impacting reimbursement and adjust its system to ensure regulatory compliance; and update the City of such changes with an explanation of how it will affect the City and its customers.
16. The CONTRACTOR will provide the City with policies regarding the following: code of conduct, staff and CONTRACTOR acknowledgment form, conflict of interest policy, background check policy, reporting compliance concerns policy.
17. Additionally, the CONTRACTOR will provide the City with the following procedures: General billing, coding and charge entry, credit balances/overpayments, hardship waivers, collections and write offs, patient signatures, denials, patient communications, patient confidentiality, records management and retention and quality assurance or continuous quality improvement. Quality assurance would ideally include a random 10% chart review by the supervisor for billing discrepancies.
18. CONTRACTOR shall provide acknowledgement of account placement within 10 days of submission via the same method that the account was submitted.
19. The CONTRACTOR to provide the City access to the CONTRACTOR’S database via web link or other method(s) in order to determine the progress of the collection efforts. This method must be

maintained throughout the life of the contract and the City will retain data ownerships at the end of the contract's term.

20. For all accounts that are assigned to the CONTRACTOR, all customer contact, including notices, mailing, itemizations, small claims, bankruptcy filings, and miscellaneous requests and inquiries, is the sole responsibility of the CONTRACTOR. The CONTRACTOR will be fully responsible for maintaining accurate records of all correspondence, documents, accounting records, transactions and other relative evidence. CONTRACTOR will also be solely responsible for any and all costs incurred in and associated with the collection of debts referred to it by the City.
21. The CONTRACTOR will apply and participate in Section 1011 of the Medicare Modernization Act, which involves reimbursement for care of undocumented aliens. CONTRACTOR agrees to submit any claims to Trailblazer, within 180 days of end of federal fiscal quarter in which the service was provided and provide a report with a list of all 1011 claims and reimbursements submitted to Trailblazer to the City of Chula Vista.
22. Please provide two plans for remitting payment to the City and CONTRACTOR being paid for services. The first should be based upon the cumulative daily deposits to the City's bank account with a detailed electronic notification sent. The second scenario would be a monthly remittance/reconciliation of the prior month's activities. Please provide benefit/cost/accounting analysis of both options as well as time frames for activities. For example, deposit and notification within three (3) days of receipt, monthly reports by tenth (10th) day of following month, etc.
23. CONTRACTOR shall provide customer service representatives that are available at a minimum from 8:00 AM – 4:30 PM, Pacific Time, Monday through Friday, excluding major holidays. A toll-free number shall be provided, as well as fax and email. The CONTRACTOR will provide sufficient Customer Service Representative(s) to assist patients and/or third-party payees in all billing inquiries in a timely manner, not to exceed two (2) business days. The CONTRACTOR will agree to employ courteous business procedures throughout the term of the contract with our customers and with City personnel. Spanish-speaking representatives shall be available, as shall a language translation service for other language needs of patients or their representatives.
24. CONTRACTOR shall provide to the City a monthly report on the status of each account including; account number, patient number, call number, customer name, date of service, the amount received, the charges waived, the balance due and date of last payment, and the actions taken on the account. If an account is deemed uncollectible, information regarding this determination must be provided to the City.
25. CONTRACTOR shall provide to the City monthly financial detailed and summary reports including totals for receipts, accounts receivable, and total accounts receivable collection percentage, write-offs (mandatory and other), and refund reports (including refunds pending). Additional reports that the City may need, or request will automatically be formatted to their specifications and sent. Repeat caller reports will be provided quarterly.
26. The CONTRACTOR will also provide monthly revenue reports that separate monthly income based on Chula Vista Fire call origination/location. These revenue reports should be with and without write

offs and include a description of credits, percentage of total quantity and total amounts. Reports should have the capability to be run by any requested date parameters.

27. CONTRACTOR will provide monthly insurance payer mix report. This should include the description of insurance, percentage of total for Medicare, Medi-Cal, Private Insurance, and Self pays with total amounts.
28. The CONTRACTOR will provide monthly billing reports with the total base charges ALS1-2, BLS, AMA/ Releases/ DOA, First Responder Fee, for resident/ non-resident, District/ City and the add on of a first responder fee billed for the month. Along with the quantity of medications, skills and bundling type per billing category. In addition to the charged amounts the amount collected per base charged in the specific category should be provided in the monthly report.
29. The City's accounting methodology is a modified accrual system. CONTRACTOR shall provide to the City an annual financial summary report as of June 30 (City's fiscal year end) including totals for receipts, net accounts receivable, total accounts receivable, write-offs and collection percentage. This report should be submitted to the City no later than July 30th of each year, for the previous fiscal year.
30. CONTRACTOR is to provide reports not specifically identified in this RFP that would be useful to the City EMS/Service and or accounts receivable process. For example, revenue trend analysis, future outlook, etc.
31. CONTRACTOR shall guarantee the confidentiality, security and safety of all files, documents, and information provided by the City, except as to disclosure required by federal and state laws and regulations. The CONTRACTOR will comply with all federal, state, and local statues and regulations regarding protected health information, including the Health Insurance and Portability and Accountability Act of 1996 (HIPAA).
32. CONTRACTOR will exercise its best ethical, prudent, lawful and professional efforts to secure collections on all accounts referred by the City. Collections activities shall comply with all federal, state and local laws, including but not limited to the Federal Fair Debt Collection Practices Act.
33. CONTRACTOR will process all customer payments in accordance with applicable Payment Card Industry (PCI) security requirements.
34. In accordance with the Fair and Accurate Credit Transaction (FACT) Act of 2003 (Red Flag Rules), the vendor must have an identity theft prevention program in place. The City may request a copy of your company's policy. CONTRACTOR will be responsible for all "Breach" notifications concerning the loss of unprotected PHI in their possession in accordance with the Health Information Technology for Economic and Clinical Health Act (HITECH).
35. The CONTRACTOR will comply with all Centers for Medicare & Medicaid (CMS) regulations and applicable State Medi-Cal regulations regarding claim submittal and processing in its entirety. CONTRACTOR will remain current in CMS regulations and inform the City if its current practices need to be modified to adhere to all regulatory compliance matters. Any reductions in Medicare or Medi-Cal reimbursement that are the result of failures on the part of CONTRACTOR to submit claims

in accordance with established timelines (where the delay is solely the fault of the CONTRACTOR) will not be transferred to the City. CONTRACTOR will be responsible, in these situations, to reimburse the City as if the reimbursement was not reduced for the late submission. The City may request an authorization to bill.

36. CONTRACTOR shall be HIPAA compliant, enter into a HIPAA business associate agreement with the City (if selected), and maintain HIPAA compliance throughout the term of the contract. Please provide a HIPAA certification or a statement on compliance as well as a draft business associate agreement. Any violations of HIPAA by the Agency will be grounds for contract termination.
37. The CONTRACTOR shall meet with City staff upon execution of contract to discuss all the goals of the relationship, the services to be provided and other topics relevant to performing emergency medical services billing on behalf of the City.
38. At any time, all records of the CONTRACTOR pertaining to the City shall be subject to inspection, review, or audit by City, state or federal officials, during the contract period and for seven (7) years after the termination of the contract. CONTRACTOR shall retain records according to an agreed upon retention plan. Thereafter the CONTRACTOR will release them to the City of Chula Vista for permanent storage, or at the City request, be properly destroyed. The shredding must be done on CONTRACTOR'S site
39. CONTRACTOR shall not assign or subcontract any portion of this agreement or transfer or assign any claim, pursuant to this contract, without the written consent of the City. (This includes the outsourcing or offshoring of data)
40. CONTRACTOR shall make contacts with delinquent accounts under the name of the CONTRACTOR and not the City of Chula Vista.
41. Any settlement of principal or charges shall be agreed upon in writing between the CONTRACTOR and the City, prior to acceptance.
42. The City reserves the right to terminate the contract at any time by providing thirty-day written notice for convenience or cause. In the event of contract termination or the bankruptcy/dissolution of the CONTRACTOR, all accounts, payments and documentation made on behalf of the City accounts shall be returned to the City, regardless of status or payment arrangements made with consumers.
43. CONTRACTOR will not enter into any Third-Party Agreements (TPA) with clearinghouses, insurance companies or any other arrangement that results in a reduction of reimbursement without the written approval of the City. Absent of such written approval, CONTRACTOR will consider any reduced reimbursement from such arrangements to be solely at their expense and will reimburse City as if the reimbursement was provided in full.
44. CONTRACTOR will assist the City in applying for MediCal healthcare provider status once transport operations have commenced.
45. CONTRACTOR will be required to file Medi-Cal Ground Emergency Medical Transport (GEMT) claims reports with the identified administrative agency, as well as provide any required documentation.

46. The CONTRACTOR will assist in providing the necessary data needed to apply for additional governmental cost recovery programs such as, GEMT, GEMT Quality Assurance Fee (QAF), and Public Provider Intergovernmental Transfer (PPIGT). The CONTRACTOR shall provide examples of how they provide these services to other governmental agencies, and describe their experience in processing claims for federal supplemental reimbursement programs. The CONTRACTOR shall provide the necessary reporting on the reimbursement of these funds and transfer these funds to the City during the month they were received.
47. To the extent possible, the CONTRACTOR will provide electronic claims processing and paper filings to all insurance companies. The first invoice will be dated no later than two (2) business days after the ePCR is available to the CONTRACTOR on the secured website. The second notice will be sent to the patient or responsible party thirty (30) days after the original invoice. The third notice (final notice) will be sent to the patient or responsible party thirty (30) days after the second notice has been mailed. Exceptions can be made for extenuating circumstances (ie pending litigation).
48. All payments received by the CONTRACTOR on behalf of City of Chula Vista will be deposited to the City of Chula Vista-designated bank account within three (3) business days. On a daily basis, records of deposits will be correlated with database reports.
49. The CONTRACTOR agrees to negotiate and arrange a modified payment schedule for those individuals who are unable to pay the full amount when invoiced. The CONTRACTOR is authorized to establish a monthly payment of no less than \$25.00 per month and is to ensure those individuals continue to pay at least that amount for the duration of the invoice.
50. The CONTRACTOR will collect from the patient any remaining amount after patient's insurance or other third-party payments are made, when permitted by law and provider agreement.
51. The CONTRACTOR also agrees to provide:
 52. All invoices and related insurance forms with remittance advice.
 53. Return envelope with the address to be designated and approved by the City of Chula Vista. Window envelopes are acceptable for satisfying this requirement. Invoice envelopes will indicate "Address Service Correction."
 54. Postage for the mailing of all said invoices and forms for the billing operation.
 55. Patient statement with a message stating, "all checks must be made payable to the City of Chula Vista." Sample of invoice to be provided to the City of Chula Vista and approved prior to implementation.
 56. Reasonable effort to locate and correct any incorrect billing address for billable patients.
 57. A working arrangement with all City of Chula Vista-serviced hospitals.
 58. The CONTRACTOR will work with the City of Chula Vista staff to maximize collections as allowed and serve as a consultant in the area of fee schedules (e.g. bundling vs. unbundling) or other matters as applicable. The universal base rate for all transports will remain at the level approved by the city council, but the CONTRACTOR will evaluate all other service fees such as mileage, oxygen, procedures, medications, etc. initially and periodically thereafter to optimize the net revenue collected by the city for services. The CONTRACTOR will utilize their existing data for regional provider agencies and payors to provide city with service fee recommendations.

3. Term: In accordance with Section 1.10 of this Agreement, the term of this Agreement shall begin April 1, 2021 and end on June 30, 2022 (15 months) for completion of all Required Services.

4. Compensation:

A. Form of Compensation

Single Fixed Fee. For performance of all of the Required Services by Contractor as herein required, City shall pay a single fixed fee of 3.25% of net receipts billed and collected with an anticipated amount not to exceed \$500,000 annually, upon completion of all Required Services to City's satisfaction.

B. Reimbursement of Costs

None, the compensation includes all costs

Notwithstanding the foregoing, the maximum amount to be paid to the Contractor for services performed through June 30, 2025 shall not exceed \$2,500,000.

5. Special Provisions:

Public Agency Participation: Other public agencies (e.g. city, county, public corporation, political subdivision, school district, or water authority) may want to participate in this award of this contract based on RFP P04-20/21. The City of Chula Vista shall incur no financial responsibility in connection with any contract by another public agency. The public agency shall accept sole responsibility for contracting and making payments to the successful respondent.

Permitted Sub-Contractors: InfoSend (Anaheim, CA), Apexon (Southfield, MI), and Ability Network (Minneapolis, MN)

Security for Performance: None

Notwithstanding the completion date set forth in Section 3 above, City has option to extend this Agreement for three (3) additional terms, defined as a one-year increment (July to June) ending on June 30, 2025, for a total contract term of 51 months. The City Manager or Director of Finance/Treasurer shall be authorized to exercise the extensions on behalf of the City. If the City exercises an option to extend, each extension shall be on the same terms and conditions contained herein, provided that the amounts specified in Section 4 above may be increased by up to zero (0) percent for each extension. The City shall give written notice to Contractor of the City's election to exercise the extension via the Notice of Exercise of Option to Extend document. Such notice shall be provided at least 30 days prior to the expiration of the term.

EXHIBIT B
INSURANCE REQUIREMENTS

Contractor shall adhere to all terms and conditions of Section 3 of the Agreement and agrees to provide the following types and minimum amounts of insurance, as indicated by checking the applicable boxes (x).

	Type of Insurance	Minimum Amount	Form
<input checked="" type="checkbox"/>	General Liability: Including products and completed operations, personal and advertising injury	\$2,000,000 per occurrence for bodily injury, personal injury (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this Agreement or the general aggregate limit must be twice the required occurrence limit Additional Insured Endorsement or Blanket AI Endorsement for City* Waiver of Recovery Endorsement	Insurance Services Office Form CG 00 01 <i>*Must be primary and must not exclude Products/Completed Operations</i>
<input checked="" type="checkbox"/>	Automobile Liability	\$1,000,000 per accident for bodily injury, including death, and property damage	Insurance Services Office Form CA 00 01 Code 1-Any Auto Code 8-Hired Code 9-Non Owned
<input checked="" type="checkbox"/>	Workers' Compensation Employer's Liability	\$1,000,000 each accident \$1,000,000 disease policy limit \$1,000,000 disease each employee Waiver of Recovery Endorsement	

Other Negotiated Insurance Terms: Professional Liability \$2,000,000

EXHIBIT C CONTRACTOR CONFLICT OF INTEREST DESIGNATION

The Political Reform Act¹ and the Chula Vista Conflict of Interest Code² (“Code”) require designated state and local government officials, including some Contractors, to make certain public disclosures using a Statement of Economic Interests form (Form 700). Once filed, a Form 700 is a public document, accessible to any member of the public. In addition, Contractors designated to file the Form 700 are also required to comply with certain ethics training requirements.³

- A. Contractor **IS** a corporation or limited liability company and is therefore EXCLUDED⁴ from disclosure.
- B. Contractor is **NOT** a corporation or limited liability company and disclosure designation is as follows:

APPLICABLE DESIGNATIONS FOR INDIVIDUAL(S) ASSIGNED TO PROVIDE SERVICES

(Category descriptions available at www.chulavistaca.gov/departments/city-clerk/conflict-of-interest-code.)

Name	Email Address	Applicable Designation
Enter Name of Each Individual Who Will Be Providing Service Under the Contract – <i>If individuals have different disclosure requirements, duplicate this row and complete separately for each individual</i>	Enter email address(es)	<input type="checkbox"/> A. Full Disclosure <input type="checkbox"/> B. Limited Disclosure (<i>select one or more of the categories under which the Contractor shall file</i>): <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. Justification: <input checked="" type="checkbox"/> C. Excluded from Disclosure

1. Required Filers

Each individual who will be performing services for the City pursuant to the Agreement and who meets the definition of “Contractor,” pursuant to FPPC Regulation 18700.3, must file a Form 700.

2. Required Filing Deadlines

Each initial Form 700 required under this Agreement shall be filed with the Office of the City Clerk via the City's online filing system, NetFile, within 30 days of the approval of the Agreement. Additional Form 700 filings will be required annually on April 1 during the term of the Agreement, and within 30 days of the termination of the Agreement.

3. Filing Designation

The City Department Director will designate each individual who will be providing services to the City pursuant to the Agreement as *full disclosure*, *limited disclosure*, or *excluded from disclosure*, based on an analysis of the services the Contractor will provide. Notwithstanding this designation or anything in the Agreement, the Contractor is ultimately responsible for complying with FPPC regulations and filing requirements. If you have any questions regarding filing requirements, please do not hesitate to contact the City Clerk at (619)691-5041, or the FPPC at 1-866-ASK-FPPC, or (866) 275-3772 *2.

Pursuant to the duly adopted City of Chula Vista Conflict of Interest Code, this document shall serve as the written determination of the Contractor’s requirement to comply with the disclosure requirements set forth in the Code.

Completed by: Emily Folker

1 Cal. Gov. Code §§81000 *et seq.*; FPPC Regs. 18700.3 and 18704.

2 Chula Vista Municipal Code §§2.02.010-2.02.040.

3 Cal. Gov. Code §§53234, *et seq.*

4 CA FPPC Adv. A-15-147 (*Chadwick*) (2015); *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261; FPPC Reg. 18700.3 (Consultant defined as an “individual” who participates in making a governmental decision; “individual” does not include corporation or limited liability company).

EXHIBIT B
to AGREEMENT FOR SERVICES

ADDITIONAL TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of their profession for services to California public agencies.

2. **ORIGINALITY OF SERVICES.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, and recordings prepared for, written for, or submitted to CONFIRE and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except those submitted to Contractor by CONFIRE as a basis for such services.

3. **PRODUCT.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of CONFIRE and cannot be used without CONFIRE's express written permission. CONFIRE 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 CONFIRE. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

4. **TERMINATION.**

a. **With Cause by CONFIRE.** CONFIRE may terminate this Agreement upon giving written notice of intent to terminate for cause. Cause shall include:

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

Written notice by CONFIRE 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, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, CONFIRE may secure the required services from another Contractor. If the expense, fees, and/or costs to CONFIRE exceeds the cost of providing the service pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to CONFIRE upon the receipt of CONFIRE's notice of these expenses, fees, and/or costs. The

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

b. **With Cause by Contractor.** Contractor may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

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

Written notice by Contractor 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 the thirty (30) calendar days cease and terminate. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to Contractor.

c. Upon termination, Contractor shall provide CONFIRE with all documents produced maintained or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents.

5. **INDEMNIFICATION.** As set forth in Exhibit A to this Agreement.

6. **INSURANCE.** The Contractor shall procure and maintain at all times it performs any portion of the Services the insurances specified in Exhibit A to the Agreement.

7. **CONFIDENTIALITY.** The Contractor and the Contractor'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 CONFIRE, except as required by law or as necessary for Contractor's agents, personnel, employee(s), and/or subcontractor(s) to perform the Services. If Contractor or any of Contractor'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 Contractor and the person served shall each promptly send to CONFIRE 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 so that CONFIRE may exercise any applicable legal rights and remedies. Contractor 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, Contractor 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 Contractor receives any information subsequent to execution of this Agreement that might constitute a violation of these provisions, Contractor agrees it shall immediately notify CONFIRE of this information.
9. **APPROVAL OF LEGISLATIVE BODY.** This Agreement shall not be binding upon CONFIRE until CONFIRE's legislative body has approved all the terms and conditions contained herein.
10. **DISPUTES.** In the event of a dispute between the parties as to performance of 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, Contractor shall neither rescind the Agreement nor stop performing the Services.
11. **COMPLIANCE WITH LAWS.** Contractor shall observe and comply with all rules and regulations of the governing board of CONFIRE and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify CONFIRE, in writing, and, at the sole option of CONFIRE, 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 Contractor's receipt of a written termination notice from CONFIRE. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying CONFIRE of the violation, Contractor shall bear all costs arising therefrom.

12. **PERMITS/LICENSES.** Contractor and all Contractor'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.

13. **ANTI-DISCRIMINATION.** It is the policy of CONFIRE that in connection with all work performed under contracts there 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 expression, age, sexual orientation, or military and veteran status, or any other class or status protected by applicable law, and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

14. **AUDIT.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit CONFIRE, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from 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 CONFIRE shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

15. **EVALUATION OF CONTRACTOR AND SUBORDINATES.** CONFIRE may evaluate the Contractor in any manner which is permissible under the law. CONFIRE's evaluation may include, without limitation:

- a. Requesting CONFIRE employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance.
- b. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s)

16. **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 28 of this Agreement. Contractor 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 Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Contractor by CONFIRE.

17. 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.

18. ASSIGNMENT AND SUCCESSORS. Neither CONFIRE nor Contractor 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.

19. 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.

20. 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.

21. VENUE/GOVERNING LAWS. This Agreement shall be governed by the laws of the State of California and venue shall be in the County and/or federal judicial district in which CONFIRE's principal administrative office is located.

22. 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.

23. 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.

24. ENTIRE AGREEMENT. This Agreement represents the entire agreement between CONFIRE and Contractor 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 CONFIRE and Contractor.

25. MODIFICATION. This Agreement may be amended at any time by the written agreement of CONFIRE and Contractor.

26. 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.

27. AUTHORITY. The individual executing this Agreement on behalf of Contractor warrants that he/she is authorized to execute the Agreement on behalf of Contractor and that Contractor will be bound by the terms and conditions contained herein.

28. 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 the 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.

29. 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.