



**AGENDA
STRATEGIC PLANNING COMMITTEE**

**Monday, February 10, 2020 at 1:00 P.M.
Community Room, 138 S. Brandon Rd., Fallbrook CA 92028**

Committee Members: Howard Salmon, Chair and Jennifer Jeffries, Co-chair

Executive Director: Rachel Mason

Staff Members: Linda Bannerman, Pam Knox and Mireya Banuelos

1. Call to Order/Roll Call
2. Public Comments
3. Discussion Items
 - a. Review of Contract with Catalyst for Pre-Phase 1 SOW for Wellness Center
4. Board Member Comments and Future Agenda Items
5. Adjournment

I certify that on February 7, 2020, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Fallbrook Regional Health District, said time being at least 24 hours in advance of the meeting. The American with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in or denied the benefits of District business. If you need assistance to participate in this meeting, please contact the District office 24 hours prior to the meeting at 760-731-9187.

A handwritten signature in blue ink that reads "Linda Bannerman".

Board Secretary/Clerk

**PROFESSIONAL SERVICES AGREEMENT
TO PROVIDE
HEALTHCARE CONSULTING SERVICES
FOR
FALLBROOK REGIONAL HEALTH DISTRICT**

This Professional Services Agreement To Provide Consulting Services for Fallbrook Regional Healthcare, California (Agreement), is made and entered into by and between the Fallbrook Regional Health District (District), a local healthcare district organized and operating pursuant to California Health and Safety Code Sections 32000 et seq., having its principal office at 1636 E. Mission Road Fallbrook, California 92028, and Catalyst, an operating unit of Freeman White Inc., a North Carolina corporation (Consultant) lawfully authorized to do business in the State of California with its principal offices at 101 W. Broadway, Suite 1240 San Diego, California 92101.

R-E-C-I-T-A-L-S

1. In October 2019, the District issued a Request for Introductory Proposals (RFIP) for a consultant to provide strategic consulting services to assist the District as it develops a 4.5-acre property from a former church and small preschool into a community based, health education and wellness program center. In accordance with the RFIP, the consultant would provide professional expertise to help inform the District's strategic direction relating to community needs, programs, services, partnerships, and innovations that will support and sustain the center for preventive health and wellbeing programs and services.

2. Consultant is in the business of providing healthcare consulting services, including various levels of on-site facility expertise, to hospitals and other healthcare organizations.

3. Consultant responded to the RFIP and has been working with the District to determine the appropriate scope of work based on prior planning efforts and resultant information, and acceptable professional fees.

4. Consultant has provided a Statement of Work (SOW), which is attached to this agreement as Exhibit "A", sets forth the description of the scope of services in the Pre-Phase 1: Discovery Statement of Work.

5. It is anticipated that Consultant will provide 3 additional SOW's which include Phase 1 Vision & Community Needs Assessment; Phase II Functional Programming and Space Planning; and Phase 3 Feasibility Analysis.

6. Consultant has represented to District that it is lawfully authorized to provide and has the knowledge, skill, expertise, and other resources necessary to provide such services as required by this Agreement.

7. The District has relied on Consultant's representations in selecting Consultant to perform the consulting services and Consultant desires to provide District with such services, in accordance with the terms and conditions of this Agreement.

C-O-V-E-N-A-N-T-S

1. CONSULTANTS SERVICES.

1.1 Services. Consultant shall provide District with the services described in Exhibit "A" SOW attached hereto and incorporated herein by this reference.

1.2 Scope. Consultant may determine the method, manner, and means of performing the Services to be carried out for District. District may not control the manner or determine the method of accomplishing such Service. District may, however, require Consultant to observe at all times the security and safety policies of District. District shall be entitled to exercise a general power of supervision and review of the results of Services performed by Consultant to insure satisfactory performance. The power of supervision shall include the right to inspect any work product, stop the performance of any or all Services, make suggestions or recommendations as to the details of the Service, and request modification to the scope of a SOW, as contemplated above.

1.3 Duties of Consultant. The obligations of Consultant pursuant to this Agreement include the following:

A. Consultant shall perform its duties hereunder in a professionally competent manner, using the standard of care customary among providers of similar health care management consulting services in the United States and in compliance with all pertinent provisions of federal, state and local statutes, rules, regulations and standards.

B. Consultant shall assign consultants as needed to perform the Services set forth in a SOW. Consultant will ensure that the Services are provided as needed in the normal course of District's operations.

C. Consultant shall assign such additional consultants as needed to perform the Services set forth in a SOW. Consultant will ensure that the Services are provided as needed in the normal course of District's operations.

D. Because additional consultants shall remain employees of Consultant throughout the duration of this Agreement, Consultant will retain its employer responsibilities such as payroll and employee benefits and tax and social security withholding with regard to additional consultant.

E. Consultant shall carry general liability insurance coverage pursuant to Section 6. herein.

F. Consultant shall comply with District policies and procedures concerning workplace safety and conduct.

G. Consultant shall maintain in confidence the appropriate proprietary District information that is provided to District, or generated by Consultant, pursuant to the Services provided hereunder.

1.4 Duties of District. The District's obligations pursuant to this Agreement are as follows:

A. Designate an appropriate District contact at the Executive Leadership level or higher, as the on-site contact for Consultant and Consultant's management team to facilitate project progression, assign appropriate District employees to assist in; data collection, data validation, minutes assimilation and distribution, meetings, and others as deemed appropriate.

B. Provide the Consultant's management team with an orientation to District, its staff, facilities, policies and procedures with which Consultant will be expected and required to comply.

C. Authorize Consultant's management team to participate in meetings and on committees of District as reasonably necessary for the provision of Services.

D. Comply with all workplace safety regulations including, but not limited to, those promulgated by the Occupational Safety and Health Administration.

E. Retain ultimate responsibility for hiring, training, supervising, disciplining and terminating its employees.

F. Keep Consultant informed in a timely manner of all policies, events, plans and other issues that are relevant to the Services to be provided hereunder.

G. Establish appropriate priorities that relate to Services and communicate the same to Consultant. District recognizes that changes in such priorities may result in additional fees hereunder for additional staff or reordering other priorities to provide Services within current budgeted fees.

H. Carefully inspect and review all reports and other output by Consultant and notify Consultant of any incorrect reports or output within three (3) business days of receipt of reports or output. If District fails to so notify Consultant, it shall be deemed to have waived its rights and assumed all risks with respect thereto.

I. Assist and cooperate with Consultant in performing the Services, establishing best practices, complying with all other duties, express and implied, herein, and making available all resources needed to allow Consultant to successfully provide all Services.

1.5 Replacement of Consultant Personnel.

A. If District is dissatisfied with any Consultant employee engaged hereunder and desires that such employee be replaced, District shall so notify Consultant in writing, providing all pertinent reasons, and Consultant will provide a replacement acceptable to District as soon as practicable.

B. In the event Consultant terminates or reassigns any Consultant employee engaged hereunder, Consultant shall provide District as much advance written notice as possible and will provide a replacement acceptable to District as soon as practicable.

C. In the event of a change of a Consultant employee engaged hereunder for any reason, Consultant will make immediate provisions acceptable to District to ensure that District is provided with an acceptable transition so that there is no lapse or reduction in the Services provided hereunder.

1.6 Nondiscrimination. Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any worker, employee, applicant for employment, or any member of the public, because of race, religion, color, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, medical condition, or any other classification protected by federal or state law, or otherwise commit an unfair labor practice. Consultant's actions of non-discrimination shall include, without limitation, all activities related to initial employment, upgrading or promotion, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

2. FEES AND PAYMENTS.

2.1 Compensation. For Consultant's complete performance of all the Services required under this Agreement, District shall compensate Consultant in accordance with the attached Exhibit "A" SOW.

2.2 Invoices. Consultant shall deliver an invoice to District no later than the 10th day of each month for Services, any authorized Additional Services, or expenses performed or incurred for the prior calendar month.

A Each invoice shall identify the amount to be paid and contain a detailed breakdown of the Services and expenses according to the charges identified in the attached Exhibit "A" SOW.

B If District reasonably determines that Consultant's invoice lacks sufficient information, it shall be returned to Consultant, but in no event later than seven (7) days after receipt, accompanied by a written statement setting forth the basis for the District's determination.

2.3 Payment. The District shall remit payment for all amounts due to Consultant within thirty (30) days after receipt of invoices. In the event District disputes any portion of Consultant's invoice, it shall timely pay any undisputed amounts invoiced

and notify Consultant in writing of the specifics of any disputed amounts within thirty (30) days of its receipt of the invoice. The parties shall resolve the subject of any disputed amounts in accordance with Paragraph 13, Disputes. Any such dispute shall not relieve Consultant of its obligation to continue diligently performing the Services.

2.4 Payments Withheld. No deduction shall be made from the compensation due Consultant set forth on Consultant's invoice except for amounts disputed by District in a timely manner as provided in Paragraph 2.3. District shall be entitled to dispute amounts and withhold payment from all or any portion of an invoice and/or final invoice for this purpose, even if such dispute or objection was not made with respect to one or more earlier monthly invoices. Payment to Consultant shall not be withheld or made contingent upon receipt by District of offsetting reimbursement or credit from parties not within Consultant's reasonable control. District shall not withhold amounts from Consultant's compensation to impose a penalty or liquidated damages on the Consultant, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Consultant agrees or reasonably may be found liable for the amounts.

3. TERM.

3.1 Term of Agreement. The term of this Agreement shall run from the date this Agreement is fully executed until Consultant has satisfactorily completed the Services in the Pre-Phase 1 SOW and any authorized additional SOW services.

3.2 Termination for Convenience by District. District may at any time, in the exercise of its sole discretion, terminate this Agreement in whole or in part, with or without cause, by providing notice to Consultant of its intention to terminate the Agreement for convenience at least ten (10) days before the effective date of termination. So long as the Consultant is not in default under this Agreement at the time of such termination, District shall make an equitable adjustment to the compensation due Consultant taking into account the following:

A All compensation and Reimbursable Expenses due to Consultant for Services performed up to the effective date of termination.

B Consultant's actual and reasonable costs of termination.

C The amount of any advance payments made by District to Consultant.

D Any amounts owing by Consultant to District under the terms of this Agreement, including any amounts that may be withheld by District pursuant to Paragraphs 2.3 and 2.4.

Consultant hereby expressly waives any and all claims for damages and/or compensation arising under this Paragraph 3.2, except as set forth herein, in the event of such termination. District's right to terminate this Agreement for cause is described in Paragraph 11 of this Agreement.

4. INDEPENDENT CONTRACTOR.

District has retained Consultant to provide, and Consultant shall provide, the Services as an independent contractor. Consultant shall maintain exclusive direction and control over its employees and shall file all documents and pay all taxes required by any applicable federal, state, or local laws related to its hiring and compensation of such employees.

5. OWNERSHIP OF DOCUMENTS.

All documents prepared by Consultant in connection with the Services for submittal to District under this Agreement shall be owned by District.

6. INSURANCE.

Consultant shall procure and maintain, at its sole cost and expense, and at all times during the performance of the Services, policies of insurance providing coverage in the amounts and types set forth below, insuring against claims for professional liability, injuries to persons and/or damages to property which may arise out of or in connection with Consultant's negligent performance of the Services. Consultant shall not commence conducting the Services until it has provided District with satisfactory evidence that such policies have been procured and are in effect. The policies of insurance shall be obtained from an insurer authorized to do business in the State of California having a rating of at least A: VII or better as listed in Best's Insurance Guide. Proof of renewal shall be provided to District two weeks before any such policy of insurance expires during the term of the Agreement. To the extent permitted by law, Consultant's insurance policies shall be primary to any insurance or other coverage available to District, which shall be deemed excess to Consultant's policies of insurance and non-contributing. All deductible amounts under Consultant's policies of insurance are payable by Consultant and shall be in amounts approved by District. Each insurance policy required hereunder shall provide that coverage shall not be suspended, voided, reduced (other than by endorsement), or cancelled except on thirty (30) days written notice by certified mail, return receipt requested, to District (except 10 days notice if cancellation is due to non-payment of premium). The Commercial General Liability and Automobile policies of insurance shall name District as an additional insured. The policies of insurance shall not preclude Consultant from waiving the right of subrogation prior to a loss, and Consultant hereby waives all rights of subrogation against District. To the extent Consultant cannot procure occurrence policies of insurance, it shall procure insurance covering claims made as a result of the performance of this Agreement for not less than three years following the completion of performance of this Agreement. Consultant's agreements with Subconsultants shall each contain provisions making such Subconsultants subject to the same insurance requirements as required of Consultant under this Paragraph, including the requirement for Professional Liability insurance coverage, unless other requirements are approved by District in writing.

A Commercial General Liability Insurance with coverage limits of not less than Two Million Dollars (\$1,000,000.00) combined single limit per occurrence and an aggregate of Two Million Dollars (\$2,000,000.00) for products and operation hazard, contractual insurance, broad form liability, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

B Professional Liability Insurance with coverage limits of not less than Two Million Dollars (\$2,000,000.00) covering acts, errors, and omissions and contractual liability. Such policy of insurance shall be maintained for a period of four (4) years following the completion of the Services.

C Automobile Liability Insurance providing coverage for vehicles used in connection with the performance of this Agreement, whether owned, hired, leased, or borrowed with limits not less than One Million Dollars (\$1,000,000.00) per claimant and One Million Dollars (\$1,000,000.00) per accident, for bodily injury and property damage.

D Worker's Compensation Insurance as required by the laws of the State of California.

7. INDEMNIFICATION.

Consultant agrees to defend, indemnify and hold the District, its governing body, directors, officers, employees, representatives, agents, successors and assigns (collectively the District Indemnities), harmless from and against any and all losses, liabilities, claims, causes of action or proceedings in any court or administrative forum, judgments, penalties, costs and expenses of whatever nature or kind, in law or equity (Indemnity Claims), incurred or suffered by the District Indemnities, or any of them, including Indemnity Claims arising by reason of any personal injury (including, without limitation, disease, injury, or death) or property damage (including loss, loss of use, or damage), to the extent the same arise out of or in connection with the negligent act(s) or omission(s), recklessness, or willful misconduct of Consultant, its officers, employees, subcontractors, representatives, agents, successors or assigns related to the performance of this Agreement. District shall promptly notify Consultant of its receipt of any claim made against the District by a third party relevant to this Paragraph and/or this Agreement. For any loss or liability brought against the District Indemnities by any employee of the Consultant, any additional consultant, anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, the indemnification obligations under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Consultant or any subconsultant, or other persons, as appropriate, under worker's compensation acts, disability benefit acts, or other employee benefit acts. The provisions of this Paragraph shall survive any termination of this Agreement.

8. PROTECTION OF CONFIDENTIAL INFORMATION.

Prior to and during the course of the performance of this Agreement, Consultant has received, and may receive, written or verbal information from District, its representatives or agents related to the Services not in the public domain. Such information shall be identified by District and may include District's financial information, know how, trade secrets, and other proprietary and confidential information. In addition, Consultant may generate information, reports, or other documents on behalf of District relevant to the Services based on District's confidential and proprietary information, and Consultant agrees to treat the same as the confidential information of District in like manner. Consultant agrees that neither it nor its officers, employees, representatives, agents, successors or assigns will disclose any of such confidential information to any third party or use the same in any manner without the prior written consent of District. Moreover, Consultant agrees to safeguard such proprietary and confidential information from unauthorized disclosure and/or use using the same degree of care it uses to protect its own proprietary and confidential information, but not less than a reasonable standard of care. If Consultant is served with a subpoena or similar document under law or regulation requiring the production of documents or information which it believes constitutes or may constitute District's confidential information under this Paragraph, Consultant will immediately notify District in writing and provide a copy of the subpoena to District in sufficient time to allow the District to attempt to quash, or take other action in relation to, the subpoena or other similar document.

9. NOTICE.

All notices to be given under this Agreement shall be in writing and shall be deemed effective upon receipt when personally served or two business days after mailing by certified mail, return receipt requested, to the following addresses:

To: District
Fallbrook Regional Health District
Attention: Rachel Mason, Executive Director
1636 E. Mission Road
Fallbrook, California 92028

To: Consultant
Freeman White, Inc.
Attention: Michelle Mader, Principal
And or Debbie Jacobs, Director
101 W. Broadway, Suite 1240
San Diego, California 92101

District or Consultant may, from time to time, change the address and/or persons to which notices will be sent by giving notice to the other party in the manner provided in this Paragraph.

10. DISTRICT DESIGNATED REPRESENTATIVE.

The District designated representative shall have full authority to act for the District on all matters under this Agreement. The District's Chief Executive Officer (CEO) shall be the District's designated representative. The CEO may delegate all or some of his authority to another person upon written notice to Consultant.

11. TERMINATION FOR CAUSE BY DISTRICT.

11.1 Events of Default. Each of the following occurrences constitutes an Event of Default by Consultant under this Agreement:

A Any representation of Consultant set forth in this Agreement, or otherwise delivered to District pursuant to this Agreement, which is false in any material respect when so made or furnished;

B Consultant's material failure to perform any of its obligations under this Agreement.

11.2 District's Remedies. Should Consultant fail to perform any of its obligations under this Agreement, or otherwise fail to complete the Services within the time prescribed by this Agreement, Consultant shall be liable to District for the actual damages incurred. If an Event of Default occurs and continues beyond ten (10) days (or such longer period as District in its reasonable discretion, may determine if such failure is not capable of being cured within such 10-day period) after the date on which written notice of the Event of Default has been given to Consultant by District (Cure Period), then District may exercise any right, power or remedy available to it under this Agreement, or otherwise available at law or in equity and has, in particular, without limiting the generality of the foregoing, the right to terminate this Agreement upon written notice to Consultant, in which event District has no further obligations hereunder or liability to Consultant except as to payment for Services actually received and accepted by District through the effective date of termination, subject to set off of any claims of District against Consultant for failure to perform the Services. No courses of dealing on the part of District or delay or failure on the part of District to exercise any right will operate as a waiver of such right or otherwise prejudice District's rights, powers or remedies. District's decision to terminate this Agreement is not subject to claim or dispute under Paragraph 13.

11.3 Flow Down to Consultants' Subconsultants. Consultant shall include comparable provisions giving effect to this Paragraph in its contracts with Subconsultants.

12. REMEDIES NOT EXCLUSIVE.

No right or remedy in the Agreement conferred on District is exclusive of any other right or remedy provided or permitted under this Agreement, law, or in equity, but each is

cumulative of every other right or remedy given in the Agreement or now or hereafter existing at law or in equity, and may be enforced concurrently or from time to time.

13. DISPUTES.

All Claims arising under, related to or in connection with the terms of this Agreement or its interpretation, whether involving law or fact or both, including matters concerning compensation and all claims for alleged breach of contract, shall first be presented to the District's Designated Representative. All claims and disputes which can not be resolved, by discussion with the District's Designated Representative the parties shall first try in good faith to settle the claim or dispute by mediation under the rules of the American Arbitration Association before resorting to arbitration or other legal remedy.

14. CONSEQUENTIAL DAMAGES.

The District and Consultant waive, and in no event shall either party be liable in contract, tort, strict liability, warranty, or otherwise for any, special, indirect, incidental, or consequential damages arising out of or in connection with this Agreement, even if such damages were foreseeable. Without in any way limiting the generality of the foregoing, this mutual waiver is applicable, without limitation, to all special, indirect, incidental, and consequential damages due to either party's termination or suspension of this Agreement.

15. PERSONAL LIABILITY.

The parties acknowledge and agree that the directors, officers, and employees of the District shall have no personal liability under this Agreement; and, that the shareholders, directors, officers, and employees of Consultant shall have no personal liability under this Agreement, except to the extent the "corporate veil" may be pierced under California law.

16. MISCELLANEOUS PROVISIONS.

16.1 Venue. Venue shall lie only in the federal or state courts in the County of San Diego, State of California.

16.2 Modification. This Agreement may not be altered in whole or in part except by a modification, in writing, executed by all the parties to this Agreement.

16.3 Entire Agreement. This Agreement, together with all the Schedules attached to this Agreement, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its Schedules.

16.4 Assignment. Consultant shall not be entitled to assign all or any portion of its rights or obligations contained in this Agreement without obtaining the prior written consent of the District. Nothing in this Agreement shall obligate the District

to give such consent. Any purported assignment without the District's prior written consent shall be void.

16.5 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs, and assigns.

16.6 Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

16.7 Representation of Capacity to Contract. Each party to this Agreement represents and warrants that he has the authority to execute this Agreement on behalf of the entity represented by that individual.

16.8 No Waiver. No action or failure to act by District or Consultant shall constitute a waiver of any right or duty afforded under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed upon in writing.

16.9 Counterparts. This Agreement and any amendments to this Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one agreement. An executed version of this Agreement and any amendments which has been transmitted by facsimile shall be deemed to be an original.

This Agreement is entered into in San Diego County, California.

Fallbrook Regional Health District

Freeman White, Inc.

By: _____

By: _____

Rachel Mason,
Executive Director

Dated: _____

Dated: _____

EXHIBIT "A"

Fallbrook Regional Health District
 Community Health & Wellness Center
 Pre-Phase 1 Discovery
 Hours by Activity

	Hours	Fees*
Step 1 Detailed Review of Information Collected to-Date	60	\$ 19,500
Understand the process of the planning efforts to-date, including how information was collected, who provided the information and who collected the information	4	\$ 1,300
Review the substance of the information collected to-date, including the reliability, validity and relevance	24	\$ 7,800
Determine alignment of community health "wants" versus "needs" based on an understanding of the demographics profile and disease prevalence	16	\$ 5,200
Interview 6 community-based organizations selected by the Board to hear their perspectives on the current and future health needs of the community	8	\$ 2,600
Meet 1-on-1 with each of the Board members to understand their perspective of the strengths and weaknesses of the prior planning efforts and what needs to be done to move the project forward	8	\$ 2,600
Step 2 Identification of Additional Information Needed and Approach to Phase 1	32	\$ 10,400
Identify gaps in the information collected relative to geographies, ethnicities, demographics, content relevance, content scope, etc.	16	\$ 5,200
Develop a "strawman" approach to Phase 1 to fill in the information gaps to allow for the development of a comprehensive description of community programming and service needs and priorities across the District	16	\$ 5,200
Step 3 Board Facilitated Session to Review and Reach Consensus on Phase 1 Approach	32	\$ 10,400
Develop summary report to summarize assessment of the information collected to-date, gap relative to information needed and "strawman" approach to fill in the additional information need	16	\$ 5,200
Execute facilitated Board work session to come to consensus on an approach to collect/synthesize the additional information needed to inform the community programming and service needs	16	\$ 5,200
Step 2 Identification of Additional Information Needed and Approach to Phase 1	12	\$ 3,900
Modify and finalize the approach to move the project forward based on the direction provided by the Board	4	\$ 1,300
Document the Phase 1 approach in a Statement of Work to include a detailed discussion of the scope and commensurate fees.	8	\$ 2,600
\$ 325 *Weighted hourly rate of the Catalyst Team	136	\$ 44,200

