



ADMINISTRATIVE COMMITTEE MEETING

TUESDAY, FEBRUARY 28, 2023 – 1:30 PM

LOMA LINDA-EOC 25541 BARTON RD, LOMA LINDA

AGENDA

The CONFIRE Administrative Committee Meeting is scheduled for Tuesday, February 28, 2023, in the Loma Linda Fire Department Emergency Operations Center, 25541 Barton Road, Loma Linda, California.

Reports and Documents relating to each agenda item are on file at CONFIRE and are available for public inspection during normal business hours.

The Public Comment portion of the agenda pertains to items NOT on the agenda and is limited to 30 minutes; 3 minutes allotted for each speaker. Pursuant to the Brown Act, no action may be taken by the Administrative Committee at this time; however, the Committee may refer your comments/concerns to staff or request that the item be placed on a future agenda.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact CONFIRE at (909) 356-2302. Notification 48 hours prior to the meeting will enable CONFIRE to make reasonable arrangements to ensure accessibility to this meeting. Later requests will be accommodated to the extent feasible.

A recess may be called at the discretion of the Administrative Committee.

Liz Berry
1743 Miro Way, Rialto, CA 92376
909-356-2302
lberry@confire.org

CALL TO ORDER

- a. Flag Salute
- b. Roll call/Introductions

PUBLIC COMMENT

An opportunity provided for persons in the audience to make brief statements to the Administrative Committee. (Limited to 30 minutes; 3 minutes allotted for each speaker)

INFORMATION RELATIVE TO POSSIBLE CONFLICT OF INTEREST

Agenda items may require committee member abstentions due to conflict of interests and financial interests. CONFIRE Administrative Committee member abstentions shall be stated under this item for recordation on the appropriate item.

CONSENT ITEMS

The following items are considered routine and non-controversial and will be voted upon at one time by the Administrative Committee. An item may be removed by a Committee Member or member of the public for discussion and appropriate action.

- [1.](#) Approve Administrative Committee Meeting Minutes of January 24, 2023
- [2.](#) FY 2022-23 CONFIRE Operations Statement as of January 31, 2023
FY 2022-23 Fund Balance Report as of January 31, 2023
- [3.](#) 2023 YTD Call Summary
- [4.](#) YTD Answering Times
- [5.](#) Billable Incidents

DIRECTOR REPORT

- a. Staffing Update
- b. Emergency Rule Phase Update
- c. EMD/ECNS Update
- d. Potential for (2) new agencies

COMMITTEE REPORTS

- a. Support Committee Report/MIS Updates - Blessing Ugbo
- b. Ops Chief Committee Report - Chief Augie Barreda
- c. CAD to CAD - Mike Bell

OLD BUSINESS

NEW BUSINESS

- [6.](#) National Public Safety Telecommunications Week - April 9-15, 2023 - **DISCUSSION**
- [7.](#) EMS Division MOU and Initial Membership Cost Extension - **ACTION ITEM**
- [8.](#) Consultant for County Clarification Project - **ACTION ITEM**



ADMINISTRATIVE COMMITTEE MEETING

TUESDAY, JANUARY 24, 2023 – 1:30 PM

LOMA LINDA COMMUNITY ROOM – 25541 BARTON RD. LOMA LINDA

MINUTES

ROLL CALL

ADMINISTRATIVE COMMITTEE MEMBERS:

Chief Dan Harker/Chairperson, Loma Linda Fire Department
Chief Rich Sessler/Vice-Chairperson, Redlands Fire Department
Chief Buddy Peratt, Apple Valley Fire Protection District
Chief Dean Smith, Chino Valley Fire District
Chief Tim McHargue, Colton Fire Department
Chief Mike McCliman, Rancho Cucamonga Fire Department
Chief Brian Park, Rialto Fire Department-
Chief Bertral Washington, San Bernardino County Fire
Chief William Racowschi, Victorville Fire Department

CALL TO ORDER

- a. Flag Salute
- b. Roll call/Introductions

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INFORMATION RELATIVE TO POSSIBLE CONFLICT OF INTEREST

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No conflicts were announced.

CONSENT ITEMS

The following items are considered routine and non-controversial and will be voted upon at one time by the Administrative Committee. An item may be removed by a Committee Member or member of the public for discussion and appropriate action.

1. Approve Administrative Committee Minutes of December 13, 2022
2. CONFIRE Operations Statement as of December 31, 2022

3. FY2022-23 Fund Balance Report Ending 12-31-2022
4. Call Summary YTD 2022
5. PSAP Answer Time YTD 2022
6. Billable Incidents – 2022

Motion to accept all items on Consent

Motion by: Chief Mike McCliman

Second by: Chief Bertral Washington

Yes - 12

No - 0

Abstain - 0

Absent - 0

DIRECTOR REPORT

- a. Staffing Update
- b. Emergency Rule Phase Update
- c. EMD/ECNS Update

COMMITTEE REPORTS

- a. Support Committee Report/MIS Updates - Blessing Ugbo
- b. Ops Chief Committee Report – Chief Tim Bruner
- c. CAD to CAD – Mike Bell

All Committee reports moved to next month due to time restraints

OLD BUSINESS

NEW BUSINESS

7. 3AM Innovations, Patrick O'Connor & Izzy Rufat - **Presentation**
3AM's FLORIAN is a solution that provides real-time incident pre-planning, total on-site awareness of personnel and detailed playbacks for debriefs and training. Core features include: works offline, 3D mapping, terrain & satellite views, easily send personnel to destination markers, ability to Geofence fire lines & scribble on maps, talk-to-text transcription, and voice-activated mayday features.

8. Brown Act, Lindsay Moore – **Presentation**

Review of The Brown Act Handbook. The purpose of the Brown Act is to ensure an open decision-making process through public meeting of legislative bodies of local agencies. Topics covered: Meeting Requirements, Public Right to Receive/Inspect Materials, Minutes and Reporting of Closed Session Items and many other topics.

9. Budget/Planning – **Discussion**

Review of CONFIRE Organizational Framework and Strategic Management Plan (SMP) document by Mike Bell.

Motion to accept and amend the CONFIRE Strategic Management Plan as presented.

Motion by: Chief Brian Park

Second by: Chief Tim McHargue

Yes - 12

No - 0

Abstain - 0

Absent - 0

ROUND TABLE

CLOSED SESSION

10. Pursuant to California Government Code section 54956.9(a). The Administrative Committee will meet in closed session to receive an update on litigation to which CONFIRE is a part. (PERB Case No. LA-CE-1561-M)

11. Personnel – Discipline/Dismissal/Release (one matter) Government Code section 54957

12. Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code section 54956.9(b): One potential case.

No reportable outcome from closed session.

ADJOURNMENT

Motion to adjourn the CONFIRE Administrative Committee Meeting

The meeting adjourned at 1607.

Upcoming Meetings:

Next Regular Meeting: February 28, 2023, at 1:30 p.m.

/s/ Liz Berry
Liz Berry
Administrative Secretary I



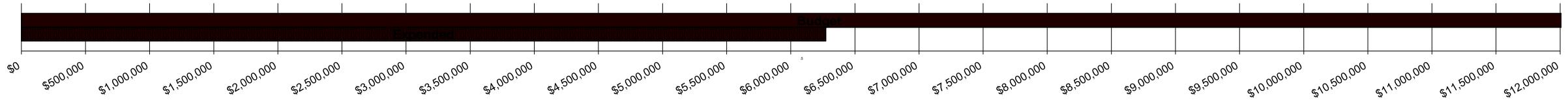
**OPERATIONS FUND 5008
MONTHLY SUMMARY FY 2022-23**

Transactions thru January 31, 2023

Item 2.

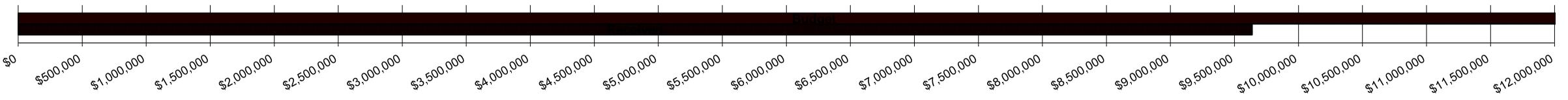
Expenditures	July	Aug	Sep	Oct	3 PP Nov	Dec	Jan	Feb	Mar	Apr	May	3 PP June	Total YTD Expended	2022/23 Budget	Bud - Exp Difference	% Used
Salary/Benefits	479,125	474,647	480,955	536,867	722,854	543,772	489,153	-	-	-	-	-	3,727,373	8,168,858	\$4,441,485	45.6%
Overtime/Call Back	30,415	32,897	33,822	32,497	46,289	31,703	27,647	-	-	-	-	-	235,270	323,000	\$87,730	72.8%
Phone/Circuits/Internet	38,249	31,909	44,221	48,353	46,048	35,312	46,919	-	-	-	-	-	291,012	589,467	\$298,455	49.4%
County IS/Data Services/Counsel	13,287	(6,244)	8,333	9,927	17,780	7,666	1,221	-	-	-	-	-	51,969	60,926	\$8,957	85.3%
Radio/Pager, Console Maint	-	41,784	42,098	43,871	41,255	45,609	42,132	-	-	-	-	-	256,750	516,947	\$260,197	49.7%
Computer Software	18,738	1,148,207	212,456	(64,623)	46,978	-	650	-	-	-	-	-	1,362,406	1,891,258	\$528,852	72.0%
Computer Hardware	129	(129)	-	-	866	-	-	-	-	-	-	-	866	18,450	\$17,584	4.7%
Office Exp/Copier Lease	6,539	2,693	3,383	4,027	4,574	5,465	3,057	-	-	-	-	-	29,739	98,245	\$68,506	30.3%
Insurance/Auditing	31,987	-	22,522	4,788	8,000	4,600	-	-	-	-	-	-	71,897	69,792	(\$2,105)	103.0%
Payroll/HR/Medical Director	74,878	904	5,473	10,081	8,570	3,912	9,094	-	-	-	-	-	112,912	352,183	\$239,271	32.1%
Travel/Training	3,498	612	4,662	720	1,820	5,003	245	-	-	-	-	-	16,560	70,000	\$53,440	23.7%
Auto/Structure/Fuel	-	1,942	4,309	2,319	6,905	2,916	1,628	-	-	-	-	-	20,019	30,077	\$10,058	66.6%
Other/HDGC Rent/Equip Trans	13,658	13,789	26,416	141	14,273	14,752	12,082	-	-	-	-	-	95,112	251,488	\$156,376	37.8%
Total	710,504	1,743,011	888,650	628,970	966,212	700,711	633,828	-	-	-	-	-	6,271,886	12,440,691	\$6,168,805	50.4%

% Fiscal Year Passed 58.3%



Revenue	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Received	Budget	Difference	% Rcvd
Services	3,144,053	15	(7,103)	3,167,239	15	15	3,216,492	-	-	-	-	-	9,520,725	12,432,190	\$2,911,465	77%
Interest	7,689	(7,689)	-	11,854	-	-	18,572	-	-	-	-	-	30,426	-	(\$30,426)	
Other	-	59,228	14,627	13,033	-	-	(72)	-	-	-	-	-	86,815	-	(\$86,815)	
Total	3,151,741	51,554	7,524	3,192,126	15	15	3,234,991	-	-	-	-	-	9,637,967	12,432,190	\$2,794,223	78%

% Fiscal Year Passed 58.3%





**FY 2022-2023
Fund Balance Report
as of January 31, 2023**

Operations Fund (5008)

Audited Fund Balance 7/1/22		* \$	2,695,737
Revenue	9,637,967		
Expenditures	(6,271,862)		
	Net		3,366,105
Transfers Out to 5010 - CIP	-		
Transfers Out to 5011 - Compensated Abs	-		
	Net Transfers In/Out		-
Total Fund Balance		\$	6,061,842

**FY 2022-23 Operating costs 10% is \$1,282,856 Per Board Policy*

Equipment Reserve Fund (5009)

Audited Fund Balance 7/1/22		\$	2,235,361
Revenue	522,838		
Expenditures	(308,264)		
	Net		214,574
Total Fund Balance		\$	2,449,935

General Reserve Fund (5010)

Audited Fund Balance 7/1/22		* \$	6,151,643
Revenue	256,440		
Revenue - Grant (ARPA)	-		
Expenditures	(624,946)		
	Net		(368,506)
Transfers in to Fund 5019 (Loan Pmt.)	500,000		
	Net Transfers In/Out		500,000
Total Fund Balance		\$	6,283,138
Reserve for CIP	(2,937,547)		
EMD Optimization (ECNS) Project	(228,899)		
	Net Committed		(3,166,446)
Available Fund Balance		\$	3,116,692

**FY 2022-23 Operating costs 25% is \$3,207,140*

Term Benefits Reserve Fund (5011)

Audited Fund Balance 7/1/22		\$	1,610,781
Revenue	260,190		
Expenditures			
	Net		260,190
Transer Comp. Absence From 5008	-		
Unfunded Liability			
	Net Transfers In/Out		-
Total Fund Balance		\$	1,870,971



CONFIRE

**FY 2022-2023
Fund Balance Report
as of January 31, 2023**

CAD-to-CAD Project Special Revenue Fund (5019)

Audited Fund Balance 7/1/22		\$	904,203
Revenue	32,159		
Expenditures	<u>(122,259)</u>		
	Net		(90,100)
Transfers out from Fund 5010 (Loan Pmt.)	<u>(500,000)</u>		
	Net Transfers In/Out		<u>(500,000)</u>
Total Fund Balance		\$	314,103

Emergency Medical Service Division Enterprise Fund (5020)

Fund Balance 01/01/23		\$	-
Revenue	-		
Expenditures	<u>-</u>		
	Net		-
	Net Transfers In/Out		<u>-</u>
		\$	-

Total Beginning Fund Balance - 07/01/22		\$	13,597,725
Total Ending Fund Balance - 01/31/23		\$	16,979,988



Call Summary

CONFIRE/Comm Center

1743 W Miro Way
 Rialto, CA 92376 County: San Bernardino

Year: 2023

From: 1/1/2023

To: 1/31/2023

Period: Month

Group: All

Call Type: All

Abandoned Filters: Include Abandoned



Date	911	911 Abdn	Total 911	911 Abdn Percentage	10-Digit Emergency Inbound	10-Digit Emergency Abdn	Total 10-Digit Emergency	Admin Outbound	Admin Inbound	Admin Inbound Abandoned	Total Admin	Total All Calls	Average Call Duration
Jan-22	17428	41	17469	0.23%	11753	374	12127	14651	4522	104	19277	48873	101.8
2022 Totals	17428	41	17469	0.23%	11753	374	12127	14651	4522	104	19277	48873	101.8
2021 Totals	22302	1478	23780	6.22%	13048	709	13757	17186	5902	391	23479	61016	104.8



CONFIRE

PSAP Answer Time

CONFIRE/Comm Center

1743 W Miro Way

Rialto, CA 92376

County: San Bernardino

Month - Year: 1/1/2023 - 1/31/2023

Agency Fire

Affiliation

From: 1/1/2023

To: 1/31/2023

Period Group: Month

Time Group: 60 Minute

Time Block: 00:00 - 23:59

Call Type: 911 Calls

Call Hour	Answer Times In Seconds							Total
	0 - 10	11-15	16 - 20	21 - 40	41 - 60	61 - 120	120+	
January 2022 Total	16,325	465	252	329	71	27	0	17,469
% answer time ≤ 10 seconds	93.45%	2.66%	1.44%	1.88%	0.41%	0.15%	0.00%	100.00%
% answer time ≤ 15 seconds	96.11%							
% answer time ≤ 40 seconds	99.44%							
Year to Date 2022 Total	16,325	465	252	329	71	27	0	17,469
% answer time ≤ 10 seconds	93.45%	2.66%	1.44%	1.88%	0.41%	0.15%	0.00%	100.00%
% answer time ≤ 15 seconds	96.11%							
% answer time ≤ 40 seconds	99.44%							
Year to Date 2021 Total	20,002	970	662	1,259	509	335	43	23,780
% answer time ≤ 10 seconds	84.11%	4.08%	2.78%	5.29%	2.14%	1.41%	0.18%	100.00%
% answer time ≤ 15 seconds	88.19%							
% answer time ≤ 40 seconds	96.27%							

CONFIRE Billable Incidents

Period: 01/01/2023 thru 01/31/2023

Jurisdiction	# of Incidents	% of Total
San Bernardino County	10,876	53.40%
VictorvilleFD	1,894	9.30%
RanchoCucamonga	1,457	7.15%
ChinoValleyFD	1,094	5.37%
AppleValley	1,081	5.31%
Redlands	935	4.59%
Rialto	897	4.40%
Colton	540	2.65%
Big Bear Fire	488	2.40%
MontclairFD	426	2.09%
Loma Linda	352	1.73%
San Manuel FD	138	0.68%
Baker Ambulance	77	0.38%
Running Springs	63	0.31%
Road Department	49	0.24%
Total	20,367	100%

BDC Division	# of Incidents	% of Total
East Valley	3,595	33.05%
Fontana	1,715	15.77%
Valley	1,558	14.33%
North Desert	1,026	9.43%
Hesperia	1,025	9.42%
South Desert	1,016	9.34%
Mountain	512	4.71%
Adelanto	419	3.85%
Hazmat	10	0.09%
Total	10,876	100%

DISPATCHER APPRECIATION

April 9 - 15, 2023

Apr 9 Sunday	Apr 10 Monday	Apr 11 Tuesday	Apr 12 Wednesday	Apr 13 Thursday	Apr 14 Friday	Apr 15 Saturday
Easter SHIFTS A & C	SHIFTS B & D VALLEY	SHIFTS B & D VALLEY	SHIFTS A & C VALLEY	SHIFTS A & C VALLEY	SHIFTS B & D VALLEY	SHIFTS B & D
	<u>AGENCIES</u>	<u>AGENCIES</u>	<u>AGENCIES</u>	<u>AGENCIES</u>	<u>AGENCIES</u>	
	RANCHO	SAN MANUEL	RIALTO	CHINO	RUNNING SPRINGS	
	COLTON	REDLANDS	LOMA LINDA	MONTCLAIR	MT. BALDY	
	DESERT	DESERT	DESERT	DESERT	DESERT	
	<u>AGENCY</u>	<u>AGENCY</u>	<u>AGENCY</u>	<u>AGENCY</u>	<u>AGENCY</u>	
	SBCOFD	VICTORVILLE	BIG BEAR	SBCOFD	APPLE VALLEY	

**CONFIRE****STAFF REPORT****DATE: February 28, 2022****FROM: Nathan Cooke
Interim Director****TO: CONFIRE Admin Committee**

SUBJECT: EMS Division MOUs and Initial Membership Cost Extension

Recommendation

It is recommended that the CONFIRE Admin Committee authorize the Interim Director to execute the Emergency Medical (EMS) Division Memorandum of Understandings (MOUs) between CONFIRE and the City of Montclair, the City of Yucaipa, and the City of Ontario.

It is also recommended that the CONFIRE Admin Committee authorize an extension to the date that the EMS Division Initial Membership Cost be granted to the Contract agencies (Montclair, Ontario, and Yucaipa). The extension to the deadline would allow the contract agencies to submit their payment no later than March 31, 2023.

Background Information

The CONFIRE Admin Committee revised policy 6.002 (EMS Subsidiary Committee) on December 13, 2022. As a result of the revision to become a member of the EMS Division, each Contract agency must enter into a separate MOU with CONFIRE. The cities of Montclair, Ontario, and Yucaipa have all submitted a letter of intent to participate in the EMS Division.

CONFIRE's legal team has worked closely with the legal representatives from all three cities to draft the proposed MOU. Once fully executed, Montclair, Yucaipa, and Ontario will officially be participants of the CONFIRE EMS Division.

Policy 6.002 states that the Initial Membership Costs due no later than 60-days following the signing of an MOU to participate as a contracting agency no later than February 28, 2022. Due to the timeframe it took to fully develop the MOUs through our legal teams, we are not able to meet the deadline (February 28, 2023) set forth in the policy.

Fiscal Impact

The cities of Montclair, Yucaipa, and Ontario will each submit an Initial Membership Fee in the amount of \$41,397.45 to CONFIRE. This corresponds with the initial membership cost in Policy 6.002. The fee will be deposited into the CONFIRE EMS Division account.

**CONSOLIDATED FIRE AGENCIES
MANUAL OF ADMINISTRATIVE COMMITTEE POLICIES**

POLICY: 6.002

TITLE: EMS Division Subsidiary Committee

ADOPTED: [9.13.2022]

REVISED: [12.13.2022]

EMS Division Subsidiary Committee

There is hereby established an EMS Division Subsidiary Committee, which shall be organized and be responsible for the collaborative development and implementation of a regionally shared EMS delivery system.

A. Definitions

1. **EMS:** Also known as Emergency Medical Services.
2. **EMS Division:** One of four divisions within CONFIRE, established by action of the Administrative Committee at its meeting on March 7, 2022.
3. **EMS Division Subsidiary Committee:** Also known as the EMS Division Committee, established by the Administrative Committee through this Policy.
4. **EMS Division Participants/Participant(s):** All CONFIRE Member Agencies and Contract Agencies that enter into an MOU with CONFIRE to participate in the EMS Division.
5. **Member Agency:** The Parties to the Third Amended and Restated Joint Powers Agreement for Consolidate Fire Agencies (CONFIRE), which are Apple Valley Fire Protection District, Chino Valley Fire District, City of Colton, City of Loma Linda, City of Redlands, City of Rialto, City of Victorville, Rancho Cucamonga Fire Protection District and San Bernardino County Fire Protection District. Additional Parties may be added upon amendment of the Joint Powers Agreement.
6. **Contract Agency:** An entity that has been sponsored by an existing Member Agency, approved by the Board of Directors according to terms acceptable to CONFIRE.
7. **Initial Membership Cost:** Payment that shall be made by a Contract Agency participating in the EMS Division, as set forth in this Policy.

B. Authority & Purpose

The EMS Division Committee shall meet regularly with the CONFIRE Director and Administrative Committee to provide advice and direction on matters related to the EMS Division, both operationally and administratively.

EMS Division Committee is responsible for all matters relating to the origination and operation of the EMS Division as delegated by the Administrative Committee. Such delegated responsibilities include but are not limited to:

- Establish the initial governance, EMS Division Operational Structure, financing and cost sharing methods of CONFIRE’s EMS Division. Present recommendation to the Administrative Committee and Board of Directors for approval.
- Establish an annual EMS Division Budget for presentation to and approval by the Administrative Committee and Board of Directors with the following priorities:
 - Priority 1 – Contractual obligations & Operational costs for the EMS Division
 - Priority 2 – Build reserves for the EMS Division
 - Priority 3 – System enhancements and system reinvestment
 - Priority 4 – If applicable, repayment of cost contributions by EMS Division Committee Participants or Private Ambulance Partner.
 - Note: Initial Membership Costs shall not be repaid.
 - Priority 5 – Equitable distribution of unused / unassigned fund balance to the Participants through FRALS agreements. FRALS agreements will be created based upon the ambulance contract between San Bernardino County and CONFIRE.
- Monitor fiscal and operational performance.
- Participate in annual CONFIRE audit.
- Develop policies for the operations and administration of the EMS Division.
- Evaluate need for ongoing governance model changes.
- Evaluate performance of Private Ambulance Partner.

C. Membership

Each Member, or Contract Agency of the EMS Division through MOU, shall be entitled to one (1) seat and one (1) alternate seat on the EMS Division Committee (“Participant”).

Participation on the EMS Division Committee is not mandatory. However, participation is required for those Member and Contract Agencies that intend to invest in the regionally shared EMS delivery System and realize any potential benefits derived from that investment. Each Participant assumes full risk and liability.

Contracting Agencies shall formally declare in writing their intent to participate in the EMS Division no later than December 31, 2022. Any city, district or agency who desires to participate at a later date will not have an opportunity to do so until such time as the JPA seeks contract extension with ICEMA anticipated to be at five years post the date of inception of services, currently anticipated to be in 2029. At that time, said entity shall declare their wishes to participate in the JPA EMS Division which will be considered by the CONFIRE Board of Directors and Administrative Committee.

Initial Membership Cost for a Contract Agency participating in the EMS Division is based on Total Cost divided by Total EMS Division Participants. Examples of EMS Division Initial Membership Costs are the following:

- Consulting Fees
- Legal Fees
- Reserves
- Other Related Fees

The Initial Membership Cost, is due no later than 60 days following the signing of a Memorandum of Understanding to participate as a Contracting Agency no later than February 28, 2023, unless extended by unanimous approval by the EMS Division Committee. The formula below outlines assumed costs for the formal response to San Bernardino County’s Request for Proposals for Ambulance Services, and shall serve as the baseline entry level fee for Contracting Agencies.

Initial Membership costs shall be based on the following formula:

$$\text{Initial Membership Cost} = \frac{(\text{Consulting Fees} + \text{Legal Fees} + \text{Reserves Expended} + \text{Other Related Costs})}{\text{Total Participants}}$$

$$\text{Estimated Initial Costs} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

Note: The estimated costs assume 11 participants and provides a good faith estimate on the expected costs.

In the event that the Estimated Initial Cost is higher than estimated above, as determined by a formal review by the EMS Committee, the Initial Membership Cost will be increased accordingly. Any additional Initial Membership cost owed by a Contract Agency shall be paid within sixty (60) days.

The following EOAs and the prospective EMS Participant, are listed below:

EOA	General Area	EMS Participant(s) within EOA
1	Rancho Cucamonga, Upland, Mt. Baldy	RCF, BDC
2	Chino, Montclair	CHO, MTC
3	Chino Hills, Ontario	CHO, OTO
4	Fontana, Bloomington, Lytle Creek	BDC
5b	Unincorporated pockets in Rialto	BDC
6	Colton, San Bernardino, Muscoy, Devore	COL, BDC
7	Grand Terrace, Parts of Redlands, Highland, Parts of Colton	BDC, RED, HGH, COL
8	Redlands, Highland, Mentone, Yucaipa, Oak Glen	RED, HGH, BDC, YUC
9	Loma Linda	LOM

11	Waterman Canyon, San Bernardino National Forest Front Country	BDC
12a	Victorville, Adelanto, Apple Valley	VCV, BDC, APP

D. Meetings

Meetings of the EMS Division Committee will be called on an as needed basis.

1. Quorum

While participation is not mandatory, two thirds of the Participants must be present for a recommendation to be brought forward to the Administrative Committee and/or Board of Directors of CONFIRE.

2. Voting

Each Participant shall cast one (1) vote. In order for the EMS Division Committee to bring forward a recommendation, a majority of the quorum must approve the action.

**CONSOLIDATED FIRE AGENCIES
CONTRACTING AGENCY AGREEMENT
(City of Montclair)**

This Agreement (“Agreement”) is by and between the Consolidated Fire Agencies (“CONFIRE”), a joint powers authority duly authorized and existing under Government Code, § 6500 et seq., and the City of Montclair (“Contracting Agency”), a general law city duly formed and existing under Article XI, Section 7 of the California Constitution. CONFIRE and Contracting Agency may be individually referred to as a “Party” and collectively as the “Parties.”

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: Services
- Exhibit B: Contributions
- Exhibit C: Effective Date and Term
- Exhibit D: General Terms and Conditions
- Exhibit E: HIPAA Business Associate Agreement
(Note: Same Agreement utilized by all Contractor Agencies)
 - Appendix 1 to Exhibit E: General Terms and Conditions to HIPAA Business Associate Agreement

2. INDEPENDENT CONTRACTOR

- a. Neither Contracting Agency, nor any of Contracting Agency’s employees, shall be considered officers, employees, agents, partner, or joint venture of CONFIRE; nor shall such persons be entitled to benefits of any kind or nature normally provided to employees of CONFIRE.
- b. Neither CONFIRE nor any of CONFIRE’s employees shall be considered officers, employees, agents, partner, or joint venture of Contracting Agency; nor shall such persons be entitled to benefits of any kind or nature normally provided to employees of Contracting Agency.

3. SERVICES

Contracting Agency shall benefit from the services and participate in the services described in Exhibit A (“Services”).

4. CONTRIBUTION

Contracting Agency shall make financial contributions for their participation in the Services as set forth in Exhibit B (“Contribution”).

5. EFFECTIVE DATE AND TERM

The Effective Date and Term are set forth in Exhibit C.

6. GENERAL TERMS AND CONDITIONS

The General Terms and Conditions are set forth in Exhibit D.

7. 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, Director
1743 Miro Way
Rialto, CA 92376

To Contracting Agency:

City of Montclair
Attn: Edward C. Starr
5111 Benito Street
Montclair, CA 91763
cc: David Pohl, Fire Chief

8. HIPPA BUSINESS ASSOCIATE AGREEMENT

The “Business Associate Agreement by and between Contracting Agency and CONFIRE” is set forth in Exhibit E.

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

Consolidated Fire Agencies

City of Montclair

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

EXHIBIT A
to CONTRACTING AGENCY AGREEMENT
SERVICES

Contracting Agency shall be a member of the CONFIRE EMS Division Subsidiary Committee as set forth in Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1**. As a member of the CONFIRE EMS Division Subsidiary Committee Contracting Agency shall share in the responsibility of the collaborative development and implementation of a regionally shared EMS delivery system, that provides Advanced Life Support and Basic Life Support Ground Ambulance Services. Contracting Agency shall also benefit from the regionally shared EMS delivery system, that provides Advanced Life Support and Basic Life Support Ground Ambulance Services.

EXHIBIT A-1
to CONTRACTING AGENCY AGREEMENT

**CONSOLIDATED FIRE AGENCIES
MANUAL OF ADMINISTRATIVE COMMITTEE POLICIES**

Policy: 6.002

Title: EMS Division Subsidiary Committee

Adopted: [09.13.2022]

Revised: [12.13.2022]

EMS Division Subsidiary Committee

There is hereby established an EMS Division Subsidiary Committee, which shall be organized and be responsible for the collaborative development and implementation of a regionally shared EMS delivery system.

A. Definitions

1. **EMS:** Also known as Emergency Medical Services.
2. **EMS Division:** One of four divisions within CONFIRE, established by action of the Administrative Committee at its meeting on March 7, 2022.
3. **EMS Division Subsidiary Committee:** Also known as the EMS Division Committee, established by the Administrative Committee through this Policy.
4. **EMS Division Participants/Participant(s):** All CONFIRE Member Agencies and Contract Agencies that enter into an MOU with CONFIRE to participate in the EMS Division.
5. **Member Agency:** The Parties to the Third Amended and Restated Joint Powers Agreement for Consolidate Fire Agencies (CONFIRE), which are Apple Valley Fire Protection District, Chino Valley Fire District, City of Colton, City of Loma Linda, City of Redlands, City of Rialto, City of Victorville, Rancho Cucamonga Fire Protection District and San Bernardino County Fire Protection District. Additional Parties may be added upon amendment of the Joint Powers Agreement.
6. **Contract Agency:** An entity that has been sponsored by an existing Member Agency, approved by the Board of Directors according to terms acceptable to CONFIRE.
7. **Initial Membership Cost:** Payment that shall be made by a Contract Agency participating in the EMS Division, as set forth in this Policy.

B. Authority & Purpose

The EMS Division Committee shall meet regularly with the CONFIRE Director and Administrative Committee to provide advice and direction on matters related to the EMS Division, both operationally and administratively.

EMS Division Committee is responsible for all matters relating to the origination and operation of the EMS Division as delegated by the Administrative Committee. Such delegated responsibilities include but are not limited to:

- Establish the initial governance, EMS Division Operational Structure, financing and cost sharing methods of CONFIRE’s EMS Division. Present recommendation to the Administrative Committee and Board of Directors for approval.
- Establish an annual EMS Division Budget for presentation to and approval by the Administrative Committee and Board of Directors with the following priorities:
 - Priority 1 – Contractual obligations & Operational costs for the EMS Division
 - Priority 2 – Build reserves for the EMS Division
 - Priority 3 – System enhancements and system reinvestment
 - Priority 4 – If applicable, repayment of cost contributions by EMS Division Committee Participants or Private Ambulance Partner.
 - Note: Initial Membership Costs shall not be repaid.
 - Priority 5 – Equitable distribution of unused / unassigned fund balance to the Participants through FRALS agreements. FRALS agreements will be created based upon the ambulance contract between San Bernardino County and CONFIRE.
- Monitor fiscal and operational performance.
- Participate in annual CONFIRE audit.
- Develop policies for the operations and administration of the EMS Division.
- Evaluate need for ongoing governance model changes.
- Evaluate performance of Private Ambulance Partner.

C. Membership

Each Member, or Contract Agency of the EMS Division through MOU, shall be entitled to one (1) seat and one (1) alternate seat on the EMS Division Committee (“Participant”).

Participation on the EMS Division Committee is not mandatory. However, participation is required for those Member and Contract Agencies that intend to invest in the regionally shared EMS delivery System and realize any potential benefits derived from that investment. Each Participant assumes full risk and liability.

Contracting Agencies shall formally declare in writing their intent to participate in the EMS Division no later than December 31, 2022. Any city, district or agency who desires to participate at a later date will not have an opportunity to do so until such time as the JPA seeks contract extension with ICEMA anticipated to be at five years post the date of inception of services, currently anticipated to be in 2029. At that time, said entity shall declare their wishes to participate in the JPA EMS Division which will be considered by the CONFIRE Board of Directors and Administrative Committee.

Initial Membership Cost for a Contract Agency participating in the EMS Division is based on Total Cost divided by Total EMS Division Participants. Examples of EMS Division Initial Membership Costs are the following:

- Consulting Fees
- Legal Fees
- Reserves
- Other Related Fees

The Initial Membership Cost, is due no later than 60 days following the signing of a Memorandum of Understanding to participate as a Contracting Agency no later than February 28, 2023, unless extended by unanimous approval by the EMS Division Committee. The formula below outlines assumed costs for the formal response to San Bernardino County’s Request for Proposals for Ambulance Services, and shall serve as the baseline entry level fee for Contracting Agencies.

Initial Membership costs shall be based on the following formula:

$$\text{Initial Membership Cost} = \frac{(\text{Consulting Fees} + \text{Legal Fees} + \text{Reserves Expended} + \text{Other Related Costs})}{\text{Total Participants}}$$

$$\text{Estimated Initial Costs} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

Note: The estimated costs assume 11 participants and provides a good faith estimate on the expected costs.

In the event that the Estimated Initial Cost is higher than estimated above, as determined by a formal review by the EMS Committee, the Initial Membership Cost will be increased accordingly. Any additional Initial Membership cost owed by a Contract Agency shall be paid within sixty (60) days.

The following EOAs and the prospective EMS Participant, are listed below:

EOA	General Area	EMS Participant(s) within EOA
1	Rancho Cucamonga, Upland, Mt. Baldy	RCF, BDC
2	Chino, Montclair	CHO, MTC
3	Chino Hills, Ontario	CHO, OTO
4	Fontana, Bloomington, Lytle Creek	BDC
5b	Unincorporated pockets in Rialto	BDC
6	Colton, San Bernardino, Muscoy, Devore	COL, BDC
7	Grand Terrace, Parts of Redlands, Highland, Parts of Colton	BDC, RED, HGH, COL
8	Redlands, Highland, Mentone, Yucaipa, Oak Glen	RED, HGH, BDC, YUC
9	Loma Linda	LOM

11	Waterman Canyon, San Bernardino National Forest Front Country	BDC
12a	Victorville, Adelanto, Apple Valley	VCV, BDC, APP

D. Meetings

Meetings of the EMS Division Committee will be called on an as-needed basis.

1. Quorum

While participation is not mandatory, two thirds of the Participants must be present for a recommendation to be brought forward to the Administrative Committee and/or Board of Directors of CONFIRE.

2. Voting

Each Participant shall cast one (1) vote. In order for the EMS Division Committee to bring forward a recommendation, a majority of the quorum must approve the action.

EXHIBIT B
to CONTRACTING AGENCY AGREEMENT

CONTRIBUTION

Contracting Agency's Contribution "Initial Contribution" and any subsequent Contribution shall be consistent with Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1.**

A. INITIAL MEMBERSHIP COST

1. In exchange for their initial membership Contracting Agency shall pay CONFIRE a sum of:

$$\text{Initial Membership Cost} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

TOTAL: \$41,397.45

**EXHIBIT C
to CONTRACTING AGENCY AGREEMENT**

EFFECTIVE DATE AND TERM

1. This Agreement is effective on January 1, 2023 (“Effective Date”).
2. Unless terminated as set forth below, the term of this Agreement shall be: (i) from the Effective Date through (ii) June 30, 2029 (the “Term”).
3. TERMINATION

This Agreement shall automatically terminate in the event that CONFIRE and the County of San Bernardino do not enter into a contract for CONFIRE and its independent third party to provide EMS services to include Advanced Life Support and Basic Life Support Ground Ambulance Services, for the EOA’s identified in Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1**.

EXHIBIT D
to CONTRACTING AGENCY AGREEMENT

GENERAL TERMS AND CONDITIONS

1. **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.
2. **ASSIGNMENT AND SUCCESSORS.** Neither Party 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.
3. **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.
4. **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.
5. **VENUE/GOVERNING LAWS.** This Agreement shall be governed by the laws of the State of California. The venue of any action or claim brought by any Party to this Agreement shall be the County of San Bernardino.
6. **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.
7. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between Parties 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 Contracting Agency and CONFIRE.
8. **MODIFICATION.** This Agreement may be amended at any time by the written agreement of CONFIRE and Contracting Agency.
9. **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.
10. **AUTHORITY.** The individual executing this Agreement on behalf of Contracting Agency warrants that he/she is authorized to execute the Agreement on behalf of Contracting Agency and that Contracting Agency will be bound by the terms and conditions contained herein.
11. **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.

12. **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.

13. **INDEMNIFICATION.**

- A. By CONFIRE. CONFIRE shall indemnify, defend and hold harmless Contracting Agency, and all of its employees, officials, and agents (“Contracting Agency Parties”), from and against any and all claims, demands, suits, judgments, expenses and costs of any and every kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, insofar as it may legally do so, arising from the negligent or wrongful acts or omissions of CONFIRE’S officers, agents, volunteers or employees (“CONFIRE’s Parties”) arising out of, or in any way attributable to, the performance of this Agreement. CONFIRE shall not be held responsible or liable for any loss, damage, detention or delay caused by strike, lockout, fire, flood, act or civil or military authority, insurrection or riot, or by any other cause which is not foreseeably within its control. CONFIRE’s obligation to defend the Contracting Agency Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and/or costs.
- B. By Contracting Agency. Contracting Agency shall indemnify, defend and hold harmless CONFIRE Parties from and against any and all claims, demands, suits, judgments, expenses and costs of any and every kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, insofar as it may legally do so, arising from the negligent or wrongful acts or omissions of Contracting Agency Parties arising out of, or in any way attributable to the performance of this Agreement. Contracting Agency shall not be held responsible or liable for any loss, damage, detention or delay caused by strike, lockout, fire, flood, act or civil or military authority, insurrection or riot, or by any other cause which not foreseeably within its control. Contracting Agency’s obligation to defend CONFIRE Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and/or costs.

14. **INSURANCE.**

- A. Each Party shall carry \$1,000,000/\$2,000,000 (occurrence/general and product/completed operations aggregate) of commercial general liability coverage (or participate in a public agency risk pool for such amount) and each Party agrees to give the other, its directors officers, employees, or authorized volunteers insured status under its policy using ISO “occurrence” form CG 00 01 or equivalent and to provide a certificate of insurance and additional insured endorsement. Commercial general liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- B. Each Party shall carry Workers' Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- C. Each Party shall carry Automobile Liability Insurance (or participate in a public agency risk pool for such amount) with coverage at least as broad as ISO Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the equivalent with minimum limits of \$1,000,000 each accident.

15. **ASSUMPTION OF UNFUNDED LIABILITIES ATTRIBUTABLE TO CONTRACTING AGENCY.**

- A. The Parties expressly acknowledge:
- (1) CONFIRE, in providing the Services in this Agreement, will incur otherwise unfunded liabilities, (e.g., continuing obligations to provide for the pensions CONFIRE staff hired to provide service to Contracting Agency) (“Unfunded Liabilities”);
 - (2) The Contribution set forth in the Agreement does not adequately compensate CONFIRE for such Unfunded Liabilities; and

- (3) The Parties intend this Section 15 to ensure that CONFIRE is held harmless from otherwise unfunded liabilities to the extent that those Unfunded Liabilities are attributable to Contracting Agency.
- (4) The Parties do not intend this Section 15 to apply to unfunded liabilities that are solely attributable to an increase in service level provided to all of CONFIRE's member agencies and contracting agencies.
- B. To the furthest extent permitted by applicable law, Contracting Agency shall indemnify CONFIRE from any and all liabilities of any kind, nature, and description directly or indirectly arising out of, connected with, or resulting from Unfunded Liabilities incurred by CONFIRE as a result of CONFIRE providing the Services to Contracting Agency, unless the liabilities are caused wholly by CONFIRE activities of general applicability to all of CONFIRE's member agencies and contracting agencies. By way of illustration and not by limitation, in the event that CONFIRE must hire staff to render the Services to Contracting Agency, and as a result of this Agreement's termination such staff must be laid-off, and as a result CONFIRE incurs unfunded pension liability, then Contracting Agency shall indemnify CONFIRE for such unfunded pension liability.
- C. The provisions of Section 15.A and 15.B shall not be applicable to a Contracting Agency who applies for, and is accepted for, membership status in the CONFIRE joint powers agreement. In such cases, the provisions of the CONFIRE joint powers agreement then in effect shall control all matters relating to unfunded liability.

**EXHIBIT E
to CONTRACTING AGENCY AGREEMENT**

**BUSINESS ASSOCIATE AGREEMENT
BY AND BETWEEN
CONTRACTING AGENCY AND CONFIRE**

This Business Associate Agreement (“BAA”) is entered into by and between Consolidated Fire Agencies (“Business Associate”), a California joint powers authority existing pursuant to Gov. Code, § 6500 et seq., and the City of Montclair (“Covered Entity”), a general law city duly formed and existing under Article XI, Section 7 of the California Constitution. Business Associate and Covered Entity may be collectively referred to as the “Parties” or individually as a “Party.”

RECITALS

Covered Entity is contracting with Business Associate for the performance of certain services (“Services”), as set forth in the Agreement to which this BAA is attached as Exhibit E;

Covered Entity is a covered entity as defined in 45 C.F.R. § 160.103;

Business Associate is a business associate, as defined in 45 C.F.R. § 160.103, of Covered Entity;

45 C.F.R. § 164.504 requires that covered entities enter into agreements with their business associates that satisfy the requirements of 45 C.F.R. § 164.504(e)(2); and

Business Associate and Covered Entity are both governmental entities for the purposes of 45 C.F.R. § 164.504 (e)(3)(i).

AGREEMENT

1. General Terms and Conditions

The General Terms and Conditions to this BAA are set forth in Appendix 1.

The Parties have executed this Agreement on the dates indicated below. The last of the two dates shall be the “Effective Date” of this BAA.

Consolidated Fire Agencies

City of Montclair

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

APPENDIX 1 TO EXHIBIT E to CONTRACTING AGENCY AGREEMENT

General Terms and Conditions to Business Associate Agreement

I. DEFINITIONS.

- a. Generally. Capitalized terms used within the BAA without definition, including within this Appendix 1, shall have the meanings ascribed to them in the Health Insurance Portability and Accountability Act and 45 C.F.R. Part 160 and 164 (“HIPAA and HIPAA Regulations”), and the Health Information Technology for Economic and Clinical Health Act and 45 C.F.R. Part 170 (“HITECH Act and Regulations”), as applicable, unless otherwise defined herein. HIPAA and HIPAA Regulations and HITECH Act and Regulations are collectively referred to herein as “Applicable Law”.
- b. Catch-all Definition. The following terms used in this BAA shall have the same meaning as those terms in the HIPAA and HIPAA Regulations: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

Business Associate agrees to:

- a. Not use or disclose Protected Health Information other than as permitted or required by this BAA, the Agreement, or as required by law;
- b. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this BAA;
- c. Report to Covered Entity any Use or Disclosure of Protected Health Information not provided for by this BAA of which it becomes aware, including breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware;
- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information;
- e. Make available Protected Health Information in a Designated Record Set to Covered Entity or to an individual whose Protected Health Information is maintained by Business Associate, or the individual’s designee, and document and retain the documentation required by 45 CFR 164.530(j), as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;
- f. Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.526;
- g. Maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;
- h. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- i. Make its internal practices, books, and records available to the Secretary for purposes of determining Business Associate’s or Covered Entity’s compliance with HIPAA and HIPAA Regulations.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

- a. Business Associate may only Use or Disclose Protected Health Information as necessary to perform the Agreement(s).
- b. Business Associate may Use or Disclose Protected Health Information as required by law.
- c. Business Associate agrees to make Uses and Disclosures and requests for Protected Health Information consistent with Covered Entity’s Minimum Necessary policies and procedures.

- d. Business Associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

IV. PERMISSIBLE REQUESTS BY COVERED ENTITY.

- a. Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

V. TERM AND TERMINATION.

- a. Term. This BAA is effective as of the Effective Date and will continue in force until terminated.
- b. Termination for Convenience. Either Party may terminate this BAA at any time, for any reason or for no reason, by giving the other Party at least thirty (30) days' prior written notice.
- c. Obligations of Business Associate Upon Termination. Upon termination of this BAA for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the Protected Health Information. Upon termination of this BAA for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
 - i. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. Return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form;
 - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;

- iv. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions which applied prior to termination; and
- v. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- d. Survival. The obligations of Business Associate under this Section shall survive the termination of this BAA.

VI. MISCELLANEOUS.

- a. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the Applicable Law. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.
- b. Public Access and Ownership of Records. Covered Entity is a local agency subject to the Public Records Act, Government Code § 6250 et seq. ("PRA"). In the event that Business Associate receives a request for records prepared, owned, used, or retained by Covered Entity or for records prepared, owned, used, or retained by Business Associate in the course and scope of providing the services for Covered Entity described in the Agreement as amended from time to time ("PRA Request"), Business Associate shall promptly forward a copy of the PRA Request to Covered Entity for fulfillment by the Covered Entity. Business Associate understands and agrees that all records produced under the Agreement as amended from time to time are hereby the property of Covered Entity and cannot be used without Covered Entity's express written permission. Covered Entity shall have all right, title and interest in said records, including the right to secure and

maintain the copyright, trademark and/or patent of said records in the name of the Covered Entity.

- c. Minimum Necessary. To the extent required by the HITECH Act and Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes “minimum necessary” for purposes of the Applicable Law, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.
- d. State Privacy Laws. Business Associate shall comply with California laws to the extent that such state privacy laws are not preempted by Applicable Law.
- e. No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Effect on Underlying Arrangement. In the event of any conflict between this BAA and any underlying arrangement between

Covered Entity and Business Associate, including the Agreements as amended from time to time, the terms of the BAA shall control with respect to Protected Health Information.

- g. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with Applicable Law. The Parties agree that any ambiguity in the BAA shall be resolved in favor of a meaning that complies and is consistent with the Applicable Law.
- h. Governing Law. This BAA shall be construed in accordance with the laws of the State of California.
- i. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this BAA shall be deemed to be inserted herein and this BAA shall be read and enforced as though it were included therein.
- j. Severability. In the event that any provision of this BAA 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 BAA 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 BAA.

**CONSOLIDATED FIRE AGENCIES
CONTRACTING AGENCY AGREEMENT
(City of Ontario)**

This Agreement (“Agreement”) is by and between the Consolidated Fire Agencies (“CONFIRE”), a joint powers authority duly authorized and existing under Government Code, § 6500 et seq., and the City of Ontario (“Contracting Agency”), a general law city duly formed and existing under Article XI, Section 7 of the California Constitution. CONFIRE and Contracting Agency may be individually referred to as a “Party” and collectively as the “Parties.”

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: Services
- Exhibit B: Contributions
- Exhibit C: Effective Date and Term
- Exhibit D: General Terms and Conditions
- Exhibit E: HIPAA Business Associate Agreement
(Note: Same Agreement utilized by all Contractor Agencies)
 - Appendix 1 to Exhibit E: General Terms and Conditions to HIPAA Business Associate Agreement

2. INDEPENDENT CONTRACTOR

- a. Neither Contracting Agency, nor any of Contracting Agency’s employees, shall be considered officers, employees, agents, partner, or joint venture of CONFIRE; nor shall such persons be entitled to benefits of any kind or nature normally provided to employees of CONFIRE.
- b. Neither CONFIRE nor any of CONFIRE’s employees shall be considered officers, employees, agents, partner, or joint venture of Contracting Agency; nor shall such persons be entitled to benefits of any kind or nature normally provided to employees of Contracting Agency.

3. SERVICES

Contracting Agency shall benefit from the services and participate in the services described in Exhibit A (“Services”).

4. CONTRIBUTION

Contracting Agency shall make financial contributions for their participation in the Services as set forth in Exhibit B (“Contribution”).

5. EFFECTIVE DATE AND TERM

The Effective Date and Term are set forth in Exhibit C.

6. GENERAL TERMS AND CONDITIONS

The General Terms and Conditions are set forth in Exhibit D.

7. 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, Director
1743 Miro Way
Rialto, CA 92376

To Contracting Agency:

City of Ontario
Attn: Scott Ochoa, City Manager
303 East B Street
Ontario, CA 91764
cc: Raymond J. Gayk, Fire Chief

8. HIPPA BUSINESS ASSOCIATE AGREEMENT

The “Business Associate Agreement by and between Contracting Agency and CONFIRE” is set forth in Exhibit E.

Note: Business Associate Agreement is consistent with the Agreement utilized by Contract Agencies for Dispatch Services.

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

Consolidated Fire Agencies

City of Ontario

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

EXHIBIT A
to CONTRACTING AGENCY AGREEMENT

SERVICES

Contracting Agency shall be a member of the CONFIRE EMS Division Subsidiary Committee as set forth in Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1**. As a member of the CONFIRE EMS Division Subsidiary Committee Contracting Agency shall share in the responsibility of the collaborative development and implementation of a regionally shared EMS delivery system, that provides Advanced Life Support and Basic Life Support Ground Ambulance Services. Contracting Agency shall also benefit from the regionally shared EMS delivery system, that provides Advanced Life Support and Basic Life Support Ground Ambulance Services.

EXHIBIT A-1
to CONTRACTING AGENCY AGREEMENT

**CONSOLIDATED FIRE AGENCIES
MANUAL OF ADMINISTRATIVE COMMITTEE POLICIES**

Policy: 6.002

Title: EMS Division Subsidiary Committee

Adopted: [09.13.2022]

Revised: [12.13.2022]

EMS Division Subsidiary Committee

There is hereby established an EMS Division Subsidiary Committee, which shall be organized and be responsible for the collaborative development and implementation of a regionally shared EMS delivery system.

A. Definitions

1. **EMS:** Also known as Emergency Medical Services.
2. **EMS Division:** One of four divisions within CONFIRE, established by action of the Administrative Committee at its meeting on March 7, 2022.
3. **EMS Division Subsidiary Committee:** Also known as the EMS Division Committee, established by the Administrative Committee through this Policy.
4. **EMS Division Participants/Participant(s):** All CONFIRE Member Agencies and Contract Agencies that enter into an MOU with CONFIRE to participate in the EMS Division.
5. **Member Agency:** The Parties to the Third Amended and Restated Joint Powers Agreement for Consolidate Fire Agencies (CONFIRE), which are Apple Valley Fire Protection District, Chino Valley Fire District, City of Colton, City of Loma Linda, City of Redlands, City of Rialto, City of Victorville, Rancho Cucamonga Fire Protection District and San Bernardino County Fire Protection District. Additional Parties may be added upon amendment of the Joint Powers Agreement.
6. **Contract Agency:** An entity that has been sponsored by an existing Member Agency, approved by the Board of Directors according to terms acceptable to CONFIRE.
7. **Initial Membership Cost:** Payment that shall be made by a Contract Agency participating in the EMS Division, as set forth in this Policy.

B. Authority & Purpose

The EMS Division Committee shall meet regularly with the CONFIRE Director and Administrative Committee to provide advice and direction on matters related to the EMS Division, both operationally and administratively.

EMS Division Committee is responsible for all matters relating to the origination and operation of the EMS Division as delegated by the Administrative Committee. Such delegated responsibilities include but are not limited to:

- Establish the initial governance, EMS Division Operational Structure, financing and cost sharing methods of CONFIRE’s EMS Division. Present recommendation to the Administrative Committee and Board of Directors for approval.
- Establish an annual EMS Division Budget for presentation to and approval by the Administrative Committee and Board of Directors with the following priorities:
 - Priority 1 – Contractual obligations & Operational costs for the EMS Division
 - Priority 2 – Build reserves for the EMS Division
 - Priority 3 – System enhancements and system reinvestment
 - Priority 4 – If applicable, repayment of cost contributions by EMS Division Committee Participants or Private Ambulance Partner.
 Note: Initial Membership Costs shall not be repaid.
 - Priority 5 – Equitable distribution of unused / unassigned fund balance to the Participants through FRALS agreements. FRALS agreements will be created based upon the ambulance contract between San Bernardino County and CONFIRE.
- Monitor fiscal and operational performance.
- Participate in annual CONFIRE audit.
- Develop policies for the operations and administration of the EMS Division.
- Evaluate need for ongoing governance model changes.
- Evaluate performance of Private Ambulance Partner.

C. Membership

Each Member, or Contract Agency of the EMS Division through MOU, shall be entitled to one (1) seat and one (1) alternate seat on the EMS Division Committee (“Participant”).

Participation on the EMS Division Committee is not mandatory. However, participation is required for those Member and Contract Agencies that intend to invest in the regionally shared EMS delivery System and realize any potential benefits derived from that investment. Each Participant assumes full risk and liability.

Contracting Agencies shall formally declare in writing their intent to participate in the EMS Division no later than December 31, 2022. Any city, district or agency who desires to participate at a later date will not have an opportunity to do so until such time as the JPA seeks contract extension with ICEMA anticipated to be at five years post the date of inception of services, currently anticipated to be in 2029. At that time, said entity shall declare their wishes to participate in the JPA EMS Division which will be considered by the CONFIRE Board of Directors and Administrative Committee.

Initial Membership Cost for a Contract Agency participating in the EMS Division is based on Total Cost divided by Total EMS Division Participants. Examples of EMS Division Initial Membership Costs are the following:

- Consulting Fees
- Legal Fees
- Reserves
- Other Related Fees

The Initial Membership Cost, is due no later than 60 days following the signing of a Memorandum of Understanding to participate as a Contracting Agency no later than February 28, 2023, unless extended by unanimous approval by the EMS Division Committee. The formula below outlines assumed costs for the formal response to San Bernardino County’s Request for Proposals for Ambulance Services, and shall serve as the baseline entry level fee for Contracting Agencies.

Initial Membership costs shall be based on the following formula:

$$\text{Initial Membership Cost} = \frac{(\text{Consulting Fees} + \text{Legal Fees} + \text{Reserves Expended} + \text{Other Related Costs})}{\text{Total Participants}}$$

$$\text{Estimated Initial Costs} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

Note: The estimated costs assume 11 participants and provides a good faith estimate on the expected costs.

In the event that the Estimated Initial Cost is higher than estimated above, as determined by a formal review by the EMS Committee, the Initial Membership Cost will be increased accordingly. Any additional Initial Membership cost owed by a Contract Agency shall be paid within sixty (60) days.

The following EOAs and the prospective EMS Participant, are listed below:

EOA	General Area	EMS Participant(s) within EOA
1	Rancho Cucamonga, Upland, Mt. Baldy	RCF, BDC
2	Chino, Montclair	CHO, MTC
3	Chino Hills, Ontario	CHO, OTO
4	Fontana, Bloomington, Lytle Creek	BDC
5b	Unincorporated pockets in Rialto	BDC
6	Colton, San Bernardino, Muscoy, Devore	COL, BDC
7	Grand Terrace, Parts of Redlands, Highland, Parts of Colton	BDC, RED, HGH, COL
8	Redlands, Highland, Mentone, Yucaipa, Oak Glen	RED, HGH, BDC, YUC
9	Loma Linda	LOM

11	Waterman Canyon, San Bernardino National Forest Front Country	BDC
12a	Victorville, Adelanto, Apple Valley	VCV, BDC, APP

D. Meetings

Meetings of the EMS Division Committee will be called on an as-needed basis.

1. Quorum

While participation is not mandatory, two thirds of the Participants must be present for a recommendation to be brought forward to the Administrative Committee and/or Board of Directors of CONFIRE.

2. Voting

Each Participant shall cast one (1) vote. In order for the EMS Division Committee to bring forward a recommendation, a majority of the quorum must approve the action.

EXHIBIT B
to CONTRACTING AGENCY AGREEMENT

CONTRIBUTION

Contracting Agency's Contribution "Initial Contribution" and any subsequent Contribution shall be consistent with Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1.**

A. INITIAL MEMBERSHIP COST

1. In exchange for their initial membership Contracting Agency shall pay CONFIRE a sum of:

$$\text{Initial Membership Cost} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

TOTAL: \$41,397.45

EXHIBIT C
to CONTRACTING AGENCY AGREEMENT

EFFECTIVE DATE AND TERM

1. This Agreement is effective on January 1, 2023 (“Effective Date”).
2. Unless terminated as set forth below, the term of this Agreement shall be: (i) from the Effective Date through (ii) June 30, 2029 (the “Term”).
3. **TERMINATION**

This Agreement shall automatically terminate in the event that CONFIRE and the County of San Bernardino do not enter into a contract for CONFIRE and its independent third party to provide EMS services to include Advanced Life Support and Basic Life Support Ground Ambulance Services, for the EOA’s identified in Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1**.

EXHIBIT D
to CONTRACTING AGENCY AGREEMENT

GENERAL TERMS AND CONDITIONS

1. **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.
2. **ASSIGNMENT AND SUCCESSORS.** Neither Party 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.
3. **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.
4. **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.
5. **VENUE/GOVERNING LAWS.** This Agreement shall be governed by the laws of the State of California. The venue of any action or claim brought by any Party to this Agreement shall be the County of San Bernardino.
6. **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.
7. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between Parties 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 Contracting Agency and CONFIRE.
8. **MODIFICATION.** This Agreement may be amended at any time by the written agreement of CONFIRE and Contracting Agency.
9. **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.
10. **AUTHORITY.** The individual executing this Agreement on behalf of Contracting Agency warrants that he/she is authorized to execute the Agreement on behalf of Contracting Agency and that Contracting Agency will be bound by the terms and conditions contained herein.
11. **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.

12. **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.

13. **INDEMNIFICATION.**

- A. By CONFIRE. CONFIRE shall indemnify, defend and hold harmless Contracting Agency, and all of its employees, officials, and agents (“Contracting Agency Parties”), from and against any and all claims, demands, suits, judgments, expenses and costs of any and every kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, insofar as it may legally do so, arising from the negligent or wrongful acts or omissions of CONFIRE’S officers, agents, volunteers or employees (“CONFIRE’s Parties”) arising out of, or in any way attributable to, the performance of this Agreement. CONFIRE shall not be held responsible or liable for any loss, damage, detention or delay caused by strike, lockout, fire, flood, act or civil or military authority, insurrection or riot, or by any other cause which is not foreseeably within its control. CONFIRE’s obligation to defend the Contracting Agency Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and/or costs.
- B. By Contracting Agency. Contracting Agency shall indemnify, defend and hold harmless CONFIRE Parties from and against any and all claims, demands, suits, judgments, expenses and costs of any and every kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, insofar as it may legally do so, arising from the negligent or wrongful acts or omissions of Contracting Agency Parties arising out of, or in any way attributable to the performance of this Agreement. Contracting Agency shall not be held responsible or liable for any loss, damage, detention or delay caused by strike, lockout, fire, flood, act or civil or military authority, insurrection or riot, or by any other cause which not foreseeably within its control. Contracting Agency’s obligation to defend CONFIRE Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and/or costs.

14. **INSURANCE.**

- A. Each Party shall carry \$1,000,000/\$2,000,000 (occurrence/general and product/completed operations aggregate) of commercial general liability coverage (or participate in a public agency risk pool for such amount) and each Party agrees to give the other, its directors officers, employees, or authorized volunteers insured status under its policy using ISO “occurrence” form CG 00 01 or equivalent and to provide a certificate of insurance and additional insured endorsement. Commercial general liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- B. Each Party shall carry Workers' Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- C. Each Party shall carry Automobile Liability Insurance (or participate in a public agency risk pool for such amount) with coverage at least as broad as ISO Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the equivalent with minimum limits of \$1,000,000 each accident.

15. **ASSUMPTION OF UNFUNDED LIABILITIES ATTRIBUTABLE TO CONTRACTING AGENCY.**

- A. The Parties expressly acknowledge:
- (1) CONFIRE, in providing the Services in this Agreement, will incur otherwise unfunded liabilities, (e.g., continuing obligations to provide for the pensions CONFIRE staff hired to provide service to Contracting Agency) (“Unfunded Liabilities”);
 - (2) The Contribution set forth in the Agreement does not adequately compensate CONFIRE for such Unfunded Liabilities; and

- (3) The Parties intend this Section 15 to ensure that CONFIRE is held harmless from otherwise unfunded liabilities to the extent that those Unfunded Liabilities are attributable to Contracting Agency.
- (4) The Parties do not intend this Section 15 to apply to unfunded liabilities that are solely attributable to an increase in service level provided to all of CONFIRE's member agencies and contracting agencies.
- B. To the furthest extent permitted by applicable law, Contracting Agency shall indemnify CONFIRE from any and all liabilities of any kind, nature, and description directly or indirectly arising out of, connected with, or resulting from Unfunded Liabilities incurred by CONFIRE as a result of CONFIRE providing the Services to Contracting Agency, unless the liabilities are caused wholly by CONFIRE activities of general applicability to all of CONFIRE's member agencies and contracting agencies. By way of illustration and not by limitation, in the event that CONFIRE must hire staff to render the Services to Contracting Agency, and as a result of this Agreement's termination such staff must be laid-off, and as a result CONFIRE incurs unfunded pension liability, then Contracting Agency shall indemnify CONFIRE for such unfunded pension liability.
- C. The provisions of Section 15.A and 15.B shall not be applicable to a Contracting Agency who applies for, and is accepted for, membership status in the CONFIRE joint powers agreement. In such cases, the provisions of the CONFIRE joint powers agreement then in effect shall control all matters relating to unfunded liability.

**EXHIBIT E
to CONTRACTING AGENCY AGREEMENT**

**BUSINESS ASSOCIATE AGREEMENT
BY AND BETWEEN
CONTRACTING AGENCY AND CONFIRE**

This Business Associate Agreement (“BAA”) is entered into by and between Consolidated Fire Agencies (“Business Associate”), a California joint powers authority existing pursuant to Gov. Code, § 6500 et seq., and the City of Ontario (“Covered Entity”), a general law city duly formed and existing under Article XI, Section 7 of the California Constitution. Business Associate and Covered Entity may be collectively referred to as the “Parties” or individually as a “Party.”

RECITALS

Covered Entity is contracting with Business Associate for the performance of certain services (“Services”), as set forth in the Agreement to which this BAA is attached as Exhibit E;

Covered Entity is a covered entity as defined in 45 C.F.R. § 160.103;

Business Associate is a business associate, as defined in 45 C.F.R. § 160.103, of Covered Entity;

45 C.F.R. § 164.504 requires that covered entities enter into agreements with their business associates that satisfy the requirements of 45 C.F.R. § 164.504(e)(2); and

Business Associate and Covered Entity are both governmental entities for the purposes of 45 C.F.R. § 164.504 (e)(3)(i).

AGREEMENT

1. General Terms and Conditions

The General Terms and Conditions to this BAA are set forth in Appendix 1.

The Parties have executed this Agreement on the dates indicated below. The last of the two dates shall be the “Effective Date” of this BAA.

Consolidated Fire Agencies

City of Ontario

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

APPENDIX 1 TO EXHIBIT E to CONTRACTING AGENCY AGREEMENT

General Terms and Conditions to Business Associate Agreement

I. DEFINITIONS.

- a. Generally. Capitalized terms used within the BAA without definition, including within this Appendix 1, shall have the meanings ascribed to them in the Health Insurance Portability and Accountability Act and 45 C.F.R. Part 160 and 164 (“HIPAA and HIPAA Regulations”), and the Health Information Technology for Economic and Clinical Health Act and 45 C.F.R. Part 170 (“HITECH Act and Regulations”), as applicable, unless otherwise defined herein. HIPAA and HIPAA Regulations and HITECH Act and Regulations are collectively referred to herein as “Applicable Law”.
- b. Catch-all Definition. The following terms used in this BAA shall have the same meaning as those terms in the HIPAA and HIPAA Regulations: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

Business Associate agrees to:

- a. Not use or disclose Protected Health Information other than as permitted or required by this BAA, the Agreement, or as required by law;
- b. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this BAA;
- c. Report to Covered Entity any Use or Disclosure of Protected Health Information not provided for by this BAA of which it becomes aware, including breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware;
- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive,

- maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information;
- e. Make available Protected Health Information in a Designated Record Set to Covered Entity or to an individual whose Protected Health Information is maintained by Business Associate, or the individual’s designee, and document and retain the documentation required by 45 CFR 164.530(j), as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;
- f. Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.526;
- g. Maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;
- h. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- i. Make its internal practices, books, and records available to the Secretary for purposes of determining Business Associate’s or Covered Entity’s compliance with HIPAA and HIPAA Regulations.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

- a. Business Associate may only Use or Disclose Protected Health Information as necessary to perform the Agreement(s).
- b. Business Associate may Use or Disclose Protected Health Information as required by law.
- c. Business Associate agrees to make Uses and Disclosures and requests for Protected Health Information consistent with Covered Entity’s Minimum Necessary policies and procedures.

- d. Business Associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

IV. PERMISSIBLE REQUESTS BY COVERED ENTITY.

- a. Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

V. TERM AND TERMINATION.

- a. Term. This BAA is effective as of the Effective Date and will continue in force until terminated.
- b. Termination for Convenience. Either Party may terminate this BAA at any time, for any reason or for no reason, by giving the other Party at least thirty (30) days' prior written notice.
- c. Obligations of Business Associate Upon Termination. Upon termination of this BAA for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the Protected Health Information. Upon termination of this BAA for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
 - i. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. Return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form;
 - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;

- iv. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions which applied prior to termination; and
- v. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- d. Survival. The obligations of Business Associate under this Section shall survive the termination of this BAA.

VI. MISCELLANEOUS.

- a. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the Applicable Law. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.
- b. Public Access and Ownership of Records. Covered Entity is a local agency subject to the Public Records Act, Government Code § 6250 et seq. ("PRA"). In the event that Business Associate receives a request for records prepared, owned, used, or retained by Covered Entity or for records prepared, owned, used, or retained by Business Associate in the course and scope of providing the services for Covered Entity described in the Agreement as amended from time to time ("PRA Request"), Business Associate shall promptly forward a copy of the PRA Request to Covered Entity for fulfillment by the Covered Entity. Business Associate understands and agrees that all records produced under the Agreement as amended from time to time are hereby the property of Covered Entity and cannot be used without Covered Entity's express written permission. Covered Entity shall have all right, title and interest in said records, including the right to secure and

- maintain the copyright, trademark and/or patent of said records in the name of the Covered Entity.
- c. Minimum Necessary. To the extent required by the HITECH Act and Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes “minimum necessary” for purposes of the Applicable Law, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.
- d. State Privacy Laws. Business Associate shall comply with California laws to the extent that such state privacy laws are not preempted by Applicable Law.
- e. No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Effect on Underlying Arrangement. In the event of any conflict between this BAA and any underlying arrangement between Covered Entity and Business Associate, including the Agreements as amended from time to time, the terms of the BAA shall control with respect to Protected Health Information.
- g. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with Applicable Law. The Parties agree that any ambiguity in the BAA shall be resolved in favor of a meaning that complies and is consistent with the Applicable Law.
- h. Governing Law. This BAA shall be construed in accordance with the laws of the State of California.
- i. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this BAA shall be deemed to be inserted herein and this BAA shall be read and enforced as though it were included therein.
- j. Severability. In the event that any provision of this BAA 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 BAA 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 BAA.

**CONSOLIDATED FIRE AGENCIES
CONTRACTING AGENCY AGREEMENT
(City of Yucaipa)**

This Agreement (“Agreement”) is by and between the Consolidated Fire Agencies (“CONFIRE”), a joint powers authority duly authorized and existing under Government Code, § 6500 et seq., and the City of Yucaipa (“Contracting Agency”), a general law city duly formed and existing under Article XI, Section 7 of the California Constitution. CONFIRE and Contracting Agency may be individually referred to as a “Party” and collectively as the “Parties.”

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: Services
- Exhibit B: Contributions
- Exhibit C: Effective Date and Term
- Exhibit D: General Terms and Conditions
- Exhibit E: HIPAA Business Associate Agreement
(Note: Same Agreement utilized by all Contractor Agencies)
 - Appendix 1 to Exhibit E: General Terms and Conditions to HIPAA Business Associate Agreement

2. INDEPENDENT CONTRACTOR

- a. Neither Contracting Agency, nor any of Contracting Agency’s employees, shall be considered officers, employees, agents, partner, or joint venture of CONFIRE; nor shall such persons be entitled to benefits of any kind or nature normally provided to employees of CONFIRE.
- b. Neither CONFIRE nor any of CONFIRE’s employees shall be considered officers, employees, agents, partner, or joint venture of Contracting Agency; nor shall such persons be entitled to benefits of any kind or nature normally provided to employees of Contracting Agency.

3. SERVICES

Contracting Agency shall benefit from the services and participate in the services described in Exhibit A (“Services”).

4. CONTRIBUTION

Contracting Agency shall make financial contributions for their participation in the Services as set forth in Exhibit B (“Contribution”).

5. EFFECTIVE DATE AND TERM

The Effective Date and Term are set forth in Exhibit C.

6. GENERAL TERMS AND CONDITIONS

The General Terms and Conditions are set forth in Exhibit D.

7. 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, Director
1743 Miro Way
Rialto, CA 92376

To Contracting Agency:

City of Yucaipa
Attn: Chris Mann, City Manager (effective
3/1/23)
34272 Yucaipa Boulevard
Yucaipa, CA 92399
cc: Grant Malinowski, Fire Chief

8. HIPPA BUSINESS ASSOCIATE AGREEMENT

The “Business Associate Agreement by and between Contracting Agency and CONFIRE” is set forth in Exhibit E.

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

Consolidated Fire Agencies

City of Yucaipa

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

EXHIBIT A
to CONTRACTING AGENCY AGREEMENT
SERVICES

Contracting Agency shall be a member of the CONFIRE EMS Division Subsidiary Committee as set forth in Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1**. As a member of the CONFIRE EMS Division Subsidiary Committee Contracting Agency shall share in the responsibility of the collaborative development and implementation of a regionally shared EMS delivery system, that provides Advanced Life Support and Basic Life Support Ground Ambulance Services. Contracting Agency shall also benefit from the regionally shared EMS delivery system, that provides Advanced Life Support and Basic Life Support Ground Ambulance Services.

EXHIBIT A-1
to CONTRACTING AGENCY AGREEMENT

**CONSOLIDATED FIRE AGENCIES
MANUAL OF ADMINISTRATIVE COMMITTEE POLICIES**

Policy: 6.002

Title: EMS Division Subsidiary Committee

Adopted: [09.13.2022]

Revised: [12.13.2022]

EMS Division Subsidiary Committee

There is hereby established an EMS Division Subsidiary Committee, which shall be organized and be responsible for the collaborative development and implementation of a regionally shared EMS delivery system.

A. Definitions

1. **EMS:** Also known as Emergency Medical Services.
2. **EMS Division:** One of four divisions within CONFIRE, established by action of the Administrative Committee at its meeting on March 7, 2022.
3. **EMS Division Subsidiary Committee:** Also known as the EMS Division Committee, established by the Administrative Committee through this Policy.
4. **EMS Division Participants/Participant(s):** All CONFIRE Member Agencies and Contract Agencies that enter into an MOU with CONFIRE to participate in the EMS Division.
5. **Member Agency:** The Parties to the Third Amended and Restated Joint Powers Agreement for Consolidate Fire Agencies (CONFIRE), which are Apple Valley Fire Protection District, Chino Valley Fire District, City of Colton, City of Loma Linda, City of Redlands, City of Rialto, City of Victorville, Rancho Cucamonga Fire Protection District and San Bernardino County Fire Protection District. Additional Parties may be added upon amendment of the Joint Powers Agreement.
6. **Contract Agency:** An entity that has been sponsored by an existing Member Agency, approved by the Board of Directors according to terms acceptable to CONFIRE.
7. **Initial Membership Cost:** Payment that shall be made by a Contract Agency participating in the EMS Division, as set forth in this Policy.

B. Authority & Purpose

The EMS Division Committee shall meet regularly with the CONFIRE Director and Administrative Committee to provide advice and direction on matters related to the EMS Division, both operationally and administratively.

EMS Division Committee is responsible for all matters relating to the origination and operation of the EMS Division as delegated by the Administrative Committee. Such delegated responsibilities include but are not limited to:

- Establish the initial governance, EMS Division Operational Structure, financing and cost sharing methods of CONFIRE’s EMS Division. Present recommendation to the Administrative Committee and Board of Directors for approval.
- Establish an annual EMS Division Budget for presentation to and approval by the Administrative Committee and Board of Directors with the following priorities:
 - Priority 1 – Contractual obligations & Operational costs for the EMS Division
 - Priority 2 – Build reserves for the EMS Division
 - Priority 3 – System enhancements and system reinvestment
 - Priority 4 – If applicable, repayment of cost contributions by EMS Division Committee Participants or Private Ambulance Partner.
 Note: Initial Membership Costs shall not be repaid.
 - Priority 5 – Equitable distribution of unused / unassigned fund balance to the Participants through FRALS agreements. FRALS agreements will be created based upon the ambulance contract between San Bernardino County and CONFIRE.
- Monitor fiscal and operational performance.
- Participate in annual CONFIRE audit.
- Develop policies for the operations and administration of the EMS Division.
- Evaluate need for ongoing governance model changes.
- Evaluate performance of Private Ambulance Partner.

C. Membership

Each Member, or Contract Agency of the EMS Division through MOU, shall be entitled to one (1) seat and one (1) alternate seat on the EMS Division Committee (“Participant”).

Participation on the EMS Division Committee is not mandatory. However, participation is required for those Member and Contract Agencies that intend to invest in the regionally shared EMS delivery System and realize any potential benefits derived from that investment. Each Participant assumes full risk and liability.

Contracting Agencies shall formally declare in writing their intent to participate in the EMS Division no later than December 31, 2022. Any city, district or agency who desires to participate at a later date will not have an opportunity to do so until such time as the JPA seeks contract extension with ICEMA anticipated to be at five years post the date of inception of services, currently anticipated to be in 2029. At that time, said entity shall declare their wishes to participate in the JPA EMS Division which will be considered by the CONFIRE Board of Directors and Administrative Committee.

Initial Membership Cost for a Contract Agency participating in the EMS Division is based on Total Cost divided by Total EMS Division Participants. Examples of EMS Division Initial Membership Costs are the following:

- Consulting Fees
- Legal Fees
- Reserves
- Other Related Fees

The Initial Membership Cost, is due no later than 60 days following the signing of a Memorandum of Understanding to participate as a Contracting Agency no later than February 28, 2023, unless extended by unanimous approval by the EMS Division Committee. The formula below outlines assumed costs for the formal response to San Bernardino County’s Request for Proposals for Ambulance Services, and shall serve as the baseline entry level fee for Contracting Agencies.

Initial Membership costs shall be based on the following formula:

Initial Membership Cost = $\frac{\text{Consulting Fees} + \text{Legal Fees} + \text{Reserves Expended} + \text{Other Related Costs}}{\text{Total Participants}}$

$$\text{Estimated Initial Costs} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

Note: The estimated costs assume 11 participants and provides a good faith estimate on the expected costs.

In the event that the Estimated Initial Cost is higher than estimated above, as determined by a formal review by the EMS Committee, the Initial Membership Cost will be increased accordingly. Any additional Initial Membership cost owed by a Contract Agency shall be paid within sixty (60) days.

The following EOAs and the prospective EMS Participant, are listed below:

EOA	General Area	EMS Participant(s) within EOA
1	Rancho Cucamonga, Upland, Mt. Baldy	RCF, BDC
2	Chino, Montclair	CHO, MTC
3	Chino Hills, Ontario	CHO, OTO
4	Fontana, Bloomington, Lytle Creek	BDC
5b	Unincorporated pockets in Rialto	BDC
6	Colton, San Bernardino, Muscoy, Devore	COL, BDC
7	Grand Terrace, Parts of Redlands, Highland, Parts of Colton	BDC, RED, HGH, COL
8	Redlands, Highland, Mentone, Yucaipa, Oak Glen	RED, HGH, BDC, YUC
9	Loma Linda	LOM

11	Waterman Canyon, San Bernardino National Forest Front Country	BDC
12a	Victorville, Adelanto, Apple Valley	VCV, BDC, APP

D. Meetings

Meetings of the EMS Division Committee will be called on an as-needed basis.

1. Quorum

While participation is not mandatory, two thirds of the Participants must be present for a recommendation to be brought forward to the Administrative Committee and/or Board of Directors of CONFIRE.

2. Voting

Each Participant shall cast one (1) vote. In order for the EMS Division Committee to bring forward a recommendation, a majority of the quorum must approve the action.

EXHIBIT B
to CONTRACTING AGENCY AGREEMENT

CONTRIBUTION

Contracting Agency's Contribution "Initial Contribution" and any subsequent Contribution shall be consistent with Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1.**

A. INITIAL MEMBERSHIP COST

1. In exchange for their initial membership Contracting Agency shall pay CONFIRE a sum of:

$$\text{Initial Membership Cost} = \frac{(\$255,372 + 100,000 + 100,000)}{11 \text{ Participants}}$$

TOTAL: \$41,397.45

**EXHIBIT C
to CONTRACTING AGENCY AGREEMENT**

EFFECTIVE DATE AND TERM

1. This Agreement is effective on January 1, 2023 (“Effective Date”).
2. Unless terminated as set forth below, the term of this Agreement shall be: (i) from the Effective Date through (ii) June 30, 2029 (the “Term”).
3. **TERMINATION**

This Agreement shall automatically terminate in the event that CONFIRE and the County of San Bernardino do not enter into a contract for CONFIRE and its independent third party to provide EMS services to include Advanced Life Support and Basic Life Support Ground Ambulance Services, for the EOA’s identified in Administrative Committee Policy 6.002, attached hereto as **Exhibit A-1**.

EXHIBIT D
to CONTRACTING AGENCY AGREEMENT

GENERAL TERMS AND CONDITIONS

1. **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.
2. **ASSIGNMENT AND SUCCESSORS.** Neither Party 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.
3. **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.
4. **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.
5. **VENUE/GOVERNING LAWS.** This Agreement shall be governed by the laws of the State of California. The venue of any action or claim brought by any Party to this Agreement shall be the County of San Bernardino.
6. **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.
7. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between Parties 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 Contracting Agency and CONFIRE.
8. **MODIFICATION.** This Agreement may be amended at any time by the written agreement of CONFIRE and Contracting Agency.
9. **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.
10. **AUTHORITY.** The individual executing this Agreement on behalf of Contracting Agency warrants that he/she is authorized to execute the Agreement on behalf of Contracting Agency and that Contracting Agency will be bound by the terms and conditions contained herein.
11. **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.

12. **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.

13. **INDEMNIFICATION.**

- A. By CONFIRE. CONFIRE shall indemnify, defend and hold harmless Contracting Agency, and all of its employees, officials, and agents (“Contracting Agency Parties”), from and against any and all claims, demands, suits, judgments, expenses and costs of any and every kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, insofar as it may legally do so, arising from the negligent or wrongful acts or omissions of CONFIRE’S officers, agents, volunteers or employees (“CONFIRE’s Parties”) arising out of, or in any way attributable to, the performance of this Agreement. CONFIRE shall not be held responsible or liable for any loss, damage, detention or delay caused by strike, lockout, fire, flood, act or civil or military authority, insurrection or riot, or by any other cause which is not foreseeably within its control. CONFIRE’s obligation to defend the Contracting Agency Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and/or costs.
- B. By Contracting Agency. Contracting Agency shall indemnify, defend and hold harmless CONFIRE Parties from and against any and all claims, demands, suits, judgments, expenses and costs of any and every kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, insofar as it may legally do so, arising from the negligent or wrongful acts or omissions of Contracting Agency Parties arising out of, or in any way attributable to the performance of this Agreement. Contracting Agency shall not be held responsible or liable for any loss, damage, detention or delay caused by strike, lockout, fire, flood, act or civil or military authority, insurrection or riot, or by any other cause which not foreseeably within its control. Contracting Agency’s obligation to defend CONFIRE Parties is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and/or costs.

14. **INSURANCE.**

- A. Each Party shall carry \$1,000,000/\$2,000,000 (occurrence/general and product/completed operations aggregate) of commercial general liability coverage (or participate in a public agency risk pool for such amount) and each Party agrees to give the other, its directors officers, employees, or authorized volunteers insured status under its policy using ISO “occurrence” form CG 00 01 or equivalent and to provide a certificate of insurance and additional insured endorsement. Commercial general liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- B. Each Party shall carry Workers' Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.
- C. Each Party shall carry Automobile Liability Insurance (or participate in a public agency risk pool for such amount) with coverage at least as broad as ISO Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the equivalent with minimum limits of \$1,000,000 each accident.

15. **ASSUMPTION OF UNFUNDED LIABILITIES ATTRIBUTABLE TO CONTRACTING AGENCY.**

- A. The Parties expressly acknowledge:
- (1) CONFIRE, in providing the Services in this Agreement, will incur otherwise unfunded liabilities, (e.g., continuing obligations to provide for the pensions CONFIRE staff hired to provide service to Contracting Agency) (“Unfunded Liabilities”);
 - (2) The Contribution set forth in the Agreement does not adequately compensate CONFIRE for such Unfunded Liabilities; and

- (3) The Parties intend this Section 15 to ensure that CONFIRE is held harmless from otherwise unfunded liabilities to the extent that those Unfunded Liabilities are attributable to Contracting Agency.
- (4) The Parties do not intend this Section 15 to apply to unfunded liabilities that are solely attributable to an increase in service level provided to all of CONFIRE's member agencies and contracting agencies.
- B. To the furthest extent permitted by applicable law, Contracting Agency shall indemnify CONFIRE from any and all liabilities of any kind, nature, and description directly or indirectly arising out of, connected with, or resulting from Unfunded Liabilities incurred by CONFIRE as a result of CONFIRE providing the Services to Contracting Agency, unless the liabilities are caused wholly by CONFIRE activities of general applicability to all of CONFIRE's member agencies and contracting agencies. By way of illustration and not by limitation, in the event that CONFIRE must hire staff to render the Services to Contracting Agency, and as a result of this Agreement's termination such staff must be laid-off, and as a result CONFIRE incurs unfunded pension liability, then Contracting Agency shall indemnify CONFIRE for such unfunded pension liability.
- C. The provisions of Section 15.A and 15.B shall not be applicable to a Contracting Agency who applies for, and is accepted for, membership status in the CONFIRE joint powers agreement. In such cases, the provisions of the CONFIRE joint powers agreement then in effect shall control all matters relating to unfunded liability.

**EXHIBIT E
to CONTRACTING AGENCY AGREEMENT**

**BUSINESS ASSOCIATE AGREEMENT
BY AND BETWEEN
CONTRACTING AGENCY AND CONFIRE**

This Business Associate Agreement (“BAA”) is entered into by and between Consolidated Fire Agencies (“Business Associate”), a California joint powers authority existing pursuant to Gov. Code, § 6500 et seq., and the City of Yucaipa (“Covered Entity”), a general law city duly formed and existing under Article XI, Section 7 of the California Constitution. Business Associate and Covered Entity may be collectively referred to as the “Parties” or individually as a “Party.”

RECITALS

Covered Entity is contracting with Business Associate for the performance of certain services (“Services”), as set forth in the Agreement to which this BAA is attached as Exhibit E;

Covered Entity is a covered entity as defined in 45 C.F.R. § 160.103;

Business Associate is a business associate, as defined in 45 C.F.R. § 160.103, of Covered Entity;

45 C.F.R. § 164.504 requires that covered entities enter into agreements with their business associates that satisfy the requirements of 45 C.F.R. § 164.504(e)(2); and

Business Associate and Covered Entity are both governmental entities for the purposes of 45 C.F.R. § 164.504 (e)(3)(i).

AGREEMENT

1. General Terms and Conditions

The General Terms and Conditions to this BAA are set forth in Appendix 1.

The Parties have executed this Agreement on the dates indicated below. The last of the two dates shall be the “Effective Date” of this BAA.

Consolidated Fire Agencies

City of Yucaipa

Date: _____, 20__

Date: _____, 20__

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

APPENDIX 1 TO EXHIBIT E to CONTRACTING AGENCY AGREEMENT

General Terms and Conditions to Business Associate Agreement

I. DEFINITIONS.

- a. Generally. Capitalized terms used within the BAA without definition, including within this Appendix 1, shall have the meanings ascribed to them in the Health Insurance Portability and Accountability Act and 45 C.F.R. Part 160 and 164 (“HIPAA and HIPAA Regulations”), and the Health Information Technology for Economic and Clinical Health Act and 45 C.F.R. Part 170 (“HITECH Act and Regulations”), as applicable, unless otherwise defined herein. HIPAA and HIPAA Regulations and HITECH Act and Regulations are collectively referred to herein as “Applicable Law”.
- b. Catch-all Definition. The following terms used in this BAA shall have the same meaning as those terms in the HIPAA and HIPAA Regulations: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

Business Associate agrees to:

- a. Not use or disclose Protected Health Information other than as permitted or required by this BAA, the Agreement, or as required by law;
- b. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this BAA;
- c. Report to Covered Entity any Use or Disclosure of Protected Health Information not provided for by this BAA of which it becomes aware, including breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware;
- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive,

- maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information;
- e. Make available Protected Health Information in a Designated Record Set to Covered Entity or to an individual whose Protected Health Information is maintained by Business Associate, or the individual’s designee, and document and retain the documentation required by 45 CFR 164.530(j), as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;
- f. Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.526;
- g. Maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;
- h. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- i. Make its internal practices, books, and records available to the Secretary for purposes of determining Business Associate’s or Covered Entity’s compliance with HIPAA and HIPAA Regulations.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

- a. Business Associate may only Use or Disclose Protected Health Information as necessary to perform the Agreement(s).
- b. Business Associate may Use or Disclose Protected Health Information as required by law.
- c. Business Associate agrees to make Uses and Disclosures and requests for Protected Health Information consistent with Covered Entity’s Minimum Necessary policies and procedures.

- d. Business Associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

IV. PERMISSIBLE REQUESTS BY COVERED ENTITY.

- a. Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

V. TERM AND TERMINATION.

- a. Term. This BAA is effective as of the Effective Date and will continue in force until terminated.
- b. Termination for Convenience. Either Party may terminate this BAA at any time, for any reason or for no reason, by giving the other Party at least thirty (30) days' prior written notice.
- c. Obligations of Business Associate Upon Termination. Upon termination of this BAA for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the Protected Health Information. Upon termination of this BAA for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
 - i. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. Return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form;
 - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;

- iv. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions which applied prior to termination; and
- v. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- d. Survival. The obligations of Business Associate under this Section shall survive the termination of this BAA.

VI. MISCELLANEOUS.

- a. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the Applicable Law. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.
- b. Public Access and Ownership of Records. Covered Entity is a local agency subject to the Public Records Act, Government Code § 6250 et seq. ("PRA"). In the event that Business Associate receives a request for records prepared, owned, used, or retained by Covered Entity or for records prepared, owned, used, or retained by Business Associate in the course and scope of providing the services for Covered Entity described in the Agreement as amended from time to time ("PRA Request"), Business Associate shall promptly forward a copy of the PRA Request to Covered Entity for fulfillment by the Covered Entity. Business Associate understands and agrees that all records produced under the Agreement as amended from time to time are hereby the property of Covered Entity and cannot be used without Covered Entity's express written permission. Covered Entity shall have all right, title and interest in said records, including the right to secure and

- maintain the copyright, trademark and/or patent of said records in the name of the Covered Entity.
- c. Minimum Necessary. To the extent required by the HITECH Act and Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes “minimum necessary” for purposes of the Applicable Law, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.
- d. State Privacy Laws. Business Associate shall comply with California laws to the extent that such state privacy laws are not preempted by Applicable Law.
- e. No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Effect on Underlying Arrangement. In the event of any conflict between this BAA and any underlying arrangement between Covered Entity and Business Associate, including the Agreements as amended from time to time, the terms of the BAA shall control with respect to Protected Health Information.
- g. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with Applicable Law. The Parties agree that any ambiguity in the BAA shall be resolved in favor of a meaning that complies and is consistent with the Applicable Law.
- h. Governing Law. This BAA shall be construed in accordance with the laws of the State of California.
- i. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this BAA shall be deemed to be inserted herein and this BAA shall be read and enforced as though it were included therein.
- j. Severability. In the event that any provision of this BAA 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 BAA 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 BAA.

**CONFIRE****STAFF REPORT****DATE: February 28, 2023****FROM: Nathan Cooke
Interim Director****TO: CONFIRE Admin Committee**

SUBJECT: County Clarification Project (CCP) Consultants

Recommendation

Approve an expenditure not to exceed \$100,000 to procure a professional services agreement to assist with the planning and execution of administrative changes related to the County Clarification Project

This would be funded from the General Fund (5008).

Background Information

CONFIRE has been undertaking an effort with the County of San Bernardino to clarify several historical administrative roles performed by the County on CONFIRE's behalf. These include Real Estate Services, Fleet Management, Human Resources Management, and Risk Management among other functions. As CONFIRE has grown and new administrators come and go in both agencies some of these areas have had blurred lines which has resulted in difficult situations and frustrations on both sides. Former Directors, Bell and Andres have been working with the County to clarify these roles over the past few years. This has resulted in improved relationships and better understandings through new agreements for Real Estate Services and Fleet Management Services.

As part of this process, under Interim Director Cooke, the County has requested that CONFIRE seek its own Work Comp coverage which is currently provided by County Fire. They also asked that we work with SBCERA to clarify that retirement program and its funding requirements. No timeline has been set for any changes associated with these and other Human Resources and Fiscal related services currently provided by the County.

CONFIRE staff has been able to work through many of the items requiring clarification and is in the process of negotiating a comprehensive service agreement with County that will provide the clarification sought for these matters.

However, it has become evident that for some components, namely the work comp, insurance and retirement areas, assistance is needed to ensure CONFIRE has the best information necessary to make effective decisions on these topics.

Thus, this request for funds to procure such consulting services. It is likely, that more than one consultant may be required due to the expertise needed to vet the issues at hand. Should that be the case, the cumulative total for this effort would not exceed the requested amount, unless approved by the Board of Directors.

CONFIRE policy authorizes the Director to seek such services up to \$100,000 within an open market without the issuance of a formal request for proposal. There are several qualified firms, CONFIRE will conduct a review of such firms and make a selection accordingly.

Fiscal Impact

Funds are available in the FY23 General Fund (5008) to cover this expense. If required a budget adjustment will be processed and placed on the Board's March 16 meeting for approval.

**CONFIRE****STAFF REPORT****DATE: February 28, 2023****FROM: Nathan Cooke
Interim Director****TO: CONFIRE Admin Committee**

SUBJECT: Executive Director Recruitment

Recommendation

Approve an expenditure not to exceed \$50,000 to procure a professional services agreement to assist with the development of an Executive Director job classification and the recruitment of that position.

This would be funded from the General Fund (5008).

Background Information

AS CONFIRE continues to grow in complexity and capacity, it is appropriate that the organization evaluate the need to increase its executive level capacity in order to best meet the operation, fiscal and administrative vision set forth by the Board of Directors and Administrative Committee.

The current vacancy in the Director position affords CONFIRE an opportunity to undertake this effort and make an informed recommendation to the Board and Admin Chiefs prior to the recruitment for this role. The Admin Chiefs directed the Interim Director to proceed with this process, engaging a recruitment firm if deemed valuable to do so.

The Interim Director has determined that current administrative workload, changing relationship with San Bernardino County HR and potential operational changes necessitates the engagement of an experienced public safety executive recruitment firm.

CONFIRE policy authorizes the Director to seek such services up to \$100,000 within an open market without the issuance of a formal request for proposal. There are several

qualified firms, CONFIRE will conduct a review of such firms and make a selection accordingly.

The goal would be to have the classification analysis completed prior to the FY24 budget adoption meeting, conduct the recruitment in late spring/early summer and have a new Executive Director in place by late summer/early fall.

Fiscal Impact

Funds are available in the FY23 General Fund (5008) to cover this expense. If required a budget adjustment will be processed and placed on the Board's March 16 meeting for approval.