

CONSULTING AGREEMENT

This Consulting Agreement (this “Agreement”) is made on _____, 20__ (the “Effective Date”) by and between Tulare Local Health Care District, a Healthcare District formed under the California Health and Safety Code (“TLHCD”), and Randy Dodd, an individual (“Consultant”), each a “Party” and collectively the “Parties”.

RECITALS

WHEREAS, Consultant provides consulting, administrative and financial services to hospitals and other health care organizations; and

WHEREAS, TLHCD and Consultant desire to enter into an agreement in which Consultant will provide consulting, administrative, and financial services to TLHCD;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other valuable consideration, the Parties agree as follows:

1. Description of Services

1.1 Nominal Services. Consultant agrees to provide TLHCD with such services as set forth in Attachment A to this agreement and as may be mutually agreed upon and/or modified and expanded from time to time during the term of this Agreement (collectively, the “Nominal Services”). To the extent practical, the nature and scope of the Nominal Services to be performed by Consultant will be documented in memoranda of understanding and/or engagement letters which shall set forth the parameters of work to be performed by Consultant.

1.2 Special Services. Separate and apart from the Nominal Services, Consultant shall provide any additional services not otherwise set forth on Attachment A (each, a “Special Project”, and together with the Nominal Services, the “Services”), whether on a discrete or continuing basis, on such terms and conditions as mutually agreed upon by the Parties hereto.

2. Compensation

2.1 TLHCD agrees to remunerate Consultant for the Services in accordance with the fee schedule set forth in Attachment B to this Agreement, attached hereto and incorporated herein by reference. Nothing in this Agreement shall be read or interpreted as a guarantee of compensation to Consultant for any specific period of time, or in any specific amount.

2.2 TLHCD agrees to pay such sums to Consultant within twenty (20) days after receipt of Consultant’s billing statements.

2.3 Consultant agrees to prepare and submit to TLHCD a billing statement within ten (10) days of the conclusion of each calendar month. Such statements will include descriptions of work performed by Consultant and the amount of time utilized.

2.4 TLHCD shall pay for all TLHCD-approved direct out-of-pocket expenses reasonably incurred by Consultant in the provision of the Services under this Agreement. Direct out-of-pocket expenses may include, but are not limited to, transportation, lodging, meals, report production, copies, and overnight delivery, if required by a project. Mileage rates are set in accordance with the IRS GSA standards, and meal per diems are set in accordance with current GSA rates. Hotel accommodations will be made and reimbursable for Hilton's Hampton Inn Hotels or at a comparable hotel acceptable to Consultant. Consultant will not charge per diem rates for the breakfast meal if such meal is made available within the hotel rate.

2.5 TLHCD shall also reimburse Consultant for reasonable copy, postage and other direct costs incurred by Consultant in the performance of the Services under this Agreement.

2.6 TLHCD agrees to reimburse Consultant within twenty (20) calendar days of receipt of approved business expenses as set forth in Sections 2.4 and 2.5 above.

3. Term and Termination

3.1 This Agreement shall be effective on the Effective Date and shall continue for a period of twelve (12) months unless earlier terminated in accordance with Section 3.2. This Agreement will automatically renew upon expiration, and shall continue from additional 12-months periods unless terminated or amended by mutual written consent of the Parties.

3.2 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement with or without cause upon giving the other Party thirty (30) days written notice. If this Agreement is terminated for any reason prior to the completion of all the Services described in Attachment A, or any Special Project agreed upon by the Parties, TLHCD shall only be responsible to pay, in accordance with Attachment B, for Consultant's services performed up to the date of termination which remain unpaid or, with respect to any Special Project, as agreed to by the Parties.

3.3 Notwithstanding any other provision of this Agreement, if either Party fails to perform or commits a material breach of any provision in this Agreement, and fails to cure such material breach within fifteen (15) days following delivery to such Party of a written notice of the alleged material breach, then the other Party thereafter may immediately terminate this Agreement upon written notice to the breaching Party in accordance with Section 7.1 of this Agreement.

3.4 In the event that TLHCD terminates this Agreement, Consultant agrees to make available to TLHCD all data, reports, and information prepared to date and pertinent the Services provided. This information shall be provided within of ten (10) working days of the final day of the contract.

4. Relationship of Parties

4.1 Relationship of the Parties. It is the express intention of the Parties that Consultant is an independent contractor and not an employee, servant, joint venturer or partner of

TLHCD. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between TLHCD and Consultant. Consultant enters into this Agreement as, and shall continue to be, an independent Consultant. All Services shall be performed only by Consultant. Under no circumstances shall Consultant look to TLHCD as his or her employer, or as a partner, agent or principal.

4.2 Method of Performing Services. Consultant shall determine the manner and means of performing the Services subject to state and federal laws with which Consultant and TLHCD are obligated to comply. TLHCD does not have the right to control the manner and means in which Consultant or Consultant's employees, subcontractors or agents provide the Services or control how desired results are achieved.

4.3 No Employee Benefits. Consultant shall not be entitled to any benefits accorded to TLHCD's employees, including without limitation worker's compensation, disability insurance, medical, dental, vision, profit sharing, pension, stock, paid vacation, paid sick pays, paid holidays or other paid time off. Consultant shall be responsible for providing, at Consultant's expense, and in Consultant's name, unemployment, disability, worker's compensation and other insurance, as well as licenses and permits usual or necessary for providing the Services.

4.4 Hours and Location of Work. Consultant will set his or her own hours. TLHCD does not require Consultant to work any minimum number of hours or during specified times. Unless otherwise requested by TLHCD, Consultant may, as desirable to Consultant, provide the Services from any location, in his or her sole discretion.

4.5 Business-Related Expenses. Unless otherwise stated in this Agreement, Consultant shall pay all business-related expenses incurred by Consultant in the provision of the Services. Such expenses include but are not limited to, mobile phone, insurance, advertising, computer equipment, business cards, and licensure, as may be necessary to provide the Services.

4.6 Taxes. Consultant is responsible for paying when due all taxes, including estimated taxes, incurred as a result of the compensation paid by TLHCD to Consultant. TLHCD shall report all compensation paid to Consultant on a Form 1099. Without limiting any other indemnification right set forth in this Agreement, Consultant hereby agrees to defend, indemnify and hold TLHCD, including its directors, officers, employees, agents and representatives (collectively, the "Indemnified Parties"), harmless from, any claims, losses, costs, fees, liabilities, damages or injuries suffered by Indemnified Parties arising out of Consultant's failure with respect to his or her obligations as set forth in this Section 4.6.

4.7 Licensure. Consultant shall, at its expense, obtain and maintain all individual licenses as may be necessary to provide the Services.

4.8 Engaging In Other Activity. Notwithstanding any provision of this Agreement, Consultant may perform services for, or be contracted by such additional clients, persons, companies or industries as Consultant, in Consultant's sole discretion, sees fit. Consultant is not restricted in any way from providing work similar in form to the Services for any other person or

entity during the Term of this Agreement or at any time after the relationship between Consultant and TLHCD ends, except to the extent prohibited by state or federal law.

4.9 Advertising by Consultant. Consultant shall have the right to advertise, or not advertise, in Consultant's sole discretion and expense. If Consultant chooses to advertise its association with TLHCD, any advertisement must be reviewed and approved by TLHCD, in its sole discretion, prior to such advertisement's publication or dissemination.

4.10 Financial Obligations. Consultant shall not incur any financial obligation on behalf of TLHCD without the prior written consent of TLHCD or its designee.

5. Consultant's Representations and Warranties

5.1 Consultant represents and warrants, and hereby acknowledges TLHCD's reliance on such representations and warranties, that as of the Effective Date:

5.1.1 Any license held by Consultant, as may be necessary or required for Consultant to provide the Services, is in good standing and is not subject to restriction, modification, suspension or revocation; and

5.1.2 Consultant is not subject to any noncompetition, nondisclosure or other agreement with any third party that in any way restricts Consultant's ability to provide the Services or otherwise perform under this Agreement, including, without limitation, Consultant's ability to enter into this Agreement or perform the Services for the benefit of TLHCD.

6. Consultant's Affirmative Covenants

6.1 In the performance of Consultant's duties set forth in this Agreement and in the provision of the Services, Consultant covenants that:

6.1.1 Consultant shall adhere to the highest fiduciary standards, ethical practices and the standards of care and competence;

6.1.2 Consultant shall at all times during the term of this Agreement comply with any and all statutes, laws, rules, regulations and ordinances of all governmental authorities, including federal, state and local authorities applicable to the Services;

6.1.3 Consultant is not now subject to, and at all times during the term of this Agreement shall refrain from doing any act which will render Consultant subject to, any disciplinary order, sanction or decree of any federal or state governmental agency having jurisdiction of Consultant's provision of Services; and

6.1.4 Consultant shall notify TLHCD within three (3) days after any of the following: (i) any modification, restriction, suspension, or revocation of any license which may affect Consultant's ability to perform the Services; (ii) the imposition of any sanctions against Consultant's related to the provision of Services or the like; (iii) any other professional disciplinary action or

criminal or professional liability action of any kind against Consultant which is either threatened, initiated, in progress, or completed as of the Effective Date of this Agreement and at all times during the term of this Agreement; (iv) the conviction of Consultant of a felony or of any other crime involving moral turpitude or immoral conduct; (v) Consultant's incapacity or disability or any condition affecting Consultant which renders Consultant unable to provide the Services as required under this Agreement; or (vi) in the event any representation, warranty, duty or covenant set forth in this Agreement is discovered to be untrue or inaccurate in any material respect.

7. General Provisions

7.1 Notice. Written notice required under this Agreement shall be delivered personally, by email, or sent by United States registered or certified mail, postage prepaid and return receipt requested, and addressed or delivered to the Parties at the following addresses (or other address as may hereafter be designated by a Party by written notice thereof to the other Party):

If to TLHCD: Sandra Ormonde
Chief Executive Officer
Tulare Local Health Care District
P.O. Box 1136
Tulare, CA 93275
Phone: (559) 685-3465
E-Mail: sormonde@tulareregional.org

If to Consultant: **Randy Dodd**

E-Mail: randy.dodd@comcast.net

If personally delivered, such notice shall be effective upon delivery or upon transmission by email, and if mailed as provided for above, such notice shall be effective three (3) days after it is postmarked by the United States post office.

7.2 Choice of Law/Venue/Attorney's Fees. This Agreement shall be construed, interpreted, and the rights of the Parties determined in accordance with the laws of the State of California. The venue for any judicial proceeding brought by either Party with regard to any provision of or obligation arising under this Agreement shall be in Fresno, California. If any action of law or inequity, including an action for declaratory relief, results or is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to actual attorney's fees and cost of collection or enforcement of the judgment received by the prevailing Party, in addition to any other relief to which the prevailing Party may be entitled.

7.3 Assignment. Neither Party shall assign, or delegate, its rights or responsibilities under this Agreement without the first obtaining the consent of the other Party.

However, Consultant may engage subcontractors from time to time for certain aspects of TLHCD's assignment work hereunder, provided that Consultant discloses such engagements to TLHCD.

7.4 Confidentiality. Consultant agrees to hold in strictest confidence and not to use except for the benefit of TLHCD to the extent necessary to perform obligations to TLHCD under this Agreement, and not to disclose to any person, firm, corporation or other entity, without written authorization from TLHCD in each instance, any Confidential Information (as defined below) that Consultant may obtain, access or create during the term of the Agreement, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of Consultant or of others who were under confidentiality obligations as to the item or items involved. "Confidential Information" means information and physical material not generally known or available outside TLHCD and information and physical material entrusted to TLHCD in confidence by third Parties, which includes, without limitation: financial data, technical data, trade secrets, research, product or service ideas or plans, software codes and designs, development, inventions, processes, formulas, techniques, hardware configurations information, lists of or information relating to suppliers and vendors, cost data, market share data, marketing plans, licenses, contract information, business plans, legal information, financial forecasts, historical financial data, budgets or other business information disclosed to Consultant by TLHCD either directly or indirectly, whether in writing, electronically, orally or by observation. Consultant agrees to execute and comply with TLHCD's HIPAA Business Associates Agreement.

7.5 Force Majeure. Neither Party shall be liable nor deemed to be in default for any delay or failure in performance under the Agreement or other interruption of service deemed resulting, directly or indirectly, from: Acts of God; acts of civil or military authority; acts of public enemy; terrorism; bomb threats; computer virus; epidemic; pandemic (as officially declared by the World Health Organization or its designee); power outage; war; accidents; fires; explosions; earthquakes; floods; failure of transportation; machinery or supplies; vandalism; strikes or other work interruptions by Consultant's employees; or any similar or dissimilar cause beyond the reasonable control of either Party. Both Parties shall, however, make good faith efforts to perform under this Agreement in the event of any such circumstance.

7.6 Entire Agreement/Waiver and Amendment. This Agreement, including any exhibits, attachments or addenda, constitutes the entire understanding and agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the Parties. There are no verbal agreements, representations or understandings affecting this Agreement or any supplements thereto of the subject matter hereof, and all negotiations, representations and understandings are merged herein. This Agreement supersedes, cancels and annuls all contracts, understandings and agreements of prior date between the Parties and shall continue in force and govern all transactions between the Parties until the expiration hereof or the cancellation of termination hereof by either Party. Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by the Party to be bound. The waiver by a Party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of any Party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such Party thereafter

to enforce such provisions. None of the provisions contained in this Agreement are intended by the Parties, nor shall they be deemed, to confer any benefit on any person not a party to this Agreement.

7.7 Severability/Compliance with Laws/Termination on Non-Compliance. It is the express intent of the Parties that this Agreement shall in all instances comply with the requirements set forth in any and all statutes, laws, regulation, rules, orders, or advisory letters, whether federal, state or municipal, controlling the operation of a special healthcare district in California (collectively, the “Laws”), including, without limitation, California Health and Safety Code section 32000 et seq., as amended from time to time, and any regulations promulgated thereunder. The Parties warrant and agree that this Agreement shall, in all instances, be interpreted so as to ensure compliance with the Laws. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable under said law or any other, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law. Notwithstanding any other provision of this Agreement, either Party may, upon written notice, immediately terminate this Agreement if said Party determines that any provision of this Agreement may expose it to governmental action, whether federal, state or municipal, in any form, and that this Agreement cannot be amended to ensure compliance, or that the other Party refuses to so amend.

7.8 Rules of Construction. The terms of this Agreement have been negotiated by the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the agreement. No rule of strict construction will be applied against any person.

7.9 Time. Consultant agrees that time is of the essence in this Agreement.

7.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. For purposes of this Agreement, a facsimile or other electronic signature shall be deemed as valid and enforceable as an original.

7.11 Survival. Article 8 and Sections 3.2, 4.6, 7.2 and 7.4 shall survive the expiration or termination of this Agreement for any reason.

7.12 Authority/Capacity. Each individual executing this Agreement on behalf of either Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said Party. Each individual further represents and warrants to the other that (a) it has the requisite legal capacity and authority to enter into and fully perform each and all of its obligations under this Agreement, and (b) this Agreement does not in any way violate any covenant, contract, agreement, instrument or understanding by which such Party is bound.

8. Insurance and Indemnification

8.1 Indemnification. Each Party shall indemnify and hold the other harmless from any and all claims, losses, damages, costs, and expenses (including reasonable attorney’s fees), arising out of the indemnifying party’s (the “Indemnitor”) sole gross negligence or willful misconduct, provided: (a) such claim arises solely out of a breach of the warranties and/or obligations of the Indemnitor under this Agreement; (b) the indemnified party (the “Indemnitee”) gives the Indemnitor reasonably prompt written notice of any such claims, losses, damages, costs or expenses; and (c) that the amount due to the Indemnitee under this provision for reasonable attorney’s fees and costs begins to accrue from the date that the Indemnitee notifies the Indemnitor of the existence of such claim.

8.2 Insurance. TLHCD shall cause its insurance carrier to list Consultant as a named insured under TLHCD’s existing general liability policy, which coverage benefitting Consultant shall be applicable and in force from the Effective Date until such time as this Agreement expires or is earlier terminated. Notwithstanding the foregoing, TLHCD shall not be responsible for covering Consultant’s gross negligence or willful misconduct. Consultant shall not be covered under any other TLHCD policy. Consultant is not required to carry his or her own separate E&O Policy, but may do so at Consultant’s discretion.

IN WITNESS WHEREOF, the Agreement is executed by each Party’s duly authorized signature effective as of the Effective Date.

“TLHCD”

“Consultant”

Tulare Local Health Care District, a
Healthcare District formed under the
California Health and Safety Code

By: Sandra Ormonde
Its: Chief Executive Officer

Randy Dodd

ATTACHMENT A
Nominal Services to be Provided by Consultant to TLHCD

Consultant shall provide feedback, recommendations, and professional consultation based on Consultant's experience and individual and unique knowledge. This previous knowledge, coupled with additional new relevant information to be provided by TLHCD to Consultant, shall be the basis of and provide the framework for the services to be provided under this Agreement, as may be requested by Chief Executive Officer of TLHCD or her designee on an as-needed basis.

Upon TLHCD's request, Consultant shall provide written reports to TLHCD documenting his findings and recommendations.

Consultant shall, given reasonable notice and at the request of TLHCD, be available to attend (telephonically or in person) meetings of TLHCD.

ATTACHMENT B

Fee Schedule for Services

Nominal Services

Consultant shall bill TLHCD for the provision of Nominal Services under the Agreement as follows:

- Hourly Rate shall be set at \$100.00 for all Nominal Services provided under the Agreement, chargeable for any portion of any hour worked (on one-tenth hour increments); and
- Actual time incurred for hours of travel will be billed at \$100.00 per hour, plus mileage rates in accordance with the IRS GSA standards and meal per diems in accordance with current GSA rates.

Consultant will also charge for TLHCD-approved actual expenses as allowable under this Agreement.

Billing will be conducted per Article 2 of this Agreement.

Upon prior approval by TLHCD, in its sole discretion, the hourly rate chargeable for Nominal Services may be increased after a period of twelve (12) months from the Effective Date, conditioned upon Consultant providing TLHCD with sixty (60) days written notice.

Special Projects

Consultant shall, in accordance with separate addenda for each project to be attached hereto, bill TLHCD for the completion of Special Projects assigned to Consultant by TLHCD under the Agreement as follows:

- Hourly Rate shall be set at \$200.00 for all Special Projects provided under the Agreement, chargeable for any portion of any hour worked (on one-tenth hour increments); and
- Actual time incurred for hours of travel related to a Special Project will be billed at \$100.00 per hour, plus mileage rates in accordance with the IRS GSA standards and meal per diems in accordance with current GSA rates.

Consultant will also charge for TLHCD-approved actual expenses as allowable under this Agreement.

Billing will be conducted per Article 2 of this Agreement.