

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

To: The Mayor and Council	Date: 09-16-16	C.D. No. All	CAO File No.: 0150-10806-0000																												
Contracting Department/Bureau: Fire Department		Contact: Stewart Young; (213) 978-3427																													
Reference: Transmittal from the Board of Fire Commissioners dated August 16, 2016																															
Purpose of Contract: To provide collection services for delinquent Emergency Medical Services (EMS) billing accounts.																															
Type of Contract: () New contract (X) Amendment		Contract Term Dates: From date of execution through May 31, 2017																													
Contract/Amendment Amount: Compensation is based on a contingency fee.																															
Source of funds: Delinquent EMS billing accounts collected by the Contractor; compensation provided on a contingency basis.																															
Name of Contractor: Harris and Harris, Ltd.																															
Address: 111 W. Jackson Boulevard, Suite 400 Chicago, IL 60604																															
	Yes	No	N/A*																												
1. Council has approved the purpose	X																														
2. Appropriated funds are available	X																														
3. Charter Section 1022 findings completed	X																														
4. Proposals have been requested	X																														
5. Risk Management review completed	X																														
6. Standard Provisions for City Contracts included	X																														
7. Workforce that resides in the City: %																															
8. Contractor has complied with: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td>Yes</td> <td>No</td> <td>N/A*</td> </tr> <tr> <td>a. Equal Employmt. Oppty./Affirm. Action</td> <td>X</td> <td></td> <td></td> </tr> <tr> <td>b. Good Faith Effort Outreach**</td> <td>X</td> <td></td> <td></td> </tr> <tr> <td>c. Equal Benefits Ordinance</td> <td>X</td> <td></td> <td></td> </tr> <tr> <td>d. Contractor Responsibility Ordinance</td> <td>X</td> <td></td> <td></td> </tr> <tr> <td>e. Slavery Disclosure Ordinance</td> <td>X</td> <td></td> <td></td> </tr> <tr> <td>f. Bidder Certification CEC Form 50</td> <td>X</td> <td></td> <td></td> </tr> </table>					Yes	No	N/A*	a. Equal Employmt. Oppty./Affirm. Action	X			b. Good Faith Effort Outreach**	X			c. Equal Benefits Ordinance	X			d. Contractor Responsibility Ordinance	X			e. Slavery Disclosure Ordinance	X			f. Bidder Certification CEC Form 50	X		
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*N/A = not applicable ** Contracts over \$100,000																															

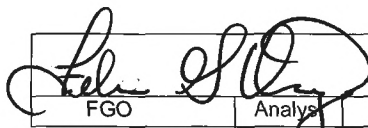
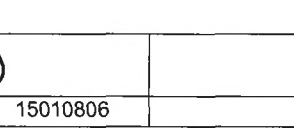
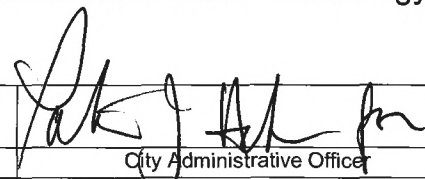
COMMENTS

The Los Angeles Fire Department is requesting authority to execute the First Amendment to Contract No. 124643 with Harris & Harris, Ltd. for collection services of delinquent Emergency Medical Services (EMS) billing accounts. The proposed amendment will exercise a one-year extension provision and will be effective from the date of execution through May 31, 2017. Compensation for services will be provided on a contingency fee basis.

Background

The original contract was a 20-month term, expiring on May 31, 2016, and included two one-year extensions. The contractor, Harris & Harris, Ltd., was selected through a procurement process conducted by the Office of Finance for collection services, and as a result, the Fire Department entered into a 'piggyback' agreement with the contractor to collect on delinquent accounts receivable.

The Fire Department, acting as a health care component of the City, is required to maintain separate agreements with contractors that have access to protected health information. Terms of the agreement require the Contractor to maintain compliance at all times with all Health Insurance Portability and Accountability Act (HIPAA) regulations and requirements set forth in Title 45 of the Code of Federal Regulations (Parts 160, 162 and 164) and the Health Information Technology for

 FGO	 Analyst	15010806	Assistant CAO	 City Administrative Officer
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Economic and Clinical Health Act of 2009 (Sections 13400, et seq.), as codified in a Business Associate Agreement between the Contractor and the Fire Department (attached).

Contractor compensation is based upon a contingency basis, whereas commission payments are made to the Contractor when delinquent accounts receivable are recovered. The Contractor's commission rates range from 15.9 percent to 24.9 percent of amounts collected and covers Primary and Secondary Collection levels. Primary Collection accounts include initial delinquent accounts; Secondary Collection accounts include delinquent accounts previously assigned to a collection agency. The proposed amendment changes the period the contractor has to effect collection on Primary Collection accounts from within six months to an approved period of collection to be determined and consistent with the City's Financial Policies.

Through the use of this contractual agreement, the Fire Department received revenues of \$2.5 million in Fiscal Year 2014-15 and \$2 million in Fiscal Year 2015-16 from delinquent EMS billing accounts.

RECOMMENDATIONS

That the Council:

1. Authorize the Fire Chief, or designee, to execute the Agreement between the Los Angeles Fire Department and Harris and Harris, Ltd., for collection services associated with delinquent Emergency Medical Services billing accounts, effective the date of execution through May 31, 2017, and on a contingency fee basis, subject to the review and approval of the City Attorney as to form and legality; and,
2. Instruct the Los Angeles Fire Department to report to the Budget and Finance Committee on a quarterly basis as part of the Department's Financial Status Reports relative to the collection of EMS delinquent billings.

FISCAL IMPACT STATEMENT

The recommendations in this report are in compliance with the City's Financial Policies in that all fees charged for collection services will be paid to the Contractor on a contingency basis, subject to the delinquent accounts collected and recovered.

MAS:FGO:04170023c

Attachment

LOS ANGELES FIRE COMMISSION

BOARD OF FIRE COMMISSIONERS

DELIA IBARRA
PRESIDENT

ANDREW GLAZIER
VICE PRESIDENT

JIMMY H. HARA, M.D.
REBECCA NINBURG
JIMMIE WOODS-GRAY

LETICIA GOMEZ
COMMISSION EXECUTIVE ASSISTANT II



ERIC GARCETTI
Mayor

SUE STENGEL
INDEPENDENT ASSESSOR

EXECUTIVE OFFICE
200 NORTH MAIN STREET, SUITE 1840
LOS ANGELES, CA 90012

(213) 978-3838 PHONE
(213) 978-3814 FAX

August 16, 2016

Honorable Members of the City Council
City of Los Angeles
City Hall, Room 395
Attn: City Clerk

Honorable Eric Garcetti
Mayor, City of Los Angeles
City Hall, Room 303
Attn: Mandy Morales, Legislative Coordinator

[BFC 16-087] – RESTATEMENT AND FIRST AMENDMENT TO AGREEMENT C-124643
BETWEEN LOS ANGELES FIRE DEPARTMENT AND HARRIS & HARRIS, LTD., FOR
PROFESSIONAL SERVICES

At its meeting of August 16, 2016, the Board of Fire Commissioners approved the report.
The report is hereby transmitted concurrently to the Mayor and City Council for consideration
and approval.

Should you need additional information, please contact the Board of Fire Commissioners'
office at 213-978-3838.

Sincerely,

Sandra Gonzalez
Acting Commission Executive Assistant

Attachment

cc: Board of Fire Commissioners (without attachments)
Fire Chief Ralph M. Terrazas (without attachments)



RALPH M. TERRAZAS
FIRE CHIEF

July 5, 2016

BOARD OF FIRE COMMISSIONERS
FILE NO. 16-087

TO: Board of Fire Commissioners

FROM: Ralph M. Terrazas, Fire Chief

RMT

SUBJECT: RESTATEMENT AND FIRST AMENDMENT TO AGREEMENT C-124643
BETWEEN LOS ANGELES FIRE DEPARTMENT AND HARRIS &
HARRIS, LTD. FOR PROFESSIONAL SERVICES

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

The Los Angeles Fire Department (LAFD) contracts for collection services to collect payment of delinquent emergency medical service billing accounts. The LAFD piggy-backed on the Office of Finance's Request for Proposal released on March 30, 2012 to contract with Harris & Harris, Ltd. on August 22, 2014. The Agreement (C-124643), which expired May 31, 2016, was for a 20 month term with two one-year extensions.

Harris & Harris collected revenues of \$2.5M in FY 2014-15 and \$2M in FY 2015-16. The LAFD proposes exercising a one year extension of the Agreement through May 31, 2017 to continue the provision of collection services.

RECOMMENDATIONS

That the Board:

Approve the report and transmit the First Amendment with Harris & Harris, Ltd., for provision of collection services, to the Mayor and City Council for consideration and approval.

FISCAL IMPACT

This contract has no fiscal impact for the LAFD or on the City's General Fund

Board report prepared by Stewart Young, Management Analyst II, Administrative Services Bureau.

Attachment

**RESTATEMENT AND FIRST AMENDMENT TO AGREEMENT C-124643
BETWEEN
THE CITY OF LOS ANGELES
AND
HARRIS & HARRIS, LTD.
FOR COLLECTION SERVICES OF THE CITY'S
DELINQUENT ACCOUNTS RECEIVABLE**

This Agreement is made between the City of Los Angeles (hereinafter referred to as the "CITY"), a municipal corporation, acting by and through the Los Angeles Fire Department (hereinafter referred to as the "LAFD") and Harris & Harris, Ltd., (hereinafter referred to as the "CONTRACTOR").

WITNESSETH:

WHEREAS, CITY utilizes outside collection agency services as a best practice in delinquent debt collection and revenue generator to the CITY; and

WHEREAS, CITY prepared and released a Request for Proposals (RFP) for Primary and/or Secondary Collection Services to pursue collection of the CITY's delinquent accounts; and

WHEREAS, the CONTRACTOR recognizes that the CITY may contract with multiple agencies for collection services and may utilize any account allocation process that it deems appropriate; and

WHEREAS, the RFP Evaluation Committee has evaluated the proposals received and recommended approval of the CONTRACTOR to the CITY Council; and

WHEREAS, the CITY Council has approved the CONTRACTOR as one of the agencies for collection services to pursue collection of the CITY's delinquent accounts; and

WHEREAS, on August 22, 2014 CITY Council (Council File No. 14-0870) authorized the Fire Chief, or designee, to execute the Agreement No. C-124643 between the LAFD and Harris & Harris, Ltd. for collection services associated with delinquent EMS billing accounts, effective the date of execution through May 31, 2016, with up to two additional one-year extensions, on a contingency fee basis, subject to the approval of the City Attorney as to form and legality; and

WHEREAS, the Los Angeles Fire Department is a Covered Healthcare Entity within the City of Los Angeles organization, and in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) must enter into a separate agreement with the CONTRACTOR to ensure the security and segregation of accounts containing Protected Healthcare Information (PHI); and

WHEREAS, the LAFD desires in this First Amendment to exercise a one-year extension and extend the term of Agreement No. C-124643 up to and including May 31, 2017; and

NOW THEREFORE, in consideration of the above premises and the covenants, representations and agreements herein contained, the parties hereby agree as follows:

ARTICLE I - SERVICES TO BE PROVIDED

The CONTRACTOR is an independent organization that will provide primary and/or secondary collection services on delinquent accounts referred to it by the LAFD pursuant to the terms and conditions of this Agreement.

Services to be performed by the CONTRACTOR for primary and/or secondary collection services herein include, but are not limited to, locating debtors, arranging for payments, mailing dunning notices, skip-tracing delinquent accounts, contacting debtors by telephone, filing delinquent notifications with credit bureaus and verifying assets. All correspondence between the CONTRACTOR and the LAFD and CITY debtors shall be sent by first class mail.

Primary collection services include collection efforts on initial referrals of delinquent Emergency Medical Services (EMS) Billing accounts "hereinafter referred to as "delinquent accounts") to the CONTRACTOR by the LAFD. The LAFD may refer delinquent accounts at the time reasonable collection efforts have failed, which is generally within nine (9) months of the date of initial billing.

For primary level services, the CONTRACTOR shall have a period consistent with the CITY's financial policies to effect collection. If the CONTRACTOR is unable to collect on the referred account within the allotted time from assignment, the CONTRACTOR shall return the account to the LAFD and cease all collection efforts. For the purposes of this Agreement, the term "assignment" means the date that the account is referred to the CONTRACTOR. In no event shall the CONTRACTOR be entitled to any payment on the account once it has been returned to the LAFD. In limited circumstances, the LAFD, as directed by the CITY, may, at its sole discretion, elect to extend the time that the CONTRACTOR may retain said account in writing. For payments received by the CONTRACTOR subsequent the return of the accounts, the CONTRACTOR may deposit these payments, remit same to the LAFD, and then the CONTRACTOR will be entitled to a commission payment.

Secondary collection services include collection efforts on referrals of delinquent accounts that were previously assigned to a collection agency at the primary level and were returned to the CITY department by the primary level agency after the time allotted by the CITY from initial assignment and uncollected. For secondary level collection services, the CONTRACTOR shall have a period of six (6) months to effect collection. If the CONTRACTOR is not able to collect on the referred account within six (6) months from assignment, the CONTRACTOR shall return the account to the LAFD and cease all collection efforts. In no event shall the CONTRACTOR be entitled to any payment on the account once it has been returned to the LAFD, or the CITY. In limited circumstances, the LAFD, as directed by the CITY, may, at its sole discretion, elect to extend the time that the CONTRACTOR may retain said account in writing.

The CONTRACTOR shall only perform primary level or secondary level collection services on any particular account that is referred to it by the LAFD and shall not under any circumstance perform both primary and secondary level collections on the same account.

The CONTRACTOR is prohibited from instituting any legal action on behalf of the LAFD or the CITY against any debtor or performing any service that would constitute the practice of law in the State of California. The CONTRACTOR is also prohibited from using any threats of legal action. The CONTRACTOR may only inform the debtor of consequences of non-payment, such as reporting to credit bureaus. If the CONTRACTOR determines that legal action or legal services are required, the CONTRACTOR shall make a recommendation for such action and return the account to the LAFD. Under this circumstance, the CONTRACTOR may communicate to debtor that the matter is being returned to the LAFD with a recommendation to consider further legal recourse.

In the event an account assigned to the CONTRACTOR is determined to be uncollectible, by LAFD, CITY, or CONTRACTOR, for reasons that include, but are not limited to, a debtor's bankruptcy filing, court-ordered receivership is granted over debtor's business, debtor is deceased or decedent's estate does not have sufficient assets to satisfy the indebtedness, the CONTRACTOR shall cease all collection efforts on said account upon receipt of this information and return the account to the LAFD with notification of the reason(s) for return of the account, as detailed in Article V of this Agreement.

ARTICLE II - REFERRAL PROCESS

Under no circumstance shall the CONTRACTOR initiate collection on behalf of the LAFD prior to written permission from the LAFD. Execution of this Agreement by the Parties does not obligate or guarantee that the LAFD will actually refer any accounts to the CONTRACTOR. At any time, the LAFD may, at its sole discretion, utilize the services of the CONTRACTOR or another contracted agency. This Agreement only applies to EMS Billing accounts referred by the LAFD. The CONTRACTOR agrees to meet with the LAFD, and in good faith, establish procedures, including, but not limited to, the secure transmittal to the CONTRACTOR of all accounts; recording of individual account transactions; processing and documentation of payments against accounts; the CONTRACTOR's HIPAA security practices and results of audits; transmittal of account information back to the LAFD; and the return, destruction or retention of account data.

The LAFD may use more than one means/methods to assign accounts to the CONTRACTOR, that includes electronic transmission, electronic file, or in writing. For the purposes of this Agreement, the term "assign" means the transfer of accounts by the LAFD to the CONTRACTOR to effect collection. Assigned accounts will include the following information, if available, and any other relevant information that the LAFD may have at the time of referral as deemed appropriate:

- Debtor Name(s)
- Debtor Address
- Type of Account
- Unpaid Balance Outstanding

ARTICLE III - PERFORMANCE REQUIRMENTS

- A. In performing collection services for the LAFD, the CONTRACTOR shall adhere to the highest legal, ethical, and professional standards. The

CONTRACTOR shall comply with the Taxpayer Bill of Rights and perform services in a manner that is consistent with all federal and state fair debt collection practices, acts and confidentiality provisions, including, but not limited to California Civil Code Sections 1788 et seq. In addition, all information and data received by the CONTRACTOR from the CITY shall be regarded as confidential under Section 21.17 of the Los Angeles Municipal Code.

Moreover, for collection of the LAFD EMS accounts, the CONTRACTOR shall maintain at all times compliance with all Health Insurance Portability and Accountability Act (HIPAA) regulations and requirements as set forth in Title 45 of the Code of Federal Regulation (Parts 160, 162 and 164) and the American Recovery and Reinvestment Act of 2009 which added the Health Information Technology for Economic and Clinical Health Act of 2009 (Sections 13400 et seq.) throughout the term of the contract. The CONTRACTOR agrees to sign the Business Associate Agreement Rev. 2016 (hereinafter referred to as "BAA", and included in this Agreement as Exhibit A) with the LAFD prior to receiving any EMS accounts for collection. The CONTRACTOR is required to integrate with existing LAFD HIPAA compliant systems to ensure secure electronic transfer and documentation of EMS related records.

In addition, in performing the services requested, the CONTRACTOR shall:

1. Perform its work as an independent contractor and shall, at all times, inform the debtors that it is acting as a collection agency for the CITY but that it is an entity separate and distinct from the CITY;
2. Collect on only amounts authorized by the CITY and shall not add or collect any amounts not authorized by the CITY;
3. Deposit all monies collected for the LAFD into a special trust fund which shall be kept separate and not commingled with other funds of the CONTRACTOR or other clients of the CONTRACTOR. If the trust fund is an interest accruing account, such accruals must be credited to the CITY. All monies collected by the CONTRACTOR for the CITY shall be remitted to the CITY on a monthly basis; as defined in this Article and Article V of this Agreement;
4. Deliver to the LAFD on or before the fifteenth (15th) of each month all monies collected during the previous month. The CONTRACTOR shall not, for any reason, withhold monies collected during the previous month on any account referred to the CONTRACTOR by the LAFD and shall promptly deliver said payments to the LAFD as specified above. Together with the monthly delivery of monies collected during the previous month, the CONTRACTOR shall submit an invoice in duplicate for commission owed and a remittance report summarizing detailed information for payments received in accordance with the requirements outlined in Article V of this Agreement;

5. Obtain approval from the LAFD as to form and content for all letters used by the CONTRACTOR to effect collection before use;
6. Engage in payment plans, when determined appropriate, with the CITY debtors for a term of no longer than one (1) year. Payment plans in excess of one (1) year require written approval from the LAFD Fire Chief or Fire Administrator;
7. Agree that any information provided by the LAFD on delinquent accounts will be used solely for the purpose of collection, held in the strictest of confidence and used for no other purpose;
8. Maintain all LAFD information and records separate from information and records related to other clients;
9. Bear all expenses and costs incurred to effect collection of any account referred by the LAFD;
10. Report CITY department accounts to credit bureaus within forty-five (45) days of assignment, except for instances when the CITY has approved in writing a change in this time frame. The account may remain on a credit bureau report for the duration of the time in which the account is assigned with the CONTRACTOR and any written extension granted by the CITY, but upon return of the account to the CITY, the CONTRACTOR will instruct credit bureaus to remove any negative data reported relative to the account;
11. Provide electronic payment options to debtors including online, credit or debit card, e-check, ACH, as well as other CITY-approved methods;
12. Return to the LAFD, in automated format or other manner specified by the LAFD, all accounts that remain uncollected by the CONTRACTOR upon the period set by the LAFD from assignment, and shall cease all collection efforts, except for instances where payment plans are in affect and active payments are made in accordance with the plan or in limited circumstances where the LAFD, at the direction of the CITY may, at its sole discretion, elect to extend the time that the CONTRACTOR may retain said account in writing. In no event shall the CONTRACTOR be entitled to any payment on the account once it has been returned to the CITY, unless payment is received by the CONTRACTOR on the returned account. The CONTRACTOR shall report to the LAFD, as outlined in Article V of this Agreement, on any account returned prior to or retained past the allotted time specified by the CITY to effect collection in this Agreement;
13. Be able to accept account data through various communication methods employed by the LAFD, whether paper-based or electronic. The CONTRACTOR must work with the LAFD and its EMS billing CONTRACTOR(s) to develop systems interfaces for efficient and secured data transfer of their accounts. All costs associated with the development of said systems will be borne by the CONTRACTOR;

14. Comply with any special collection campaigns authorized by the CITY, wherein selected account types may be targeted for specified reductions in balances owed, for example, offer in compromise and debt amnesty programs.

Moreover, in performing the services requested, the CONTRACTOR shall not:

15. Subcontract, assign, refer or transfer any account referred to it by the LAFD, or otherwise assign its rights or delegate its duties under this Agreement to any other person or entity, including any attorney, without the express written consent of the LAFD;
16. Collect more than the amount of the assigned debt and any applicable contingency fees authorized by the CITY to be added to the assigned amount. The CITY's assigned debt may include both the principal amount and any penalties or interest on the unpaid principal amount, including any accrued amounts authorized by the CITY. The CONTRACTOR shall not add and/or collect penalties, interest or fees not authorized by the CITY in writing. Any additional authorized or unauthorized amounts collected by the CONTRACTOR shall be remitted to the LAFD and/or the CITY, as defined in Article V of this Agreement;
17. Threaten or intimidate debtors under any circumstances in the collection of the LAFD's accounts or violate any applicable government laws or regulations;
18. Use or display the official seal of the CITY or the LAFD on any of its letterheads or communications with any debtor for any reason;
19. State or suggest, in any verbal or written communication, that the CONTRACTOR intends to pursue legal action against the debtor, or imply that it has any authority to do so;
20. Take any legal action against a debtor on a CITY account;
21. Initiate, negotiate, or reach settlements on any account assigned to it for collection nor directly or indirectly imply that it has such authority, unless authorized by the CITY in writing;
22. Recommend to debtors the use of "payday" loans to satisfy CITY accounts, or any loans through a lender wherein the CONTRACTOR has any financial interest in the lender or where the CONTRACTOR would realize any additional financial gain through referral of business to the lender;
23. Perform secondary level collection services on any account in which it has previously performed primary collection services under this Agreement.

B. Recall of Accounts

The LAFD shall have the right at their sole discretion to recall from the CONTRACTOR without charge or penalty any account(s) assigned to the CONTRACTOR. For purposes of this Agreement, the term "recall" means the demand return of an assigned account to the CITY. Upon recall by the LAFD, the CONTRACTOR shall undertake no further collection efforts on recalled account(s). The CONTRACTOR shall also instruct credit bureaus to remove any negative data reported relative to the account(s) recalled. The CONTRACTOR shall not be entitled to any contingency fees for payments received by the LAFD on an account after the date of recall except where the debtor has contacted the LAFD or the CITY to engage in settlement of the account prior to the date of recall. If a debtor pays on an LAFD account no longer assigned to the CONTRACTOR, the CONTRACTOR shall accept payment and remit same to the LAFD, and will be entitled to commission fees.

C. Quality Assurance

The CONTRACTOR's performance will be evaluated according to contract standards and other performance measures deemed appropriate by the LAFD and/or the CITY, including, but not limited to, establishing the CONTRACTOR performance benchmarks and incentives relative to collection on the LAFD accounts. The LAFD and/or the CITY may use a variety of inspection methods to determine the CONTRACTOR's compliance with terms of this Agreement and evaluate performance level. The methods of inspection may include, but are not limited to:

- Random sampling
- Reports, (monthly and as needed)
- Periodic inspection of output items

The LAFD and/or the CITY shall have the right at any time during regular business hours to inspect records relative to the LAFD accounts maintained by the CONTRACTOR at its place of business. For the LAFD EMS accounts, the CONTRACTOR shall retain records as required by HIPAA and the terms of the BAA between the CONTRACTOR and the LAFD included herein as Appendix B.

The CONTRACTOR must also be available to meet with representatives of the LAFD and/or the CITY on a quarterly basis, or as deemed appropriate by the CITY, to discuss any issues or concerns relating to the contract and/or the LAFD accounts. Upon request by the LAFD for an impromptu meeting with the CONTRACTOR, the CONTRACTOR shall coordinate with the LAFD an amicable time; however, if the LAFD deems the matter requires immediate attention, the CONTRACTOR shall make itself available to meet with the LAFD within two (2) business days from the day of the LAFD's request.

D. Account Redistribution

The LAFD shall have sole discretion at any time without reason the right to distribute or redistribute accounts among the CITY's contracted collection agencies. For those accounts assigned to the CONTRACTOR wherein payments are being made and/or subject to a current, agreed upon payment plan, the LAFD may permit these accounts to remain with the CONTRACTOR while collections continue according to the arranged payment amount and schedule.

For any account assigned to the CONTRACTOR and recalled by the LAFD to pursue other measures to collect, including redistribution to another contracted collection agency, the CONTRACTOR will not be due any commission after the date of recall by the LAFD except where debtor has contacted the LAFD to engage in settlement of the account prior to the date of recall. The CONTRACTOR shall direct the debtor to contact the LAFD on any attempt by a debtor to pay on a LAFD account that has been recalled by the LAFD or is no longer assigned to the CONTRACTOR.

E. Membership in Professional Organizations

The CONTRACTOR shall maintain, at no cost to the LAFD or the CITY, membership in the American Collectors Association, California Association of Collectors, or similar professional organizations that provide interstate and intrastate services and utilize collection techniques consistent with the Code of Ethics and standards adopted by said association(s).

F. Tax Certificate

The CONTRACTOR agrees to have and maintain a valid City of Los Angeles Business Tax Registration Certificate for the term of the Agreement, at no cost to the LAFD or the CITY.

G. Automation Support

The CONTRACTOR shall provide information technology/systems support to the LAFD as deemed necessary by the LAFD to establish and maintain account referral protocols, information exchanges and reports. Such information technology/systems support services are to be provided by the CONTRACTOR at no expense to the LAFD.

H. Client Assistance

The CONTRACTOR shall provide to the LAFD as needed on-site customer assistance during, but not limited to, the first thirty (30) days of contract implementation. Client assistance services are to be provided by the CONTRACTOR at no expense to the LAFD.

I. Training

The CONTRACTOR shall provide to the LAFD on-site training relative to collection processes and procedures as deemed necessary by the referring CITY departments at no cost to the LAFD.

J. Consulting

The CONTRACTOR shall provide to the LAFD, upon request of management and supervisory level personnel, consulting services relative to collection and revenue enhancement processes and procedures as deemed necessary by the LAFD at no cost to the LAFD. The CONTRACTOR shall provide to the LAFD management and supervisory level staff data and information relative to collections, industry trends, best practices, projections and any other relevant materials, upon request, to assist the LAFD staff in revenue collection management and analysis.

K. Access to Accounts

The CONTRACTOR shall provide to the LAFD remote access to its accounts assigned to the CONTRACTOR through an internet website, or similar process approved by the LAFD. The CONTRACTOR shall also provide the LAFD with technical assistance, training and requirements needed to establish and use remote access privileges to its accounts, if needed, and at no cost to the LAFD. The remote access shall include the ability for the LAFD to view and print all transactions, information, and documents related to each account referred by the LAFD to the CONTRACTOR, including names and addresses noted on the account, if payer is different.

L. Complaint Response and Handling

The CONTRACTOR shall acknowledge and respond to all written and oral complaints received relative to the LAFD accounts or the LAFD debtors. For written complaints, the CONTRACTOR shall acknowledge receipt of the complaint in writing within two (2) business days from the day the written complaint is received. Complaints and/or inquiries by telephone shall be received by the CONTRACTOR's personnel during regular business hours. During non-business hours, the CONTRACTOR shall provide a means for debtors to leave a message regarding their complaint and/or inquiry. All phone messages regarding the LAFD accounts shall be responded to by the CONTRACTOR no later than the next business day from the day that the message was left.

All complaints shall be directed to qualified customer service staff or manager who shall take responsibility for resolving the matter. The CONTRACTOR shall conduct any necessary investigations and take appropriate steps to resolve complaints within thirty (30) calendar days from receipt of the complaint, or other time frame, if deemed appropriate and specified in writing by the LAFD. The CONTRACTOR shall notify complainant of the resolution of their complaint in writing and provide written notification of said resolution to the LAFD, as defined in Article V of this Agreement. In circumstances

when a complaint requires more than thirty (30) calendar days to resolve, the CONTRACTOR shall inform the LAFD of the additional time needed, basis for the delay and estimated time when a resolution is expected.

The CONTRACTOR shall document and maintain records of all complaints initiated, including information regarding the person(s) that filed the complaint, specific details regarding the nature of the complaint, all parties involved, steps taken to resolve the matter, final disposition and the name and title of staff that handled the matter.

At its sole discretion, the LAFD may require the CONTRACTOR to take further steps to resolve a complaint if determined by the LAFD that the CONTRACTOR did not address the complaint in a manner satisfactory to the LAFD. The CONTRACTOR shall provide to the LAFD any record(s) relative to a complaint upon request of the LAFD, and said record(s) shall be made available to the LAFD within two (2) business days of the LAFD's request.

The CONTRACTOR shall immediately notify the LAFD of any legal actions initiated against the CONTRACTOR regarding any LAFD account, or which may have any relevance to the LAFD and/or the CITY as a business partner. The CONTRACTOR shall within one (1) week of giving notice to the LAFD of a legal action, submit a comprehensive written report, including any supporting documentation, to the LAFD to acquaint the LAFD of pertinent details regarding the legal matter. The LAFD may, at its discretion, require the CONTRACTOR to provide said report sooner than one (1) week if deemed appropriate. The CONTRACTOR shall keep the LAFD informed on the status of any litigation matter at least on a quarterly basis, and shall immediately inform the LAFD of any key developments with regard to the legal proceeding. The LAFD may, at its sole discretion, modify the CONTRACTOR's reporting requirement regarding a legal matter as deemed appropriate. The CONTRACTOR shall assume all costs related to any litigation and the LAFD shall be held harmless for any liabilities or damages that may result from litigation against the CONTRACTOR on any LAFD account.

ARTICLE IV - COMMISSION PAYMENTS

The LAFD agrees to compensate the CONTRACTOR on a contingency fee basis for services to the LAFD performed under this Agreement. If no recovery is made on an account referred to the CONTRACTOR by the LAFD, there is no compensation due to the CONTRACTOR. The commission due the CONTRACTOR shall be based on the CONTRACTOR's applicable commission rate approved by the LAFD and any recovery made on an account that has been assigned to the CONTRACTOR, up to, but not to exceed the LAFD's assigned amount. For compensation purposes, the assigned amount is the amount of the debt referred to the CONTRACTOR, including any LAFD and/or CITY authorized adjustments to the amount referred after assignment, i.e., interest accruing on the unpaid balance or a reduction in the debt from an audit performed on the account.

Any adjustments made to an assigned amount shall be authorized by the CITY, and upon adjustment, the CONTRACTOR shall be entitled to commission on amounts

recovered up to the final adjusted assigned amount. The CONTRACTOR is not entitled to commission on amounts recovered that exceed the LAFD's assigned amount, i.e., the CONTRACTOR's contingency fees authorized by the CITY to be added to the assigned amount and collected by the CONTRACTOR.

The CONTRACTOR's approved commission rates for actual amounts recovered on accounts referred, up to, but not exceeding the assigned amount of the referral, shall vary under this Agreement and the applicable rate will be determined by the following:

- The level of collection services performed by the CONTRACTOR is primary or secondary, and
- Whether the account is pre-judgment or post-judgment. For the purposes of this Agreement the term "pre-judgment" refers to accounts that the CITY has not obtained a court order for payment against the debtor and "post-judgment" refers to accounts that the CITY has obtained a court order against the debtor for payment of the debt.

CONTRACTOR's Approved Commission Rates

Collection Level	Judgment Status of Account	Commission Rate
Primary Collection	<i>Pre-Judgment Accounts</i>	15.9%
	<i>Post-Judgment Accounts</i>	17.9%
Secondary Collection	<i>Pre-Judgment Accounts</i>	23.9%
	<i>Post-Judgment Accounts</i>	24.9%

The CONTRACTOR shall not be compensated in any other method than that prescribed in this Article. An invoice shall be submitted to the LAFD for commission owed the CONTRACTOR on amounts collected during the previous month, as detailed in Article III and Article V of this Agreement.

Any money paid directly to the CITY on any account assigned to the CONTRACTOR shall be deemed to have been collected by the CONTRACTOR, and the CONTRACTOR will be entitled to receive a commission on the payment, unless: 1) payment is received by the CITY or postmarked on or prior to the date of the CITY's receipt of the CONTRACTOR Acknowledgement Report as set forth in Article V of this Agreement or 2) collection activity, such as dunning notice sent or telephone contact with debtor, by the CONTRACTOR has not begun, in which case the CONTRACTOR would not be due any commission. The LAFD shall promptly notify the CONTRACTOR regarding any payment made directly to the CITY on an account assigned to the CONTRACTOR.

ARTICLE V - REPORTING

- A. Required Monthly Reports to CITY Contract Administrator

All EMS accounts transmitted to the CONTRACTOR are deemed to contain PHI. The CONTRACTOR shall work with the LAFD to develop and ensure any and all reports provided to the CITY Contract Administrator, which includes monthly electronic reports regarding collection activities, overall and specific to EMS Billing Accounts, performed by the CONTRACTOR during the previous month and from inception of the Agreement, do not contain PHI. Required monthly reports are due to the CITY Contract Administrator within five (5) working days of the close of the prior month. The LAFD reserves the right to modify the CONTRACTOR's monthly reporting requirements to comply with Federal, State and Local laws, rules and regulations related to HIPAA and PHI. The CONTRACTOR shall comply with any requested changes to monthly reporting requirements within one (1) month of being notified by the LAFD of the requested modification. Required monthly reporting, as defined by the LAFD, may include, but are not limited to the following reports:

- Activity Reports
- Batch Reports
- Overall Status of Accounts Referred
- Lists of Delinquent Debtors
- Performance Reports
- Stair-Step Reports
- Status of Complaints, as defined in Article III of this Agreement

B. Required Monthly Reports to the LAFD

The CONTRACTOR shall also provide monthly electronic reports to the LAFD. Monthly reports shall include information relative to collection activities specific to accounts referred to the CONTRACTOR by the LAFD and include information for the prior month and aggregate from the time department initiated referring accounts to the CONTRACTOR. Required monthly reports are due to the LAFD within five (5) working days of the close of prior month. The LAFD reserves the right to modify the CONTRACTOR's monthly reporting requirements as deemed appropriate. The CONTRACTOR shall comply with any requested changes in monthly reporting within one (1) month of receiving notification from the LAFD. Required monthly reporting to the LAFD on accounts assigned to the CONTRACTOR may include, but are not limited to the following:

- Status of Accounts Referred by the CITY department - Detailed for each account according to collection effort (e.g. payment plan, collection stage, call follow-up, pending dispute, skip trace, pending documents, etc.)
- Returned/Closed Accounts
- Retained Accounts
- Remittance Report

C. Acknowledgement Report

Upon receipt of a referral from the LAFD, the CONTRACTOR shall provide an Acknowledgment Report to the LAFD within one (1) CITY business day from the assignment to verify account placement. Timely submission of the Acknowledgement Report by the CONTRACTOR is essential in order for the CONTRACTOR to be entitled any commission for monies collected on a referred account, as set forth in Article IV of this Agreement. The LAFD shall specify to the CONTRACTOR the method for receipt of the Acknowledgement Report. Information in the report shall include, but not be limited to the following on each account received:

- CITY Account Number
- Debtor Name
- Assignment Date
- Assignment Amount

D. Returned Accounts Report

The CONTRACTOR is required to furnish to the LAFD, when applicable, a report on accounts returned to the LAFD. Reasons that an assigned account may be returned to the LAFD include, but are not limited to:

- CONTRACTOR was unable to collect the unpaid amounts within the time period allotted by the CITY to effect collection
- Court-ordered receivership is granted over debtor's business
- Debtor bankruptcy filing
- Debtor is deceased
- Decedent's estate lacks sufficient assets to satisfy the indebtedness
- CITY recalled the account

The CONTRACTOR must state in its report the reason(s) for the return of the account and be able to provide detailed information regarding all efforts undertaken by the CONTRACTOR to collect on the account prior to its return. The format for the report on returned accounts shall be specified by the LAFD and shall accompany any returned accounts. At a minimum, information contained in the report shall include the following for each account returned:

- LAFD Account Number
- CONTRACTOR Assigned Account Number
- Debtor Name
- Assignment Date
- Assigned Amount
- Amount Collected
- Remaining Balance Due
- Detailed Reason for Return (RCN)
Detailed reasons for returns due to routine cancellation within the time period allotted by the City to effect collection (e.g. bad address, skip cannot locate, dispute, cease and desist, etc.)

E. Retained Accounts Report

The CONTRACTOR is required to furnish to the LAFD when applicable, a report on accounts retained by the CONTRACTOR beyond the approved period for collection. Reporting on retained accounts shall begin no later than the date that these accounts would normally have been returned to the LAFD due to the time period allotted by the LAFD to effect collection has expired. The CONTRACTOR shall continue to report on retained accounts, on a monthly basis, until said accounts are paid in full or returned to the LAFD.

LAFD accounts shall not be retained by the CONTRACTOR unless authorized in writing by the LAFD or the CITY or where payment plans are in effect and debtors are making active payments under the payment plan that will extend beyond the allotted time period to effect collection as specified under this Agreement.

At any time the LAFD may, at its sole discretion and for any reason, recall an account from the CONTRACTOR, as set forth in Article III of this Agreement. However, this action would not preclude payment obligations to the CONTRACTOR of contingency fees in the event an account with a payment plan in effect is taken over by the LAFD and successfully collected by the LAFD or the CITY. The retained accounts report shall include at least the following information for each account retained:

- LAFD Account Number
- Debtor Name
- Assignment Date
- Assigned Amount
- Amount Collected
- Remaining Balance Due
- Reason(s) Account has been Retained

F. Remittance Report

The CONTRACTOR is required to furnish to the LAFD when applicable, a remittance report setting forth the details from any monies collected from debtors on LAFD assigned accounts during the previous month. This report shall accompany the monthly delivery of monies, as defined in Article III of this Agreement, and shall be delivered to the LAFD on or before the fifteenth (15th) of each month that the CONTRACTOR collected payments on assigned accounts during the previous month. Automated remittance processes may be implemented upon written agreement between the LAFD and the CONTRACTOR. Specific information required in the report shall include, but not be limited to:

- Contract Number
- CONTRACTOR Assigned Vendor Code Number
- LAFD Account Number
- Debtor Name
- Batch Number

- Amount Collected
- Remaining Balance Due
- CONTRACTOR Commission

G. Customized, Ad Hoc and Specialized As Needed Reports

On an occasional basis, the CONTRACTOR may be required to provide to the LAFD and the CITY Contract Administrators customized, ad hoc or specialized as needed reports. The CONTRACTOR shall furnish said reports within five (5) business days from receipt of a written request, or other timeframe specified in writing, from the LAFD Contract Administrator. Specific details regarding the content and format of the specialized report shall be provided by the requesting party. All reports are to be delivered to the LAFD only. No report may be distributed to other parties without the prior approval of the LAFD.

ARTICLE VI - TERM

The term of this Agreement shall commence on upon execution, and continue through May 31, 2017, unless terminated earlier as provided herein or amended as elsewhere provided herein. Any amendment that extends the term of this agreement beyond three (3) years is subject to the approval the City Council in accordance with Los Angeles Administrative Code Section 10.5.

Where services are needed to be continued beyond the initial term of the Agreement, and where those services are consistent with the terms contained herein, those services are hereby ratified and covered by this Agreement.

ARTICLE VII - MANAGEMENT, ORGANIZATION AND RESPONSIBILITIES

A. LAFD Contract Administrator

The LAFD hereby appoints the Fire Administrator, or his/her designee, as the LAFD Contract Administrator with respect to overall management, amendments or other matters directly related to this Agreement, provided; however, that any matters which will increase the Department's financial obligation hereunder shall be presented to the City Council for its consideration and approval or otherwise approved as provided in the CITY's Charter or Administrative Codes.

The LAFD shall be primarily responsible for matters regarding their assigned accounts or referrals. The CONTRACTOR shall direct any communications and/or inquiries regarding any assigned accounts to the LAFD in accordance with this Agreement and other directives from the CITY. The LAFD shall provide written notice to the CONTRACTOR with regard to any changes in this Agreement or management of referred accounts.

B. **CONTRACTOR's Representative**

The CONTRACTOR hereby appoints Brent Brown, Director of Business Development, to represent the CONTRACTOR with respect to amendments or other matters to this Agreement.

ARTICLE VIII - NOTICES

Notices and all other communications to the CITY or the CONTRACTOR required by or regarding this Agreement shall be in writing and delivered personally or sent by first class mail or fax as follows:

A. **LAFD Address:**

Los Angeles Fire Department
200 N. Main Street, Room 1800
Los Angeles, California 90012
Attn: Ralph M. Terrazas, Fire Chief
Telephone: (213) 978-3800
Fax: (213) 978-3815

With copies to:

Los Angeles Fire Department
200 N. Main Street, Room 1630
Los Angeles, California 90012
Attn: June Gibson, Fire Administrator
Telephone: (213) 978-3731
Fax: (213) 978-3414

B. **CONTRACTOR's Address:**

Harris & Harris, Ltd.
111 W. Jackson Blvd., Suite 400
Chicago, IL 60604
Attn: Arnold Harris, President
Telephone: (312) 423-7400
Fax: (312) 803-0020
Email: aharris@harriscollect.com

Any change by either party with regard to notices and all other communications to the CITY or the CONTRACTOR shall be made through written notice to the other party in accordance with this Article.

ARTICLE IX - TERMINATION

The LAFD may terminate the Agreement, or any part hereof, for its convenience, effective as of any date upon at least thirty (30) days written notification to the CONTRACTOR.

Upon termination of the Agreement, all accounts shall be deemed automatically reassigned by the CONTRACTOR to the LAFD. In-process collections may be considered waived from reassignment upon written consent from the LAFD. For the purpose of this Agreement, in-process collections are instances where payment plans are in affect and active payments are being made by the debtor in accordance with the plan. Contract terms and conditions will stay in effect with regard to accounts that remain with the CONTRACTOR for in-process collections, with no additional account referrals to the CONTRACTOR by the CITY. If any provision of this Agreement is held unenforceable, then such provision may be modified by mutual agreement to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

ARTICLE X - INCORPORATION BY REFERENCE

With the exception of PCSs 27, 28, and 29, the CONTRACTOR agrees to comply with all terms and conditions set forth in the CITY's "Standard Provisions for City Contracts" (revised March 2009), a copy of which is attached hereto as Appendix A and incorporated herein by reference.

ARTICLE XI – NON-DISCRIMINATION

Notwithstanding any other provision of any ordinance of the CITY to the contrary, every Agreement which is let, awarded or entered into with or on behalf of the CITY, shall contain by insertion therein a provision obligating the CONTRACTOR in the performance of such Agreement not to discriminate in his or her Employment Practices against any employee or applicant for employment because of the applicant's race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition. All CONTRACTORS who enter into such Agreements with the CITY shall include a like provision in all subcontracts awarded for work to be performed under the Agreement with the CITY. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

ARTICLE XII – EQUAL EMPLOYMENT PRACTICES

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the EQUAL EMPLOYMENT PRACTICES provision of such Agreement:

- A. During the performance of this Agreement, the CONTRACTOR agrees and represents that it will provide Equal Employment Practices and the CONTRACTOR and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The CONTRACTOR agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by, or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

C. At the request of the Awarding Authority or the DAA, the CONTRACTOR shall certify in the specified format that he or she has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the awarding authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY Agreements. Upon request, the CONTRACTOR shall provide evidence that he or she has or will comply therewith.

E. The failure of any CONTRACTOR to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of CITY Agreements. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.

F. Upon a finding duly made that the CONTRACTOR has failed to comply with the Equal Employment Practices provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the CITY. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two years, or until the CONTRACTOR

shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this Agreement, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in CITY Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Agreement, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish the contract compliance program.

I. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. By affixing its signature on an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Agreements.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:

1. hiring practices;
2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
3. training and promotional opportunities; and
4. reasonable accommodations for persons with disabilities.

L. All CONTRACTORS subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

ARTICLE XIII – AFFIRMATIVE ACTION PROGRAM

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$25,000 or more shall contain the following provisions which

shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Agreement:

A. During the performance of a CITY Agreement, the CONTRACTOR certifies and represents that the CONTRACTOR and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The CONTRACTOR shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The CONTRACTOR shall, in all solicitations or advertisements for employees placed, by or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the CONTRACTOR shall certify on an electronic or hard copy form to be supplied, that the CONTRACTOR has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY Agreements and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any CONTRACTOR to comply with the Affirmative Action Program provisions of CITY Agreements may be deemed to be a material breach of a CITY Agreement. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.

F. Upon a finding duly made that the CONTRACTOR has breached the Affirmative Action Program provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the

Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the CITY, or any court of competent jurisdiction, that the CONTRACTOR has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY Agreement, there may be deducted from the amount payable to the CONTRACTOR by the CITY under the Agreement, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a CITY Agreement.

H. Notwithstanding any other provisions of a CITY Agreement, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of CITY Agreements, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish this Agreement compliance program.

J. Nothing contained in CITY Agreements shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the provisions in this article for the duration of the Agreement. The Awarding Authority may also require CONTRACTORS and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

1. The CONTRACTOR certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the CONTRACTOR's field of work. The CONTRACTOR shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

- (ii) Notifying minority, women and other community organizations of employment opportunities.
 - (iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.
 - (iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.
 - (v) Promoting after school and vacation employment opportunities for minority, women and other youth.
 - (vi) Validating all job specifications, selection requirements, tests, etc.
 - (vii) Maintaining a file of the names and addresses of each worker referred to the CONTRACTOR and what action was taken concerning the worker.
 - (viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the CONTRACTOR has a collective bargaining agreement, has failed to refer a minority, woman or other worker.
- (b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.
- (c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
- (d) Secure cooperation or compliance from the labor referral agency to the CONTRACTOR's contractual Affirmative Action Program obligations.
- (e) Establish a person at the management level of the CONTRACTOR to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the CONTRACTOR's Equal Employment and Affirmative Action Program policies.
- (f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to CITY, State and Federal authorities upon request. 9
- (g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative

Action Program for all its operations and Agreements. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the CONTRACTOR may become involved in fulfilling any of its Agreements.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the CONTRACTOR in complying with its obligations pursuant to this article. The CONTRACTOR shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the CONTRACTOR has been or will be unable to comply.

2. Every Agreement of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;

2. Classroom preparation for the job when not apprenticeable;

3. Pre-apprenticeship education and preparation;

4. Upgrading training and opportunities;

5. Encouraging the use of CONTRACTORs, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any Agreement subject to this ordinance shall require the CONTRACTOR, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the CONTRACTOR's, Subcontractor's or supplier's geographical area for such work;

6. The entry of qualified women, minority and all other journeymen into the industry; and

7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the CONTRACTOR's work force to achieve the requirements of the CITY's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the CITY or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by CONTRACTORS engaged in the performance of CITY Agreements.

O. All CONTRACTORS subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

ARTICLE XIV- LOS ANGELES CITY CHARTER SECTION 470(c)(12)

The CONTRACTOR, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, CONTRACTOR is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles Contract #124643. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide names and addresses of the subcontractor's principals and contact information to the contractor and shall update that information if it changes during the 12 month time period. Subcontractor's information included must be provided to contractor within 5 business days.

Failure to comply may result in termination of contract or any other available legal remedies include fines.

Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling (213) 978-1960.

ARTICLE XV—First Source Hiring Ordinance (FSHO)

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Agreement is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

CONTRACTOR shall, prior to the execution of the contract, provide to the DAA a list of anticipated employment opportunities that CONTRACTOR estimates he will need to fill in order to perform the services under the Agreement.

CONTRACTOR further pledges that it will, during the term of the Agreement, shall a) At least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) Interview qualified individuals referred by CDD; and c) Prior to filling any employment opportunity, the CONTRACTOR shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR interviewed and the reasons why referred individuals were not hired.

Any Subcontract entered into by the CONTRACTOR relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.

CONTRACTOR shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the designated administrative agency has determined that the CONTRACTOR intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's CONTRACTOR Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the CONSULTANT's subsequent CONTRACTOR Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the CITY's authority to act under this article.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this contract and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONSULTANT has violated provisions of the FSHO.

ARTICLE XVI—IRAN CONTRACTING ACT

In accordance with California Public Contract Code Sections 2200-2208, all bidders submitting proposals for, entering into, or renewing contracts with the City of Los

Angeles for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contacting Act of 2010 Compliance Affidavit."

THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective duly authorized representatives.

Approved Corporate Signature Methods:

- a) Two signatures: one by Chairman of Board of Directors, President, or Vice President; and one by Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.
- b) One signature by corporate designated individual together with properly attested resolution of Board of Directors authorizing person to sign on the company's behalf.

THE CITY OF LOS ANGELES

HARRIS & HARRIS, LTD

By _____
RALPH M. TERRAZAS
Fire Chief

Date _____

By _____

Name _____

Title _____

Date _____

By _____

Name _____

Title _____

Date _____

APPROVED AS TO FORM:
MICHAEL N. FEUER,
City Attorney

By _____
Laurel L. Lightner
Assistant City Attorney

Date _____

ATTEST:
HOLLY L. WOLCOTT,
City Clerk

By _____
Deputy Clerk

Date _____

**BUSINESS ASSOCIATE AGREEMENT
BETWEEN
THE LOS ANGELES FIRE DEPARTMENT
AND
HARRIS & HARRIS, LTD.
TO COMPLY WITH THE PRIVACY AND SECURITY RULES REQUIRED UNDER THE
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF
1996**

This **Business Associate Agreement** (the "Agreement"), is made as of the ____ day of July, 2016, (the "Effective Date"), by and between the Los Angeles Fire Department (the "LAFD" or "Covered Entity"), on behalf of itself and its subsidiaries and affiliates, and Harris & Harris, Ltd. (the "Business Associate") (collectively the "Parties") to comply with the privacy and security standards required under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), adopted by the U.S. Department of Health and Human Services and as amended January 25, 2013, [45 C.F.R. Parts 160, 162 and 164; Volume 78 Fed. Reg. No. 17, Pages 5566 through 5702, January 23, 2013] and, in order to satisfy the electronic storage requirements of the Health Information Technology for Economic and Clinical Health Act as incorporated in the American Recovery and Reinvestment Act of 2009 (hereinafter referred to as "HITECH"), and any applicable state confidentiality laws.

RECITALS

WHEREAS, BA will provide primary and/or secondary collection services as stipulated in Contract No. C-124643, the ("Contract");

WHEREAS the CE and BA have entered into the Contract under which the CE will need to disclose to BA certain "Protected Health Information" ("PHI") that is subject to protection under HIPAA and HITECH;

WHEREAS, HIPAA requires that CE receive adequate assurances that BA will comply with certain obligations with respect to the PHI received in the course of providing services to or on behalf of CE;

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. DEFINITIONS

Terms used in this Agreement, but not otherwise defined, shall have the meaning ascribed by the HIPAA Final Regulations and the HITECH Act, as amended as of January 23, 2013.

1. **Breach** means the acquisition, access, use, or disclosure of protected health information in a manner not permitted under subpart E of 45 C.F.R. Part 164.

BUSINESS ASSOCIATE AGREEMENT

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2. **Business Associate** (“BA”) shall have the meaning ascribed in 45 C.F.R. § 160.103 and refers to Harris & Harris, Ltd. for purposes of this Agreement.
3. **Contract** means Los Angeles City Contract Number C-124643 and all amendments by and between the City of Los Angeles (“City”) and Harris & Harris, Ltd. which includes performing the activities related to primary and/or secondary collection services of the Covered Entity.
4. **Covered Entity** (“CE”) means the Los Angeles Fire Department (“LAFD”), a Health Care Component of the City of Los Angeles, a Hybrid Entity.
5. **Designated Record Set** means a group of records maintained by or for a Covered Entity that are: (i) medical records about individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record system maintained by or for a health plan; and/or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a Covered Entity.
6. **Health Care Component** (“HCC”) means those portions of the Hybrid Entity that perform HIPAA-related activities. The LAFD became a HCC by the Los Angeles City Council action which adopted the recommendation of the Personnel Committee meeting on July 30, 2010 [Council File No. 10-1181] or as modified [Council File No. R3-0240; August 16, 2013].
7. **HITECH Act** (“HITECH”) means the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act, and any amendments, regulations, rules and guidance issued thereto and the relevant dates for compliance.
8. **HIPAA Final Regulations** means 45 C.F.R. Parts 160, 162 and 164 as amended on January 23, 2013 and effective on March 23, 2013 but only to the extent it applies to a Covered Entity, Hybrid Entity and/or Business Associate.
9. **Hybrid Entity** (“HE”) means, for purposes of this Agreement, the City of Los Angeles, a single legal municipal entity that is (i) a Covered Entity; (ii) whose business activities include both covered and non-covered HIPAA functions; and (iii) that has designated its LAFD, along with other portions of the City of Los Angeles, as a HCC pursuant to 45 C.F.R. § 160.103.

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10. **Individual** means the person who is the subject of the Protected Health Information as defined in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 502(g).
11. **Protected Health Information** (“PHI”) means the Individually Identifiable Health Information (“IIHI”) described in 45 C.F.R. § 160.103 that is transmitted electronically, maintained electronically, or transmitted or maintained in any other form or medium.
12. **Required by Law** means mandate contained in law that compels a use or disclosure of PHI under 45 C.F.R. § 164.512(a)(1) and (2).
13. **Secretary** means the Secretary of the Department of Health and Human Services or their designee under 45 C.F.R. § 160.103.
14. **Security Incident** any use or disclosure of information not provided for by this “Agreement” of which the BA becomes aware, including breaches of unsecured protected health information as defined by 45 C.F.R. § 164.402.
15. **Subcontractor** means a person or entity that, creates, receives, maintains or transmits protected health information on behalf of the business associate.
(45
C.F.R. 160.103(3)(iii))

B. DISCLOSURE OF PHI TO BUSINESS ASSOCIATE

In connection with the services provided by BA to or on behalf of CE, described in this Agreement, CE may disclose PHI to BA for the purpose of primary and/or secondary collection services to the CE.

BA shall comply with its obligations under this Agreement and with all obligations of a BA under HIPAA, HITECH, and other related laws and any implementing regulations, as they exist at the time this Agreement is executed and as they are amended, for so long as this Agreement is in place. Specifically, the BA will comply with all the obligations and assume the liability for failure to do so as provided for in the Final Rules reflected in the Federal Register, Vol. 78, No. 17, commencing at Page 5677, dated, January 25, 2013 which implements among other things Section 13401 of HITECH.

C. OBLIGATIONS OF COVERED ENTITY

1. CE shall notify BA of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect BA’s use or disclosure of PHI.

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2. CE shall notify BA of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI.
3. CE shall notify BA of any restriction to the use or disclosure of PHI that CE has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect BA's use or disclosure of PHI.
4. CE shall not request BA to use or disclose PHI in any manner that would not be permissible under HIPAA if done by CE. [45 C.F.R. § 164.504(e)(2)(i)]
5. CE will make a determination as to whether a use or disclosure of PHI by BA is a Breach within the meaning of 45 C.F.R. 164.402 necessitating notification under 45 C.F.R. 164.404, 164.406 and 164.408.

D. OBLIGATIONS OF BUSINESS ASSOCIATE

BA agrees to comply with applicable federal and state privacy and security laws, specifically the provisions of the HIPAA Administrative Simplification to the extent applicable to business associates.

1. Use and Disclosure of PHI. Except as otherwise permitted by this Agreement or applicable law, BA shall not use or disclose PHI other than as permitted or required by the Agreement or as Required By Law, except as necessary to provide primary and/or secondary collection services to the CE as described in this Agreement and the Contract to or on behalf of the CE. These activities include a review of selected records and may include the transmitting or receiving of PHI, as may be required from time to time, to other business associates or covered entities on behalf of CE. BA shall not use or disclose PHI that would violate the HIPAA Rules if used or disclosed by CE. Provided, however, BA may use and disclose PHI as necessary for the proper management and administration of BA, or to carry out its legal responsibilities. BA shall in such cases:
 - (a) Provide information to members of its workforce using or disclosing PHI regarding the confidentiality requirements of the HIPAA Final Rules and this Agreement;
 - (b) Obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (i) the PHI will be held confidential and further used and disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (ii) the person or entity will notify BA of any instances of which it is aware in which confidentiality of the PHI has been breached;

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- (c) Notification to Covered Entity. Agree to notify the designated Privacy Officer of CE of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules within 72 hours of discovery of the improper use or disclosure. The determination as to whether a use or disclosure for a purpose not provided for by this Agreement is a Breach within the meaning of 45 C.F.R. 164.402 shall be determined by the CE using the criteria determined in 45 C.F.R. 164.402 (2)(i)-(iv) after BA notifies CE of the use or disclosure of the PHI;
- (d) Breach Notification. BA agrees to follow 45 C.F.R.164.410 after first notifying CE of the use or disclosure not provided by this Agreement and CE makes a determination that a breach has occurred pursuant to paragraph C(5) of this Agreement; and
- (e) For purposes of the Breach Notification provision in 45 C.F.R. 164.410, BA in this Agreement is not the agent of CE.
- 2. Data Aggregation. In the event that BA works for more than one covered entity, BA is not permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the HIPAA Administrative Simplification.
- 3. De-identified Information. BA may use and disclose de-identified health information if (i) the use is disclosed to CE in writing and permitted in writing by CE in its sole discretion and (ii) the de-identification is in compliance with 45 CFR §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 CFR §164.514(a) and (b).
- 4. Safeguards. BA shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by law. BA shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of CE.
- 5. Minimum Necessary. BA shall attempt to ensure that all uses and disclosures of PHI which pertain to the billing or operations of the CE are subject to the principle of "minimum necessary use and disclosure," i.e., that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.

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6. Disclosure to Agents and Subcontractors. If BA discloses PHI received from CE, to agents, including a subcontractor, BA shall require the agent or subcontractor to agree to the same restrictions and conditions as apply to BA under this Agreement. BA shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of the CE. BA shall be liable to CE for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were BA's own acts, failures or omissions, to the extent permitted by law. BA further expressly warrants that its agents or subcontractors will be specifically advised of, and will comply in all respects with, the terms of this Agreement.

7. Individual Rights Regarding Designated Record Sets. If BA maintains a Designated Record Set on behalf of CE, BA agrees as follows:
 - (a) Individual Right to Copy or Inspection. BA agrees that if it maintains a Designated Record Set for CE that is not maintained by CE, it will, in the event any Individual delivers directly to BA a request for access to PHI, in order for CE to respond to such Individual, forward such request to CE in order to meet the requirements of 45 CFR §164.524(a)(1). Under the HIPAA Final Rules, CE is required to take action on such requests as soon as possible, but not later than 30 days following receipt of the request. [45 C.F.R. § 164.524(b)(2).] BA agrees to make reasonable efforts to assist CE in meeting this deadline. The information shall be provided in the form or format requested if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged. If CE maintains the requested records, CE, rather than BA shall permit access according to its policies and procedures implementing the HIPAA Administrative Simplification.

 - (b) Individual Right to Amendment. BA agrees, if it maintains PHI in a Designated Record Set, to make the Designated Record Set available to CE for amendments to PHI pursuant to 45 CFR §164.526.

 - (c) Accounting of Disclosures. BA agrees to maintain documentation of the information required to provide an accounting of disclosures of PHI in accordance with 45 CFR §164.528, and to make this information available to CE upon CE's request, in order to allow CE to respond to an Individual's request for accounting of disclosures. Under the HIPAA Final Rules, CE is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. BA agrees to use its best efforts to assist CE in meeting this deadline. Such accounting must be provided without cost to the individual or CE if it is the first accounting requested by an individual within any 12 month period; however, a reasonable, cost-based fee may be charged for

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subsequent accountings if BA informs the CE in advance of the fee and is afforded an opportunity to withdraw or modify the request. Such accounting is limited to disclosures that were made in the **six (6)** years prior to the request (not including disclosures prior to the compliance date of the HIPAA Administrative Simplification and shall be provided for as long as BA maintains the PHI.

8. Internal Practices, Policies and Procedures. Except as otherwise specified herein, BA shall make available its internal practices, policies and procedures relating to the use and disclosure of PHI, received from or on behalf of CE to the Secretary or his or her agents for the purpose of determining CE's compliance with the HIPAA Rules, or any other health oversight agency, or to CE. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by CE or the Secretary.
9. Notice of Privacy Practices. BA shall abide by the limitations of CE's Notice of which it has knowledge. Any use or disclosure permitted by this Agreement may be amended by changes to CE's Notice; provided, however, that the amended Notice shall not affect permitted uses and disclosures on which BA relied prior to receiving notice of such amended Notice.
10. Withdrawal of Authorization. If the use or disclosure of PHI in this Agreement is based upon an Individual's specific authorization for the use or disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to be defective in any manner that renders it invalid, BA shall, if it has notice of such revocation, expiration, or invalidity, cease the use and disclosure of the Individual's PHI except to the extent it has relied on such use or disclosure, of if an exception under the HIPAA Administrative Simplification expressly applies.
11. Knowledge of HIPAA Rules. BA agrees to review and understand the HIPAA Rules as it applies to BA, and to comply with the applicable requirements of the HIPAA Rule, as well as any applicable amendments.
12. Security Incident. BA agrees to immediately report to the CE any security incident of which BA becomes aware within 72 hours of discovery of the security incident.

E. TERM AND TERMINATION

1. Term. The Term of this Agreement shall be effective as of the Effective Date of the Contract, and shall terminate when all of the PHI provided by CE to BA, or created or received by BA on behalf of CE, is destroyed or returned to CE, or,

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if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

2. Termination for Cause. Upon CE's knowledge of a material breach by BA, CE shall either:

(a) Provide an opportunity for BA to cure the breach or end the violation and terminate this Agreement and the Contract if BA does not cure the breach or end the violation within the time specified by CE;

(b) Immediately terminate this Agreement and the Contract if BA has breached a material term of this Agreement and cure is not possible; or

(c) If neither termination nor cure is feasible, CE shall report the violation to the Secretary.

3. Effect of Termination.

(a) Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, BA shall return or destroy all PHI received from CE, or created or received by BA on behalf of CE. This provision shall apply to PHI that is in the possession of subcontractors or agents of BA. BA shall retain no copies of the PHI and shall confirm, in writing, to the CE that all PHI has been returned to the CE or destroyed and, state the method of destruction.

(b) In the event that BA determines that returning or destroying the PHI is infeasible, BA shall provide to CE written notification of the conditions that make return or destruction infeasible. Upon discovering that return or destruction of PHI is infeasible, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as BA maintains such PHI.

F. MISCELLANEOUS

1. Indemnification.

(a) To the extent permitted by law, BA agrees to indemnify and hold harmless CE from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by CE arising out of, resulting from, or attributable to any acts or omissions or other conduct of BA or its agents in connection with the performance of BA's or its agents'

BUSINESS ASSOCIATE AGREEMENT

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and/or subcontractor's duties under this Agreement. This indemnity shall not be construed to limit CE's rights, if any, to common law indemnity.

(b) CE shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action described in F(1)(a) above, the costs and expenses of which shall be the responsibility of BA. CE shall provide BA with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist BA in establishing a defense to such action.

(c) These indemnities shall survive termination of this Agreement, and CE reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.

2. Mitigation. If BA violates this Agreement or the HIPAA Rules, BA agrees to mitigate any damage caused by such breach, and bear any such related costs.
3. Rights of Proprietary Information. CE retains any and all rights to the proprietary information, confidential information, and PHI it releases to BA.
4. Survival. The respective rights and obligations of BA under Section (Effect of Termination) of this Agreement shall survive the termination of this Agreement.
5. Notices. Any notices pertaining to this Agreement shall be given in writing and shall be deemed duly given when personally delivered to a Party or a Party's authorized representatives as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

If to Covered Entity:

Ralph Terrazas, Fire Chief
Los Angeles Fire Department
200 N. Main St., Room 1800
Los Angeles, California 90012
(213) 978-3838
(213) 978-3814 Fax

And:

June Gibson, Fire Administrator
Los Angeles Fire Department
200 N. Main St., Room 1630

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Los Angeles, California 90012
(213) 978-3731
(213) 978-3414 Fax

If to Business Associate:

Harris & Harris, Ltd.
Attention: Arnold S. Harris
111 W. Jackson Blvd., Suite 400
Chicago, IL 60604
(312) 423-7400
(312) 803-0020 Fax

6. Amendments. This Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Agreement from time to time as necessary, in order to allow CE to comply with the requirements of the HIPAA Rules.
7. Choice of Law. This Agreement and the rights and the obligations of the Parties hereunder shall be governed by and construed under the laws of the State of California, without regard to applicable conflict of laws principles.
8. Assignment of Rights and Delegation of Duties. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary; however, CE retains the right to assign or delegate any of its rights or obligations hereunder to any City department or office in a manner consistent with the HIPAA Rules. Assignments made in violation of this provision are null and void.
9. Nature of Agreement. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the Parties or any of their affiliates, (ii) any fiduciary duty owed by one Party to another party or any of its affiliates, or (iii) a relationship of employer and employee between the Parties.
10. No Waiver. Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.

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11. Equitable Relief. Any disclosure of misappropriation of PHI by BA in violation of this Agreement will cause CE irreparable harm, the amount of which may be difficult to ascertain. BA therefore agrees that CE shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining BA from any such further disclosure or breach, and for such other relief as CE shall deem appropriate. Such rights are in addition to any other remedies available to CE at law or in equity. BA expressly waives the defense that a remedy in damages will be adequate, and further waives any requirement in an action for specific performance or injunction for the posting of a bond by CE.
12. Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.
13. No Third Party Beneficiaries. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not party to this Agreement nor imposing any obligations on either Party hereto to persons not a party to this Agreement.
14. Headings. The descriptive headings of the articles, sections, subsections of this Agreement are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.
15. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits CE to comply with the HIPAA rules and any applicable state confidentiality laws. The provisions of this Agreement shall prevail over the provisions of any other agreement that exists between the Parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Rules.
16. Regulatory References. A citation in this Agreement to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

Dated:

For: THE CITY OF LOS ANGELES

By: _____

Ralph M. Terrazas
Fire Chief
Los Angeles Fire Department

Dated:

For: HARRIS & HARRIS, LTD.

By: _____

Arnold S. Harris, President

Approved as to Form:

MICHAEL N. FEUER, City Attorney

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____

Judith Thompson
Deputy City Attorney

By: _____

Deputy City Clerk

Dated:

Dated:

Agreement Number: