

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE
CITY OF MILPITAS AND KAISER PERMANENTE ON-THE-JOB**

This Agreement is made and entered into as of _____ (“Effective Date”) by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 (“City”), and **Kaiser Permanente On-the-Job**, a non-profit with its principal place of business at **1800 Harrison Street, Oakland, CA 94612** (hereinafter referred to as “Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

MEDICAL SERVICES FOR MILPITAS FIRE UNIFORMED PERSONNEL

(hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit A.

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Three Hundred Thousand Dollars and Zero Cents (\$300,000)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by

both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times and upon reasonable prior notice during the Agreement term and for four (4) years from the date of final payment under the Agreement for inspection by City.

5. Term.

The term of this Agreement shall be from **July 1, 2020** to **June 30, 2025**, unless earlier terminated as provided herein. The City reserves the right to review the Consultant's performance at the end of each year and cancel all or part of the Agreement.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City that it has secured all insurance required under Exhibit D (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein. Notwithstanding any other provision of this Agreement, including but not limited to those contained in Exhibit D (Insurance Requirements), Consultant, in lieu of any insurance requirements contained herein, may fulfill such insurance obligations through its alternative risk management programs, including self-insurance, and City consents to such self-insurance and agrees that, in such case, Consultant cannot provide endorsements or report deductibles, or self-insured retentions, or other requirements that are inconsistent with a program of self-insurance. City also agrees that Consultant's fulfillment of the insurance requirements through alternate risk management programs shall not constitute a breach of this Agreement.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably acceptable to the City), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, arising out of, any negligent acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents (\$1,000.00) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with

the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

16. Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any

costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

c. The Consultant understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of Agreement term. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Consultant's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, drawings and specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City. Notwithstanding the foregoing, this Section shall not apply to medical records, and any medical record created or modified by Consultant in connection with its provision of services hereunder shall not be considered work product prepared or developed by Consultant in the performance of this Agreement. Consultant shall retain all rights and title to such medical records.

18. Organization

Consultant shall assign **Chris Barranti** as Project Manager.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:
City of Milpitas
777 South Main Street
Milpitas, California 95035
Attn: Richard Frawley, Deputy Fire Chief

CONSULTANT:
Kaiser Permanente On-the-Job
1800 Harrison Street, 9th Floor
Oakland, California 94612
Attn: Sales Manager

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or

violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

30. Wage Theft Prevention

a. Consultant, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

b. BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONSULTANT AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONSULTANT OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

c. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Consultant or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Consultant learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Consultant shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Consultant or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

d. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

e. Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

f. Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other

notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE
CITY OF MILPITAS AND KAISER PERMANENTE ON-THE-JOB**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF MILPITAS

Approved By:

Steven G. McHarris, City Manager

Date

Approved As To Form:

Christopher J. Diaz, City Attorney

Approved:

Walter C. Rossmann, Risk Manager/Director
of Finance

Approved As To Content:

Brian Sherrard, Fire Chief

KAISER PERMANENTE ON-THE-JOB

Signature

Lavanya Kailar, MD, MPH, FACOEM

Medical Director KPOJ Occupational Health
& Safety Services, NCAL

Date

DIR Registration Number (If Applicable)

EXHIBIT A

Scope of Services

OVERVIEW

The Milpitas Fire Department is responsible for providing fire, medical, rescue, and life safety emergency services within the City of Milpitas. Emergency services are delivered through four (4) fire stations within the City. Milpitas Fire responds to approximately 5,500 calls for service generating 7,870 Engine and Truck Company runs. The City of Milpitas has eighty-five (85) uniformed fire personnel.

The fire department also inspects high risk facilities, and completes standard program inspections in compliance with the California Fire Code and Hazardous Materials programs.

SCOPE OF SERVICES

The Consultant shall provide medical services for the Milpitas Fire Department uniformed personnel.

The Consultant must have an in-depth knowledge of fire service specific medical assessments, including baseline medical evaluations, consolidated medical assessment, immunizations (as needed), data record-keeping services, and including, but not limited to, electronic data reporting, in accordance with:

- Joint Labor Management Wellness Fitness Initiative and/or
- NFPA 1582 Standard on Medical Programs for Fire Departments.

The services provided include:

1. baseline medical evaluations
2. consolidated medical assessment
3. immunizations (as needed)

Goals

The baseline medical evaluation is designed to accomplish the following services:

- Provide a cost-effective investment in the early detection, disease prevention, and health promotion of up to eighty-five (85) sworn fire personnel,
- Create baseline data to monitor future effects of exposure to specific biological, physical, or chemical agents.
- Detect changes in an individual's health that may be related to harmful working conditions,
- Provide the uniformed personnel with information about the individual's occupational hazards and current health,
- Compliance with federal, state, and local requirements,

- Limit out-of-service time through preventative early intervention of potential problems,

Facilities

Permanent Facilities

Permanent facilities to perform medical evaluations will not be provided by the City of Milpitas or the Milpitas Fire Department. The Consultant's facilities must be located within 15 miles of the City of Milpitas to prevent disruption of work schedules.

Medical Information System/Confidentiality

This is to insure that information from baseline examinations is not improperly released and does not subsequently become harmful to uniformed personnel and their careers while being easily accessible for pre/post comparison in case of a major disaster.

- The Consultant must retain the secured medical records for Milpitas Fire Uniformed personnel.
- At no time will an individual's medical information be released or shared, with any city department and/or any other medical provider without written authorization by the employee.

General Overview of Tasks to be Performed:

A. Routine Tasks- As identified in NFPA 1582

1. Medical and Occupational/Environmental History questionnaire to be completed by employee and reviewed by Physician.
 - a. **Individualized Health Risk Appraisal** in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments with written feedback to uniformed personnel concerning health risks and health status is required following the annual examination
 - b. **Medical History Questionnaire** – in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments for initial pre-employment history questionnaire must be completed to provide baseline information with which to compare future medial concerns
2. General Physical and Neurological Examination
 - a. **Uniformed Personnel Baseline Medical Evaluation** in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments to include exams and review of lab results for specific known Fire Service Cancer risks.

b. **Hands-On Physical Examination** Vital Signs in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments:

- I. Head, Neck, Eyes, Ears, Nose, and Throat
- II. Cardiovascular - Inspection, auscultation, percussion and palpation.
- III. Pulmonary- Inspection, auscultation, percussion and palpation.
- IV. Gastrointestinal - Inspection, auscultation, percussion and palpation.
- V. Genitourinary - Hernia exam (Also, see cancer screening).
- VI. Lymph Nodes-The examination of organ systems must be supplemented with an evaluation of lymph nodes in the cervical, auxiliary, and inguinal regions.
- VII. Neurological-The neurologic exam for uniformed personnel must include a general mental status evaluation and general assessment of the major cranial/peripheral nerves (motor, sensory, reflexes).
- VIII. Musculoskeletal- Includes an overall assessment of range of motion (ROM) of all joints.
- IX. Additionally, observation of the personnel performing certain standard office exercises or functions is helpful in assessing joint mobility and function.

3. Complete Blood Count/Differential/Platelet Count & Complete Blood Chemistry Profile
 - a. **Blood Analysis** –in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments
4. Urinalysis (Routine and Microscopic)
 - a. **Urinalysis** - in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments
5. Cancer Screening

Oncology Screening Elements – as indicated in Exhibit B

B. As Needed Tasks- To be performed on an as-needed basis

1. Electrocardiogram (12 Lead Stress) as needed
2. Chest X-ray (PA) one view or two view as clinically indicated.

3. Spirometry/Pulmonary Function Test (FVC, FEV1, FEV1/FVC%)
4. Visual Acuity
5. Immunization and Infectious Disease Screening
 - a. **Immunization and Infections Disease Screening (as clinically needed)** - in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments
6. Optional Blood Screening
 - a. **Optional Blood Screening** (based on exposures, FEMA, or recommended by physician) - in accordance with the Joint Labor Management Wellness Fitness Initiative and/or NFPA 1582 Standard on Medical Programs for Fire Departments

Fire Service Specific Physician

The Consultant's Physician must be board certified in occupational medicine, internal medicine specializing in fields related to the fire service such as occupational toxicology, industrial hygiene, epidemiology, infectious disease, pulmonary, cardiology, critical care, orthopedics, and/or emergency medicine.

The Physician must have a thorough knowledge of job-related activities, physical demands of the occupation and stresses associated with firefighting. The Physician must understand the various Fire Service job analyses, remain current on medical literature pertaining to fire service related issues, and conduct ongoing research related to fire fighter's health, safety, and fitness. Additionally, the physician must have knowledge of local, state, and federal laws as well as the roles of labor and management relating to occupational medicine, health, and safety.

Follow-up or Referral to Personal Physician, Specialist(s) or other Health Care Practitioner(s):

- The Wellness-Fitness Initiative recognizes the importance of consultation and/or referral to outside health care providers and/or specialists. Only possible life threatening abnormal cardiac findings will become automatic referrals. Consultant will be provided specific instructions for those referrals.
- General follow-up care is not supported by this contract.

The decision to implement any listed items rests with agreements made between Local 1699, and the Fire Department, not the organization/individual providing these services.

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice City on a monthly cycle. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials Agreement.

This exhibit is for cost evaluation purposes. The City currently employs **eighty-five (85)** uniformed personnel. A not-to-exceed annual amount shall be issued upon award of the contract. In order to receive payment, the Consultant shall submit monthly charges for services rendered during the previous month as proposed in this Exhibit.

FIREFIGHTER PREPLACEMENT EXAM (FFPP)		
300398	Firefighter Physical Exam	\$127.00
92552	Audiogram, screening	\$54.00
94010	Spirometry	\$60.00
85025	CBC with automated differential	\$20.00
80053	Chem Comprehensive Panel	\$41.00
36415	Venipuncture	\$15.00
71046	Chest X-Rays (2 views, PA & Lateral)	\$75.00
300422	PPD, 2 step, 2 placements and readings	\$30.00
	-OR-	
86480	QuantiFERON	\$145.00
93000	EKG, resting	\$50.00
93015	Cardiac Stress Test with Treadmill	\$230.00
86706	Titer: Hepatitis B Surface Antibody (HBsAb)	\$35.00
86704	Titer: Hepatitis B Core Antibody (HBcAb)	\$31.00
86803	Titer: Hepatitis C Antibody Screen	\$56.00
As Clinically Indicated:		
90746	Vaccine: Hepatitis B, may need series of 3 injections	\$130.00/injection
90632	Vaccine: Hepatitis A, may need series of 2 injections	\$114.00/injection
90636	Twinrix (Hep B and Hep A combo), series of 3 injections	\$191.00/injection
90707	Vaccine: Measles Mumps Rubella (MMR), may need series of 2 injections	\$103.00/injection
90716	Vaccine: Varivax (Varicella or Chickenpox), may need series of 2 injections	\$152.00/injection
90715	Vaccine: Tdap	\$63.00
	-OR-	
90714	Vaccine: Td	\$34.00
90658	Vaccine: Influenza (when seasonally available)	\$20.00
86735	Titer: Mumps Antibody Screen	\$35.00
86762	Titer: Rubella Antibody Screen (German Measles)	\$35.00

86765	Titer: Rubeola Antibody Screen (Measles)	\$35.00
86787	Titer: Varicella (Varicella or Chickenpox) Antibody Screen	\$35.00
86708	Titer: Hepatitis A IgG Antibody (HAAb)	\$40.00
81001	Urinalysis with microscopy	\$16.00
71045	Chest X-Ray, 1 view	\$55.00
71046	Chest X-Ray, 2 views	\$75.00
83036	Hemoglobin A1C	\$38.00
84443	TSH/Thyroid Stimulating Hormone	\$65.00
82482	Cholinesterase, RBC	\$31.00
82480	Cholinesterase, Plasma/Serum	\$31.00
83018	Heavy Metal, Qualitative Urine	\$63.00
300408	Physician Consultation, each 15 minutes	\$64.00/15 mins
FIREFIGHTER ANNUAL/PERIODIC EXAM (FFANN)		
300398	Firefighter Physical Exam	\$127.00
92552	Audiogram, screening	\$54.00
94010	Spirometry	\$60.00
85025	CBC with automated differential	\$20.00
80053	Chem Comprehensive Panel	\$41.00
36415	Venipuncture	\$15.00
86580	PPD, 1 step, placement and reading -OR-	\$20.00
86480	QuantiFERON	\$145.00
93000	EKG, resting	\$50.00
93015	Cardiac Stress Test with Treadmill	\$230.00
As Clinically Indicated:		
71045	Chest X-Ray, 1 view	\$55.00
71046	Chest X-Ray, 2 views	\$75.00
81001	Urinalysis with microscopy	\$16.00
86706	Titer: Hepatitis B Surface Antibody (HBsAb)	\$35.00
90746	Vaccine: Hepatitis B, may need series of 3 injections	\$130.00/injection
90632	Vaccine: Hepatitis A, may need series of 2 injections	\$114.00/injection
90636	Twinrix (Hep B and Hep A combo), series of 3 injections	\$191.00/injection
90707	Vaccine: Measles Mumps Rubella (MMR), may need series of 2 injections	\$103.00/injection
90716	Vaccine: Varivax (Varicella or Chickenpox), may need series of 2 injections	\$152.00/injection
90715	Vaccine: Tdap -OR-	\$63.00
90714	Vaccine: Td	\$34.00
90658	Vaccine: Influenza (when seasonally available)	\$20.00

86735	Titer: Mumps Antibody Screen	\$35.00
86762	Titer: Rubella Antibody Screen (German Measles)	\$35.00
86765	Titer: Rubeola Antibody Screen (Measles)	\$35.00
86787	Titer: Varicella (Varicella or Chickenpox) Antibody Screen	\$35.00
86708	Titer: Hepatitis A IgG Antibody (HAAb)	\$40.00
82274	Fecal Immunochemical Test – FIT Test	\$35.00
44388	Colonoscopy	\$636.00
84152	PSA; Prostate Specific Antigen	\$71.00
77067	Mammogram (Screening, bilateral)	\$205.00
99202	Pelvic Exam only (<i>without pathology</i>) (<i>must include PAP Smear</i>)	\$85.00
88141	PAP Smear (<i>must add Pelvic Exam</i>)	\$60.00
86703	HIV 1 or 2 single assay test	\$53.00
83036	Hemoglobin A1C	\$38.00
84443	TSH/Thyroid Stimulating Hormone	\$65.00
82482	Cholinesterase, RBC	\$31.00
82480	Cholinesterase, Plasma/Serum	\$31.00
83018	Heavy Metal, Qualitative Urine	\$63.00
300408	Physician Consultation, each 15 minutes	\$64.00/15 mins
ADDITIONAL REQUIRED LABS FOR COVERED EMPLOYEES (FEMA)		
82482	Cholinesterase, RBC	\$31.00
82480	Cholinesterase, Plasma/Serum	\$31.00
36415	Venipuncture	\$15.00
As Clinically Indicated:		
86706	Titer: Hepatitis B Surface Antibody (HBsAb)	\$35.00
83018	Heavy Metal, Qualitative Urine	\$63.00
VACCINATION ONLY (VAX)		
300406	History/Review of Tests/Brief Screen - No Physical Exam	\$42.00
90746	Vaccine: Hepatitis B, may need series of 3 injections	\$130.00/injection
90632	Vaccine: Hepatitis A, may need series of 2 injections	\$114.00/injection
90636	Twinrix (Hep B and Hep A combo), series of 3 injections	\$191.00/injection
90707	Vaccine: Measles Mumps Rubella (MMR), may need series of 2 injections	\$103.00/injection
90716	Vaccine: Varivax (Varicella or Chickenpox), may need series of 2 injections	\$152.00/injection
90715	Vaccine: Tdap	\$63.00
	-OR-	
90714	Vaccine: Td	\$34.00

90658	Vaccine: Influenza (when seasonally available)	\$20.00
LABORATORY ONLY (LAB)		
300406	History/Review of Tests/Brief Screen - No Physical Exam	\$42.00
86317	Titer: Hepatitis B Surface Antibody (HBsAb)	\$35.00
86708	Titer: Hepatitis A IgG Antibody (HAAb)	\$40.00
86735	Titer: Mumps Antibody Screen	\$35.00
86762	Titer: Rubella Antibody Screen (German Measles)	\$35.00
86765	Titer: Rubeola Antibody Screen (Measles)	\$35.00
86787	Titer: Varicella (Varicella or Chickenpox) Antibody Screen	\$35.00
83036	Hemoglobin Alc	\$38.00
84443	Thyroid Stimulating Hormone TSH	\$65.00
82482	Cholinesterase, RBC	\$31.00
82480	Cholinesterase, Plasma/Serum	\$31.00
83015	Heavy Metal, Qualitative Urine	\$74.00
86703	HIV 1 or 2 single assay test	\$53.00
36415	Venipuncture	\$15.00
TB CLEARANCE PPD (PPD/TB CLEARANCE)		
86580	PPD, 1 step, 1 placement and reading -OR-	\$20.00
86480	QuantiFERON	\$145.00
As Clinically Indicated:		
300422	PPD, 2 step, 2 placements and readings	\$30.00
71045	Chest X-Ray, 1 view	\$55.00
71046	Chest X-Ray, 2 views	\$75.00
99211	Brief encounter with non-MD Provider (PPD-Review Of Symptoms Form)	\$25.00

EXHIBIT C
Activity Schedule

[RESERVED]

EXHIBIT “D”

INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below. **Those that have an “X” indicated in the space before the requirement apply to Contractor’s or Consultant’s Agreement.**

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

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences.

Commercial General Liability (CGL):

Coverage at least as broad as Insurance Services Office (“ISO”) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Coverage at least as broad as ISO Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Coverage at least as broad as ISO Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability:

Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than \$5,000,000.00 combined single limit for bodily injury and property damage.

Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

Professional Liability (Errors and Omissions):

Insurance appropriate to the Contractor or Consultant's profession, with limit no less than \$1,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

(If Design/Build), with limits no less than \$1,000,000.00 per occurrence or claim, and \$2,000,000.00 policy aggregate.

Insurance appropriate to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

Workers' Compensation Insurance:

Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Builder's Risk (Course of Construction):

Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Contractor’s or Consultant’s Pollution Legal Liability:

___ Contractor’s or Consultant’s pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Cyber Liability Insurance

___ Cyber Liability Insurance with limits not less than \$1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

Surety Bonds:

Contractor shall provide the following Surety Bonds:

- ___ Bid Bond
- ___ Performance Bond
- ___ Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Other Insurance Provisions:

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

X Additional Insured Status and Primary/Non-Contributory Language:

Contractor’s general liability and automobile liability policies shall be primary and shall not seek contribution from the City’s coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office

form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

 Loss Payee Status – Builder's Risk/Course of Construction Insurance (applicable to Construction Contracts only)

Contractor or Consultant may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

 X **Notice of Cancellation, Suspension or Otherwise Voiding Policies:**

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City, unless replaced by similar coverage.

 X **Waiver of Subrogation:**

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

 Completed Operations

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

Deductibles and Self-Insured Retentions ("SIR"):

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City. City and Consultant agree that such insurance may include alternative risk management programs, including self-insurance or a combination of self-insurance and insurance, provided that such alternative risk management programs provide protection at least the equivalent to that specified under this Agreement.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them.

Special Risks or Circumstances

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

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.