



**DESERT HEALTHCARE DISTRICT
SPECIAL MEETING OF THE BOARD OF DIRECTORS**

Board of Directors

July 26, 2022

5:00 P.M.

In accordance with new authorization signed by the Governor – Executive Order N-17-21 on September 16, 2021 - (AB 361 - Government Code 54953 effective until January 1, 2024), which extends the provisions of the Governor's Executive Order N-29-20 of March 12, 2020, revised on March 18, 2020, and Board-approved Resolution #21-03 on September 26, 2021, teleconferencing will be used by the Board members and appropriate staff members during this meeting.

In lieu of attending the meeting in person, members of the public can participate by webinar by using the following link:

<https://us02web.zoom.us/j/84458324166?pwd=Qm43VHForRVhocXRERE9FbTNmMXR0Zz09>

Password: 208038

Participants will need to download the Zoom app on their devices. Members of the public may also be able to participate by telephone, using the follow dial in information:

(669) 900-6833 or Toll Free (833) 548-0282 to Listen and Address the Board when called upon:

Webinar ID: 844 5832 4166

Password: 208038

You may also email ahayles@dhcd.org with your public comment no later than 3 p.m., Tuesday, 07/26

Pages

AGENDA

Item Type

Any item on the agenda may result in Board Action

A. CALL TO ORDER – President Borja

Roll Call

Director De Lara____Director Zendle, MD____

Director Rogers, RN____Director Shorr____

Secretary Zavala____Vice-President PerezGil____President Borja

B. PLEDGE OF ALLEGIANCE

1-2

C. APPROVAL OF AGENDA

Action

D. PUBLIC COMMENT

**E. CONVENE TO CLOSED SESSION OF THE DESERT
HEALTHCARE DISTRICT BOARD OF DIRECTORS**

1. PURSUANT TO GOVERNMENT CODE 32106. Report involving trade secrets pursuant to health & safety codesection 32106–report will concern a proposed new program, facility, and service (discussion only, no action will be taken). Estimated date of disclosure: To Be Determined

Discussion

**F. RECONVENE TO OPEN SESSION OF THE DESERT
HEALTHCARE DISTRICT BOARD OF DIRECTORS**

G. REPORT AFTER CLOSED SESSION

H. NEW BUSINESS

3-9

- | | |
|---|---------------|
| 1. Consideration to approve a consulting services agreement with Gafcon, Inc. to provide expertise for a possible healthcare clinic in North Shore – NTE \$16,125 | Action |
|---|---------------|

I. ADJOURNMENT

The undersigned certifies that a copy of this agenda was posted in the front entrance to the Desert Healthcare District offices located at 1140 North Indian Canyon Drive, Palm Springs, California and the front entrance of the Desert Healthcare District office located at the Regional Access Project Foundation, 41550 Eclectic Street, Suite G 100, Palm Desert California at least 24 hours prior to the meeting. If you have a disability which requires an accommodation to enable you to participate in this meeting, please email Andrea S. Hayles, Special Assistant to the CEO and Board Relations Officer, at ahayles@dhcd.org or call (760) 567-0298 at least 24 hours prior to the meeting.

Andrea S. Hayles

Andrea S. Hayles, Board Relations Officer

CONSULTING AGREEMENT

This Consulting Agreement is entered into on the 22nd day of June 2022 by and between **DESERT HEALTHCARE DISTRICT & FOUNDATION**, (hereinafter referred to as the "**Client**"), a non-profit organization, whose address is 1140 N. Indian Canyon Drive, Palm Springs, CA 92262 and **GAFCON, INC.** (hereinafter referred to as "**Consultant**"), a California corporation, whose address is 5960 Cornerstone Court W, Suite 100, San Diego, CA 92121, for the performance of services as described in the Scope of Services which is attached hereto:

Client is desirous of retaining the Consultant for the purpose of providing the Scope of Services; and the Consultant is prepared to render such specialized services. The parties for and in consideration of the mutual promises and covenants contained herein agree as follows:

1. The Agreement Documents that constitute this Consulting Agreement and the following:
 - a. Attachment A – Terms and Conditions.
 - b. Attachment B – Scope of Services and Fees
 - c. Attachment C – Insurance Requirements.
2. All notices required or permitted hereunder will be in writing and sufficient if delivered to the following persons at the following addresses:

CLIENT

Desert Healthcare District & Foundation
1140 N. Indian Canyon Drive
Palm Springs, CA 92262
Attn: Conrado E. Barzaga, M.D.
Chief Executive Officer
Phone: (760) 219-5919
Email: cbarzaga@dhcd.org

CONSULTANT

Gafcon, Inc.
5960 Cornerstone Court W
Suite 100
San Diego, CA 92121
Attn: Paul Najjar
SVP and General Counsel
Phone: (619) 954-9724
Email: pnajar@gafcon.com

3. The parties agree to be bound by its terms and conditions, and further agree that the Agreement Documents listed above constitute the complete and exclusive agreement between them which supersedes all proposals, oral or written, and all other communications between them relating to the subject matter of this Agreement. This Agreement may only be amended in writing signed by both parties.

IN WITNESS WHEREOF, Client and Consultant have caused this Agreement to be duly executed by their authorized representatives:

CLIENT

GAFCON, INC.

By: _____

Name: Conrado E. Barzaga, M.D.

Title: Chief Executive Officer

Date: _____

By: _____

Name: Robin Duveen

Title: President and COO

Date: _____

ATTACHMENT A

TERMS AND CONDITIONS

- 1. COMPENSATION AND PAYMENT:** Consultant shall be compensated for its services in accordance with the provisions of Attachment B. Payment by Client to Consultant shall be made within thirty (30) days after Client's receipt of the invoice. Client shall attempt to promptly review each invoice and raise any questions or dispute in writing within twenty (20) days of the invoice date. Client will reimburse Consultant for out-of-pocket expenses associated with the Scope of Services, which are pre-approved in writing by Client.
- 2. TERMINATION:** The term of this Agreement shall be for ninety (90) days following full execution of this Agreement unless extended by mutual written agreement. It is expressly agreed and understood that this Agreement may be terminated at any time by either party with five (5) days' written notice.
- 3. INDEPENDENT CONTRACTOR:** It is understood and agreed that Consultant shall perform the services hereunder as an independent contractor and not as an employee or agent of Client. Consultant is responsible for the means and methods used in performing its services under this Agreement. Accordingly, Consultant, its employees and agents shall not be eligible for any employee benefits offered by Client to its employees. Consultant agrees that it alone shall be responsible for any and all taxes due on payments received from Client hereunder.
- 4. QUALITY OF SERVICES:** Consultant shall perform its services in a diligent, prudent and workmanlike manner consistent with (i) generally accepted professional practices and standards for nationally recognized firms engaged in similar services, and (ii) in accordance with the terms and conditions of this Agreement and such standards.
- 5. INSURANCE:** Consultant shall, at all times while performing the services, maintain policies of professional, vehicle and general liability insurance and worker's compensation insurance. Consultant shall be insured in accordance with the policy limits set forth on Attachment C.
- 6. DISPUTE RESOLUTION:** If any claim or dispute cannot be resolved between the project managers for the parties, or through negotiations between the chosen executives of each of the parties, then the parties shall attempt to resolve the dispute through non-binding mediation under the applicable rules of the American Arbitration Association. The non-binding mediation process is agreed to be a condition precedent to the right of either party to initiate litigation as a means of resolving any dispute under this Agreement. The costs and expenses of the Mediator shall be shared equally by the parties. If the matter has not been resolved through the mediation process, either or both parties may elect to pursue resolution through litigation. In the event of any litigation between the parties, it is agreed and stipulated that the case shall be heard and decided by the court, without a jury.
- 7. GENERAL PROVISIONS:** Consultant shall not disclose to third parties or use for any purpose other than performance of its services, any information provided to Consultant by Client and/or Owner in connection with the performance of this Agreement, or any information developed or obtained by Consultant in performance of this Agreement, without the written consent of Client. Neither party to this Agreement will be liable to the other party for delays in performing the Scope of Services, or for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

ATTACHMENT B

SCOPE OF SERVICES AND FEES



June 20, 2022

Desert Healthcare District
1140 N Indian Canyon Drive
Palm Springs, CA 92262

Re: Mecca Healthcare Clinic – Feasibility Review and Preliminary Programming & Design

Dear Dr. Barzaga,

Thank you for meeting with the Gafcon Inc. team on June 16, 2022, to discuss the proposed healthcare clinic in Mecca. As discussed, we are proposing for the following tasks:

1. Property feasibility study:

- a. Meetings with Division of State Architects (“DSA”) to assess impacts to school construction, if any
- b. Site assessment to determine space sufficiency
- c. Discussions with school district and school architects regarding clinic planning in relationship to school

2. Clinic programming and test-fit floor plan:

- a. Develop clinic programming and planned services
- b. Test fit program to planned site and square footage limitations

3. Develop Preliminary budget:

- a. Prepare a preliminary construction budget, including findings from activities 1 and 2.


For the above work scope, Gafcon Inc. is proposing the following fee, to be billed on a time & material basis, not to exceed \$16,125.00:

| Description | Hours | Rate | Fee |
|--|-------|----------|--------------------|
| Feasibility Study | 40 | \$225.00 | \$9,000.00 |
| Clinic programming and floor plan test fit | 15 | \$275.00 | \$4,125.00 |
| Develop Preliminary Budget | 15 | \$200.00 | \$3,000.00 |
| Total Proposed Fee | | | \$16,125.00 |

Assuming approval by your board occurs on July 26, 2022, the above-described work shall be completed by August 31, 2022.

Please contact Heather Skaife at hskaife@gafcon.com or 619-635-9006 if you have any questions regarding this proposal.

Sincerely,


Robin Duveen
President, COO

ATTACHMENT C

INSURANCE REQUIREMENTS

(a) Proof of Insurance. Prior to commencement of the Services and at each renewal (if applicable), Consultant, shall furnish proof of the insurance described below in the form of a copy of the Certificate(s) and all required endorsements of such insurance (and subsequently at every renewal term 30 days prior to the expiration date of existing coverage).

(b) Types and Limits of Insurance. During the term of this Agreement, Consultant shall, at its own cost and expense, provide and maintain in full force and effect, "occurrence" based (except for Professional Liability) form insurance of the type, kind and amount hereinafter specified:

(i) Commercial General Liability including Completed Operations Coverage ("CGL") insurance for a combined bodily injury, property damage, and personal injury limit of at least USD \$1,000,000 per occurrence, with annual aggregate limits of no less than USD \$2,000,000.

(ii) Automobile Liability ("Auto") coverage for owned, hired, and non-owned vehicles for a combined single limit of at least USD \$1,000,000 Combined Single Limit, per occurrence.

(iii) Workers' Compensation ("WC") coverage for Statutory Limits as required by the State in which the Project Site is located. A waiver of subrogation must be obtained in favor of Company. (Notwithstanding the foregoing, in lieu of maintaining such insurance, Consultant may, in compliance with the laws of the State in which the Project Site is located, self-insure for workers' compensation, in which event Consultant shall deliver to Company evidence that such self-insurance has been approved by the appropriate State authorities.)

(iv) Umbrella Liability Coverage ("Umbrella") following the form of the underlying policies of (i), (ii) and (iv) above in the amount of USD \$2,000,000 per occurrence and in the Aggregate. Consultant's sub-consultants, sub-Consultants and suppliers shall not be required to carry Umbrella insurance unless otherwise indicated in writing by the parties.

(v) Professional Liability (Errors & Omissions) Coverage ("E&O") for a limit of liability of at least USD \$1,000,000 per claim (and annual aggregate of USD \$1,000,000).

(c) Duration of Insurance. All insurance required by this Agreement shall remain in full force and effect throughout the term of this Agreement with the exception of the following:

(i) CGL and EL coverage shall be kept in force until receipt by Consultant of final payment hereunder, except for the CGL Completed Operations coverage which will remain in place for ten (10) years post final completion of the services performed.

(ii) WC Insurance shall be kept in force by Consultant for its employees.

(iii) Professional Liability Insurance shall be kept in force for six (6) years after final payment to Consultant is made, either satisfied by continuous policy in force or by verification of Tail Coverage bound and premium paid.

(d) Endorsements to Policies. All insurance required hereunder shall contain the following

wording verbatim and provide an endorsement with the insurance certificate: "Carrier agrees that this insurance will not be canceled or non-renewed without at least thirty (30) day advance written notice (except for only ten days' notice for cancellation for failure to pay premiums) to Gafcon, Inc, 5960 Cornerstone Court, Suite 100, San Diego, CA 92121, Attention: CEO, by mail.

(e) Additional Insured Parties. The required CGL, Umbrella and Auto policies shall name, as additional insured parties ("**Additional Insureds**"), Gafcon, Inc. and such other persons or entities as Company reasonably may designate from time to time, for all claims arising out of, resulting from or relating to the Services performed under this Agreement.

(f) The required CGL, Umbrella, WC, EL and Auto policies shall provide that the insurance carrier waives all rights of recovery by way of subrogation against Company and all other Additional Insureds in connection with any matter covered by such policy.