

FDAC EMPLOYMENT BENEFITS AUTHORITY
Board of Directors Teleconference Meeting

Friday, July 10, 2009
3:00 p.m. – 4:00 p.m.

Call-In Number: (866) 704-7500
Passcode: 978212
Subscriber PIN: 381060

7 Erba Lane, Scotts Valley, CA 95066
318 Pepperwood Drive, Cloverdale, CA 95425
4111 Warren Avenue, Sacramento, CA 95822
95 Rowland Way, Novato, CA 94945
1215 K Street, Suite 2290, Sacramento, CA 95814

Agenda

<i>Item</i>	<i>Action</i>
I. Welcome and Introductions	
II. Public Comment	Discussion
III. Consent Calendar A. Minutes <i>Review and approve minutes from the June 16 and June 30, 2009 Board Meetings.</i>	Info/Action
IV. Small Group Plans <i>The Board will review and act on a subsequent agreement with LHI to address small group plans.</i>	Info/Action
V. Marketing Update <i>LHI will present an update to the Board on the marketing plan.</i>	Info
VI. Rate Sheet Overview <i>LHI will present a rate sheet to the Board, including a comparison of CalPERS rates, based on the Board-approved 2010 rates.</i>	Info
VII. FDAC-EBA/FDAC Agreement <i>Consideration of the 2009-2010 Agreement between FDAC-EBA/FDAC</i>	Info/Action
VIII. Consultant Reports <i>Consultants will have an opportunity to update the Board on matters pertaining to their scopes of service.</i>	Info/Action
IX. Adjourn	Action

FDAC Employment Benefits Authority
Board of Directors Meeting
Tuesday, June 16, 2009

In Attendance

Mike McMurry, President
Jim Hill, Director
Charlene Virts, Director
Lisa MacCubbin, Director

Consultants/Guests

Catherine Smith, Administrator
Melissa Dixon, Deputy Administrator
Fiona Young, Administrative Assistant
David McMurchie, Legal Counsel
Nick Perrin, BRMS
Jon Hilgers, LHI
John Miller, LHI
Rosa Soria, LHI

President Mike McMurry called the meeting to order at 9:04 a.m. A quorum was established, and there was no public comment.

Consent Calendar

The Board addressed the consent calendar, consisting of the minutes of the May 29, 2009 meeting and the financial statements as of May 31, 2009. Director Jim Hill moved to approve the consent calendar; Director Lisa MacCubbin seconded. Motion passed unanimously.

Consultant Contracts

Deputy Administrator Melissa Dixon presented the proposed contract for Smith Moore & Associates; the contract term has been extended to three years, and the annual fee increased from \$40,000 to \$48,000.

President McMurry recommended that the Board form an Evaluation Committee consisting of the President and one Board member to provide an annual performance review for each contract; Director MacCubbin agreed to serve as the Board member on the committee. Legal Counsel David McMurchie suggested beginning the evaluation process in January of the year in which the contract expires.

Director MacCubbin moved to approve the Smith Moore & Associates contract as presented, with the added evaluation component. Director Charlene Virts seconded the motion; motion passed unanimously.

The Board reviewed the BRMS contract, which has been updated with a new fee schedule and a term from July 1, 2009 – June 30, 2010. Legal Counsel McMurchie recommended the contract's indemnification clause use the wording "negligence" instead of "gross negligence". The LHI contract has a negligence standard. He would also like to eliminate the monetary limit on liability, and agreed to contact BRMS directly to discuss these changes with Matt Schafer. Director Charlene Virts moved to conditionally approve the BRMS contract with the acceptance of legal counsel's terms, and with the evaluation component. Director MacCubbin seconded; motion passed unanimously.

The LHI contract has a reduction in fees as of January 1, 2010 from 4% to 3.5% in medical, and from 8% to 7% in ancillary lines. Director MacCubbin noted that the date needs to be changed on page 8 of the

proposed contract. Director Hill moved to approve the LHI contract with the evaluation component; Director Virts seconded the motion. Motion passed unanimously.

The Board proceeded to review the Turner contract, which has a fee increase to \$36,000 annually, and a requirement that if the contract is terminated, the actuary must be paid for full years' fees. After some discussion, the Board determined that this term is permissible since actuarial work is concentrated in certain months, though payments are equally spread across twelve months. Director Virts moved to approve the Turner contract with the evaluation component; Director Hill seconded. The motion passed unanimously.

President McMurry related to the Board that he would like to schedule meetings further out for the next fiscal year, and note in advance the meetings where certain decisions will be made or rates set.

Operating Budget

Deputy Administrator Dixon presented the 2009-2010 Operating Budget, noting that Dawn Dooley from LHI provided estimates of fees and revenues for the second half of the year, and that new consultant fees and payment to the FDAC are reflected in the budget. She also noted that the budget does not project increased membership in the fiscal year. John Miller mentioned that Blue Shield final rates were recently negotiated from 9% to 8.5% so the carrier payments beginning January 2010 will be lower than the budget projects. Director Virts moved to approve the 2009-2010 Operating Budget as presented. Director MacCubbin seconded; the motion passed unanimously.

Administrator Catherine Smith reported that the audit is going well, and the auditors now have everything they need. President McMurry suggested we put out an RFP for three years of audits, and requested that the auditors attend a Board meeting to present the audit to the Board.

John Miller will provide the Board with more information about the pros and cons of allowing LHI to be the broker of record for small groups on behalf of the EBA, with the hopes of meeting with the Board to discuss at further length.

Having nothing further to discuss, the meeting was adjourned at 9:55 a.m.

Respectfully submitted,

Fiona Young
Administrative Assistant

FDAC Employment Benefits Authority
Board of Directors Meeting
Via teleconference
Tuesday, June 30, 2009

In Attendance

Mike McMurry, President
Jim Hill, Director
Charlene Virts, Director
Ron Collier, Director

Consultants/Guests

Catherine Smith, Administrator
Melissa Dixon, Deputy Administrator
Fiona Young, Administrative Assistant
David McMurchie, Legal Counsel
Nick Perrin, BRMS
Paul Schafer, BRMS
Jon Hilgers, LHI
John Miller, LHI
Dawn Dooley, LHI
Rosa Soria, LHI
Paul Hain, LHI

President Mike McMurry called the meeting to order at 1:32 p.m. A quorum was established, and there was no public comment.

Consent Calendar

The Board deferred addressing the minutes of the June 16, 2009 meeting until the next meeting.

BRMS Contract

Legal Counsel David McMurchie reported that he spoke with Matt Schafer and Schafer has agreed to the two requested changes to the 2009-2010 contract: changing the negligence standard from "gross negligence" to "active negligence" and removing the monetary limitation on liability. Additionally, Schafer made suggestions for the FDAC-EBA to create a dispute resolution process and to hire an advisor to track legislative and regulatory changes that affect the pool. McMurchie will work with staff to begin the proposal process to find a legislative and regulatory advisor.

Small Group Plans

John Miller gave a brief overview of the pros and cons of offering small group plans through the pool, noting that LHI will pay FDAC dues on behalf of any member districts who can not afford to pay, and that BRMS will not be involved in the billing of any of these members. He also highlighted the main incentives to the EBA as a larger pool, which would help the pool become self-insured in the near future and help with carrier rate negotiations. He estimated the additional number of lives at roughly 200, and additional revenue of \$120,000-150,000.

The Board discussed the logistics of membership for districts participating in the small group plans, and came to the conclusion that they could not have the same rights of membership as regular FDAC-EBA members, such as voting rights and rights to dividends. McMurchie recommended creating an affiliate association, rather than creating a separate class of membership, with an endorsement and license agreement between member districts and the FDAC-EBA and a slight change to the LHI contract to allow for this.

Director Ron Collier suggested McMurchie put together more information on the potential structure and organization of the small group program for the Board's consideration before making a decision. President McMurry expressed hesitation about moving forward with the project when he is not sure the FDAC-EBA's current operations are as strong as they could be. He also would like to ensure that if the relationship with LHI does not continue into the future, a new broker could manage the small group plans since the FDAC-EBA would be putting its name on it. Miller explained that if the broker changed, the plans would follow the new broker. However, if the new broker selected can not manage the small group plan, LHI would have the legal responsibility to continue to manage it.

The Board directed McMurchie to prepare more detailed information about the structure and organization of the small group program for the Board's review at the next meeting.

President McMurry requested that LHI provide the Board with a chart listing carrier rates in various geographical areas and a marketing report at the next meeting.

The next meeting was set for Friday, July 10 at 3:00 p.m. via teleconference.

Having nothing further to discuss, the meeting was adjourned at 2:41 p.m.

Respectfully submitted,

Fiona Young
Administrative Assistant

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ENDORSEMENT AGREEMENT

This Agreement (the "Agreement") is made this ____ day of July, 2009, by and between the Fire Districts Association Employment Benefits Authority, a California joint powers authority organized and existing under the provisions of the Joint Exercise of Powers Act (Gov. Code § 6500 et seq.) (hereinafter "FDAC EBA"), and Lawson-Hawks Insurance Associates (hereinafter "LHI").

RECITALS

WHEREAS, FDAC EBA and the Fire Districts Association of California, a California nonprofit public benefit corporation (hereinafter "FDAC") entered into that certain Agreement dated July 1, 2009 by which FDAC licenses to FDAC EBA the use of FDAC's name, logo, and membership mailing list in connection with FDAC EBA's marketing and sale of health insurance coverages (the "Health Insurance Program") and life, vision and dental insurance coverages (the "Ancillary Coverages Program") to fire districts which are member districts of FDAC; and

WHEREAS, FDAC EBA and LHI have entered into that certain Broker Services Agreement dated July 1, 2009 by which LHI agrees to act as the exclusive broker for the Health Insurance Program and Ancillary Coverages Program offered by FDAC EBA to member districts of FDAC; and

WHEREAS, LHI desires to obtain the right to use the name, logo and membership mailing lists of both FDAC and FDAC EBA, and receive the endorsement of FDAC EBA in connection with LHI's provision of brokerage services and the marketing, promotion and sales of FDAC EBA's Ancillary Coverages Program to fire districts in California who qualify as "small groups" (hereinafter the "Small Group Program"); and

WHEREAS, FDAC EBA is willing to permit such use in connection with the Small Group Program in exchange for: (i) an annual management fee to be paid to FDAC EBA by LHI; and (ii) the agreement by all district participants in the Small Group Program to become members of FDAC; and

WHEREAS, FDAC EBA and LHI wish to enter into an agreement to cooperate in and coordinate the administration, marketing and promotion of the FDAC EBA Small Group Program.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth herein, the parties hereby agree as follows:

I. License of Intellectual Property.

A. Limited License of Name, Logo and Membership Mailing List.

1. FDAC EBA hereby grants to LHI: (i) a license to use the name, logo and membership mailing list of FDAC EBA, and (ii) a sublicense to use the name, logo and membership mailing list of FDAC in connection with LHI's administration, marketing and sale of the Small Group Program to fire districts in California who are willing to become members of FDAC in consideration for participation in the Small Group Program. The logo, membership mailing list and name of FDAC and FDAC EBA (hereinafter the "Intellectual Property") are attached hereto as Exhibit A and made a part hereof by this reference. LHI hereby accepts the grant of the above described licenses. In addition to the foregoing, FDAC EBA also hereby agrees to endorse the Small Group Program.

2. LHI agrees that the license and sublicense granted hereunder, the administration, promotion and endorsement of the Small Group Program, and the usage of the name, logo and membership mailing lists of FDAC and FDAC EBA shall be restricted to the administration, marketing, sale and promotion of the Small Group Program to fire districts in California who become members of FDAC in consideration for participation in the Small Group Program. LHI further agrees that such right of usage shall protect the name and goodwill of FDAC and FDAC EBA.

3. LHI agrees that it shall not use, or permit any person or entity to use, the name, logo or membership mailing list of FDAC or FDAC EBA, or any portion thereof, without the prior written consent of FDAC EBA, except to the limited extent that such use is authorized under this Agreement. LHI further agrees to keep the membership mailing lists of FDAC and FDAC EBA in strict confidence and not to sell or disclose such membership mailing lists or their contents to any third party in any manner, except with the prior written consent of FDAC EBA.

4. Upon termination or expiration of this Agreement, LHI shall: (i) immediately cease utilization of the name, logo and membership mailing lists of FDAC and FDAC EBA in connection with the Small Group Program or for any other purpose; (ii) return forthwith to FDAC and FDAC EBA all originals and copies of the name, logo and membership mailing lists of FDAC and FDAC EBA, (whether in printed, electronic, recorded, or other tangible form); and (iii) discard or destroy all copies thereof.

B. Review and Approval. In order to protect the reputation and goodwill of FDAC and FDAC EBA, LHI shall provide FDAC EBA with the right to review and pre-approve all uses of their respective names, logos and membership mailing lists, or any portion thereof, by LHI and its agents. LHI shall submit to FDAC EBA a copy of the intended use of such names, logos, membership mailing lists or proposed endorsement materials to FDAC EBA. FDAC EBA shall have ten (10) days to approve or disapprove such use by LHI of the proposed materials. If FDAC EBA fails to respond

within ten (10) days of receipt of such materials, its silence shall be deemed approval of such proposed use by LHI.

C. Management Fees.

1. In consideration of the license and sublicense granted hereunder by FDAC EBA, the promotion and endorsement by FDAC EBA of the Small Group Program, and the right to use the name, logo and membership mailing lists of FDAC and FDAC EBA as provided under this Agreement, LHI agrees to pay FDAC EBA an annual management fee equal to fifty percent (50%) of the total commissions earned by LHI in providing health insurance brokerage services to fire districts who qualify for and participate in the Small Group Program.

2. The management fee earned by FDAC EBA shall be calculated on a monthly basis, however actual payments issued by LHI to FDAC EBA shall be made quarterly. Such management fee payments shall be made to FDAC EBA at the address specified herein and shall be paid on or before the fifteenth (15th) of the month following the end of each quarter throughout the term of this Agreement.

3. The above described management fee shall constitute payment for use by LHI of the name, logo and membership mailing lists of both FDAC and FDAC EBA, as well as the endorsement and promotion of the Small Group Program by FDAC EBA, and shall in no manner be considered compensation or reimbursement for services rendered, activities undertaken by FDAC EBA on behalf of LHI, or income from a partnership or joint venture.

II. Scope of Services.

A. Small Group Program.

1. The "Small Group Program" is the Program offering medical, life, vision, and/or dental insurance coverage benefits to fire districts in California who qualify as a member of a Small Group. A "Small Group" is defined as a fire district employer with between two (2) and fifty (50) employees which does not offer health insurance coverages to its retirees.

2. The scope of services to be provided by LHI in the Small Group Program consists of the following:

(a) Provide insurance brokerage services with respect to health insurance as well as ancillary medical coverages such as life, dental, and vision insurance coverages to Small Groups in consideration for each such Small Group Employer becoming a member of FDAC; and

(b) Assist Small Group Employers who are not eligible for the existing Health Insurance Program or Ancillary Coverages Program currently

offered by FDAC EBA to secure comprehensive, cost-effective health insurance coverages and ancillary medical coverages; and

(c) Promote, market and sell the Ancillary Coverages Program currently offered by FDAC EBA consisting of life, dental and/or vision insurance benefits to eligible Small Groups in consideration for membership of such Small Group in FDAC EBA with respect to its Ancillary Coverages Program.

III. Noncompetition.

A. During the Term of this Agreement, FDAC EBA agrees not to endorse or promote, or license its name or logo to any competitors of LHI in connection with the marketing and sale of any products or services substantially similar or related to those in the Small Group Program.

B. During the Term of this Agreement, LHI agrees not to enter into any endorsement or promotional agreement or understanding (whether written or oral) with any state or local association or nonprofit organization whose field of membership is substantially similar to that of FDAC or FDAC EBA in connection with the marketing and sale of any products or services substantially similar or related to those in the Small Group Program without the approval of FDAC EBA.

IV. Reporting and Inspection.

A. Reporting. During the Term of this Agreement, LHI shall provide to FDAC EBA written quarterly reports (at the address specified in Section XIX (Notice) below setting forth LHI's total commissions received in providing health insurance brokerage services to participants in the Small Group Program, including the amount of FDAC EBA's management fee based on such commissions. Such reports shall be made concurrently with the quarterly management fee payments payable to FDAC EBA by LHI.

B. Inspection. During the Term of this Agreement, upon reasonable notice and during regular business hours, FDAC EBA or its agent(s) shall have the right to inspect all books and records of LHI relating to the subject matter of this Agreement.

V. Confidential Information.

A. Each party is disclosing certain confidential information and trade secrets ("Confidential Information") concerning the operations of its business in connection with entering into this Agreement and performing their obligations herein. Such Confidential Information includes, but is not limited to the manner and terms under which services are provided or will be provided to their clients. Each party agrees, on behalf of itself and its employees, and other persons to whom disclosure of the Confidential Information is permitted hereunder, to keep confidential, and not use,

disclose or publish the Confidential Information other than as permitted under the terms of this Agreement.

B. Each party acknowledges and agrees that the Confidential Information of the other parties is confidential and proprietary, and that any and all Confidential Information shall remain strictly confidential among the parties, and shall not be disclosed, used or published except as specifically permitted under the terms of this Agreement.

C. If any employee or agent of any party has a need to know any of the Confidential Information disclosed to such party, such employee or agent shall be informed that the Confidential Information is strictly confidential, and shall agree in writing to keep the Confidential Information confidential. No Confidential Information shall be disclosed to any person who is not an employee, the attorney or accountant of a party, without the prior written consent of the party who disclosed the Confidential Information, and then only pursuant to the terms for disclosure set forth herein.

D. The parties' obligations under this Article shall survive the termination of this Agreement. In addition, upon termination of the business relationship contemplated hereunder, or upon expiration or earlier termination of this Agreement, all Confidential Information transmitted to the receiving party by the disclosing party, materials prepared by the receiving party or generated by the receiving party which contain in any way Confidential Information in any tangible form, and any copies thereof made by the receiving party will be destroyed or, at the disclosing party's written request, promptly returned to the disclosing party, provided, however, that one copy may be retained by the receiving party in a secure location for evidentiary purposes and as a means of determining any continuing obligations under this Agreement.

VI. Term and Termination. This Agreement shall be effective as of the date and year first above written and shall remain in full force and effect for a period of one (1) year from such date and year (the initial "Term"). In the event of a material breach of this Agreement, this Agreement may be terminated by the non-breaching party immediately upon written notice to the other party, such termination which shall be contingent upon the breaching party failing to cure such breach within 30 days of its receipt of such written notice from the non-breaching party. In the event of one party's insolvency, fraud or willful misconduct, this Agreement may be terminated by the other party immediately upon written notice to the offending party. As of the effective date of the termination of the Agreement the fees payable in accordance with Paragraph IC shall be determined and shall be paid to FDAC EBA within thirty (30) days of termination of the Agreement.

VII. Relationship of Parties. The relationship of FDAC EBA and LHI to each other is that of Licensor and Licensee. Nothing herein shall create any association, joint venture, partnership, or agency relationship of any kind between the parties. Neither party is authorized to incur any liability, obligation or expense on behalf of the other, to use the other's monetary credit in conducting any activities under this Agreement, or to

represent that FDAC EBA is in the business of providing the products and/or services provided by LHI.

VIII. Indemnification and Insurance.

A. Indemnification.

1. Except as otherwise provided in this Agreement, each party shall indemnify, defend, and hold harmless the other party, and its governing board, officers, employees, agents and representatives, from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses, and disbursements (including legal fees and expenses) of any kind whatsoever imposed in, asserted against, incurred or suffered by the other party, or its governing board, officers, employees, agents or representatives, by reason of damage, loss or injury (including death) of any kind whatsoever to persons or property resulting in any way from: (a) any negligent or intentional act by it or any of its officers, employees, agents or representatives in its or their performance of services or obligations hereunder; or (b) any neglect, omission or failure to act when under a duty to act on its part or the part of any of its officers, employees, agents or representatives in its or their performance of services or obligations hereunder.

2. The provisions contained herein include any violation of applicable law, ordinance, regulations, or rule, including where the claim, loss, damage, change or expense was caused by the deliberate, willful, or criminal acts of a party, or any of its officers, employees, agents or representatives in its or their performance hereunder.

3. It is the intent of the parties hereto that, where negligence is determined to have been contributory, the principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

4. Each party shall provide written notification to the other party within thirty (30) days of receipt of any claims, administrative actions, or legal actions with respect to any of the matters described in this Article. The parties shall establish procedures for the sharing of information and cooperate in the defense of such actions brought by others with respect to the matters covered in this Agreement, unless to do so would create a conflict of interest. Nothing set forth in this Agreement shall establish a standard of care for, or create any legal right in, any person not a party to this Agreement.

B. Insurance. In order to assure the indemnity described in this Section, LHI shall, at its sole expense, carry and keep in full force and effect at all times during the Term of this Agreement a liability insurance policy with a single limit of at least 1 million dollars (\$1,000,000) to cover potential liability to FDAC EBA and/or others arising under the Small Group Program. Said policy shall name FDAC EBA as an additional insured on such insurance policy, and such insurance policy shall contain a

provision by which the insurer agrees that such policy shall not be cancelled except after thirty (30) days written notice to FDAC EBA. LHI shall provide to FDAC EBA, within thirty (30) days of the commencement of the initial Term of this Agreement, a copy of the certificate evidencing such insurance policy. Such insurance policy shall be primary over any other insurance policy that might be carried by FDAC EBA. The indemnification under this Agreement shall in no way be limited by the extent of insurance coverage. The provisions of this Section shall survive any termination or expiration of this Agreement.

IX. Warranties. Each party covenants, warrants and represents that it shall comply with all laws and regulations applicable to this Agreement, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement. The provisions of this Section shall survive any termination or expiration of this Agreement.

X. Waiver. Either party's waiver of, or failure to exercise, any right provided for in this Agreement shall not be deemed a waiver of any further or future right under this Agreement.

XI. Governing Law. All questions with respect to the construction, performance and enforcement of this Agreement, and the rights and liabilities of the parties hereunder, shall be determined in accordance with the laws of the State of California. Any legal action taken or to be taken by either party regarding this Agreement or the rights and liabilities of parties hereunder shall be brought only before a federal, state or local court of competent jurisdiction located within the State of California. Each party hereby consents to, and agrees not to contest, the jurisdiction of the federal, state and local courts located within the State of California.

XII. Headings. The headings of the various paragraphs hereof are intended solely for the convenience of reference and are not intended for any purpose whatsoever to explain, modify or place any construction upon any of the provisions of this Agreement.

XIII. Assignment. This Agreement may not be assigned, or the rights granted hereunder transferred or sub-licensed, by either party without the express prior written consent of the other party.

XIV. Heirs, Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of each party, its subsidiaries, affiliates, related entities, partners, agents, officers, directors, employees, heirs, successors, and assigns, without regard to whether it is expressly acknowledged in any instrument of succession or assignment.

XV. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one (1) and the same instrument.

XVI. Entire Agreement. This Agreement: (i) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; (ii) supersedes and replaces all prior agreements, oral and written, between the parties relating to the subject matter hereof except the Broker Services Agreement between the parties dated July 1, 2009; and (iii) may be amended only by a written instrument clearly setting forth the amendment(s) and executed by both parties.

XVII. Severability. All provisions of this Agreement are severable. If any provision or portion hereof is determined to be unenforceable in arbitration or by a court of competent jurisdiction, then the remaining portion of the Agreement shall remain in full effect.

XVIII. Force Majeure. Neither party shall be liable for failure to perform its obligations under this Agreement due to events beyond its reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.

XIX. Notice. All notices and demands of any kind or nature that either party to this Agreement may be required or may desire to serve upon the other in connection with this Agreement shall be in writing and may be served personally, by certified mail, or by commercial overnight courier (e.g., Federal Express), with constructive receipt deemed to have occurred 3 calendar days after the mailing or sending of such notice, to the following addresses:

If to Licensor: FDAC Employment Benefits Authority
 1215 K Street, Suite 2290
 Sacramento, CA 95814
 Attention: Catherine Smith, Executive Director

If to Licensee: Lawson-Hawks Insurance Associates
 1091 North Shoreline Blvd., Suite 200
 Post Office Box 39
 Mountain View, CA 94202
 Attention:

XX. Attorney Fees. If it is necessary for any party to this Agreement to commence any action for the purpose of enforcing any of the provisions hereof, the prevailing party therein shall recover from the other(s), in addition to any and all other sums due hereunder, such party's costs and attorneys' fees incurred in connection with such action.

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IN WITNESS WHEREOF, the parties hereto have caused duplicate originals of this Agreement to be executed by their respective duly authorized representatives as of the date and year first above written.

FDAC Employment Benefits Authority

Date: _____

By: _____
Catherine Smith
Executive Director

Lawson-Hawks Insurance Associates

Date: _____

By: _____
(Name)
(Title)

**AGREEMENT BETWEEN FIRE DISTRICTS ASSOCIATION
EMPLOYMENT BENEFITS AUTHORITY
AND FIRE DISTRICTS ASSOCIATION OF CALIFORNIA**

THIS AGREEMENT (“Agreement”) is made and entered into as of July 2010 by and between the Fire Districts Association of California Employment Benefits Authority (FDAC EBA), a joint powers authority, organized and existing under the provisions of the Joint Exercise of Powers Act (Government Code 6500, et. seq.) (“FDAC EBA”) and Fire Districts Association of California, a California non-profit public benefit corporation (“FDAC”) with respect to terms and conditions of certain services and consideration to be exchanged between FDAC EBA and FDAC.

WHEREAS, FDAC EBA desires FDAC to promote the insurance and self-insurance services of FDAC EBA with respect to existing and prospective members of the FDAC; and

WHEREAS, FDAC desires FDAC EBA to promote the membership in FDAC with local agency members of FDAC EBA who are not currently members of FDAC;

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

1. Term

1.1 The parties ratify the obligations as set forth hereinafter in the Agreement from and after July 1, 2009, the agreement effective date, through June 30, 2010. The parties agree to review the terms of the Agreement annually for possible notification and if modification is sought then give written notice of such proposed modification consistent with Agreement, Section 4, at least ninety (90) days prior to July 1 of any calendar year that the Agreement is in effect.

2. Obligations of FDAC EBA

2.1 FDAC EBA shall, on or before January 15 of each calendar year in which this Agreement is in effect, pay to FDAC the amount of \$20,000 as a sponsorship fee, after being invoiced for that amount by FDAC.

2.2 FDAC EBA shall promote and encourage membership in FDAC to prospective members of FDAC EBA and to current members of FDAC EBA not currently members of FDAC.

2.3 FDAC EBA shall authorize FDAC an ex officio (non-voting) position on the Board of Directors of FDAC EBA who shall receive agendas, minutes and all other documents of FDAC EBA Board meetings in the same manner as existing Board of Directors do with FDAC being responsible for all travel and lodging expenses incurred by such ex officio member.

3. Obligations of FDAC

3.1 FDAC shall allow the use, name and logo of FDAC to FDAC EBA.

3.2 FDAC shall invoice FDAC EBA a fee of \$30,000 on or before January 1 of each calendar year that FDAC received the sponsorship fee of \$30,000 from FDAC EBA, as set forth in this Agreement.

3.3 FDAC shall promote and encourage membership in FDAC EBA to all new and prospective members of FDAC and to current members of FDAC not currently members of FDAC EBA. FDAC will engage with FDAC EBA on a cross-marketing campaign to increase membership in both FDAC and FDAC EBA. Outline of campaign will be presented to each Board prior to launch.

3.4 FDAC shall maintain as current its membership data base and share the same with FDAC EBA for promotional services and shall maintain a link to the web site for FDAC EBA from the FDAC web site.

3.5 FDAC shall provide FDAC EBA a vendor booth at no cost to the annual conference of FDAC and other FDAC sponsored programs where vendor booths are provided.

3.6 FDAC shall provide to FDAC EBA legislative advocacy and tracking through FDAC legislative committees.

3.7 FDAC shall authorize FDAC EBA an ex officio (non-voting) position on the FDAC Board of Directors who shall receive agendas, minutes and documents of all FDAC Board meetings in the same manner that FDAC Board of Directors does with FDAC EBA being responsible for all travel and lodging expenses incurred by such ex officio member.

3.8 It shall be the policy of the FDAC Board of Directors that FDAC EBA's Insurance Program shall be the exclusive health, vision, life and dental insurance program to receive the sponsorship, services and obligations described hereinabove in Sections 3.1 through 3.8 of this Agreement by FDAC.

3.9 FDAC will work with FDAC EBA whenever appropriate on educational offerings to fire districts including, but not limited to, the FDAC Annual Conference. An annual educational calendar will be developed collaboratively between FDAC EBA and FDAC staff and presented to their respective boards the first scheduled board meeting after July 1, 2009.

4. Notices

4.1 Any notices relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered personally or by generally recognized overnight courier service, or three (3) business days after deposit in the United States Mail, certified or registered, return receipt requested with postage prepaid addressed as follows:

If to FDAC EBA:
Administrator
FDAC EBA
1215 K Street, Suite 2290
Sacramento, CA 95814

If to FDAC:
Executive Director
Fire Districts Association of California
1215 K Street, Suite 2290
Sacramento, CA 95814

5. Indemnification

5.1 FDAC EBA agrees to indemnify, defend and hold harmless FDAC, its officers, agents and employees from any and all claims for losses accruing or resulting to any person or entity arising out of FDAC EBA's sole negligence in FDAC EBA's performance of this Agreement.

5.2 FDAC agrees to indemnify, defend and hold harmless FDAC EBA, its officers, agents and employees from any and all claims for losses accruing or resulting to any person or entity arising out of FDAC's sole negligence in FDAC's performance of this Agreement.

6. Entire Agreement. The terms and conditions and covenants of this Agreement are intended by the parties as a final expression of their agreement with respect to such terms, conditions and covenants that are included in this Agreement and may not be contradicted by evidence by any prior or contemporaneous agreements. This Agreement specifically supersedes any prior written or oral agreements between the parties.

7. Amendment. This agreement may be amended from time-to-time only by the mutual written agreement of the parties, when preceded by the notice provisions of Agreement Section 1.

8. Governing Law. This Agreement shall be governed by the laws of the State of California, and the rights and obligations of the parties set forth shall be construed and enforced in accordance with the laws of the State of California.

9. Waiver. Any waiver at any time by any party of its rights with respect to default or any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any other default or matter. The exercise by a party of any remedy provided in the Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law.

10. Severability. If any terms, provisions, conditions and covenants of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall

not be affected and thereby shall be valid and enforceable to the fullest extent permitted by law.

11. Neutral Interpretation. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based on any attribution to such party as the source of the language in question. Headings used in this Agreement are for the convenience of reference only and shall not be used in construing this Agreement.

12. Counterparts. This Agreement is executed in two (2) duplicate originals, each of which shall be deemed an original, but each of which together shall constitute one in the same instrument. This Agreement consists of five (5) pages, which constitutes the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement with the intent to be bound thereby as of the date first written above, ratifying performance, which has occurred since the Agreement Effective Date.

“FDAC EBA”

Dated:

By:

President

“FDAC”

FIRE DISTRICTS ASSOCIATION OF CALIFORNIA

Dated

By:

President