

File No. 100105

Committee Item No. 6

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 3/3/10

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
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#### OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Amendment to Contract</u> |
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Completed by: Gail Johnson

Date 2/26/10

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.



1 Approval of contract for Uncompensated Reimbursement Recovery Services for the  
2 Department of Public Health.

3 **Resolution authorizing the San Francisco Department of Public Health to amend its**  
4 **contract with Health Advocates, LLC to provide uncompensated reimbursement**  
5 **recovery services for the term of April 1, 2006 through December 31, 2013 in the**  
6 **amount of \$16,570,000.**

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8 WHEREAS, The Department of Public Health desires to capture revenue through an  
9 uncompensated reimbursement recovery contract with Health Advocates, LLC: and,

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11 WHEREAS, The revenue collected by this contract would exceed one million dollars  
12 (\$1,000,000) and the contract would exceed ten million dollars (\$10,000,000); and,

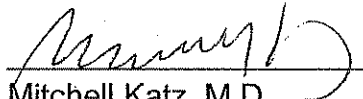
13  
14 WHEREAS, Section 9.118 of the San Francisco Charter requires that such contracts  
15 be approved by the Board of Supervisors; now, therefore, be it

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17 RESOLVED, That the Board of Supervisors hereby authorizes the Director of Public  
18 Health and the Purchaser, on behalf of the City and County of San Francisco, to execute a  
19 contract with Health Advocates, LLC for the period beginning April 1, 2006 through December  
20 31, 2013 to provide uncompensated care reimbursement recovery services; and, be it

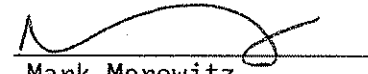
21  
22 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Director  
23 of Public Health and the Office of Contract Administration and Purchaser to make  
24 amendments to this contract, as needed.

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RECOMMENDED;

  
\_\_\_\_\_  
Mitchell Katz, M.D.  
Director of Health

APPROVED:

  
\_\_\_\_\_  
Mark Morewitz  
Health Commission

Contract with Health Advocates, LLC

Collection Fee Schedule

If collections are:	Then fee will be:
\$2,000,000 or less	net 16%
\$2,000,001-\$4,000,000	net 18%
\$4,000,001 plus	net 20%



**Item 6**  
**Files 10-0105**

**Department:**  
**Department of Public Health (DPH)**

## EXECUTIVE SUMMARY

### Legislative Objectives

- Resolution approving an amendment to an existing agreement between the Department of Public Health and Health Advocates, LLC, (HA) a private firm, which expired on December 31, 2009, to provide uncompensated health care reimbursement recovery services, increasing the not-to-exceed collection fee amount payable to HA by \$8,870,000, from \$7,700,000 to \$16,570,000 and extending the term by 48 months (four years), from a term of 45 months expiring on December 31, 2009, to a term of 93 months expiring on December 31, 2013.

### Fiscal Impact

- Health Advocates, LLC (HA) is paid a percent of the reimbursements it collects on behalf of DPH, such that the proposed amendment is estimated to result in additional net revenues to be realized by DPH of \$39,541,647, including (a) \$47,500,000 in additional cost reimbursements, less (b) collection fees of \$7,958,353 paid by the City to HA (see Table 2).

### Key Points

- Subsequent to an RFP process in which HA submitted the only proposal, an agreement with HA was approved by the Board of Supervisors in 2006 (File 06-0337), to provide uncompensated health care reimbursement recovery services beginning April 1, 2006 and expiring December 31, 2009. During this period, HA has collected \$37,399,942 and DPH paid HA collection fees totaling \$6,266,146.
- DPH is now requesting to extend, on a retroactive basis, its existing agreement with HA, which expired on December 31, 2009 by an additional four years, to expire on December 31, 2013. DPH is requesting this extension rather than undergoing a new competitive RFP process because HA (a) was previously selected through a competitive RFP process in 2001, (b) submitted the only response to a DPH RFP in 2006, and (c) has historically surpassed the collection goals established by DPH.
- However, the Budget and Legislative Analyst notes that with without undergoing a competitive RFP process, it cannot be determined if another qualified firm could provide the needed collection services for lower collections fees than are currently being charged by HA.

### Recommendations

- Amend the proposed resolution to (a) provide for retroactive approval as of January 1, 2010, and (b) authorize a six month extension, instead of a four year extension, to the term of the existing agreement, in order to allow DPH sufficient time to undergo a new competitive RFP process.
- Approve the proposed resolution, as amended.

**BACKGROUND**

According to Ms. Diana Guevara, DPH Director of Patient Financial Services, the Department of Public Health has used private contractors since 1998 to supplement DPH’s in-house staff to collect Medi-Cal reimbursements for health care services which DPH’s San Francisco General Hospital (SFGH) has provided to uninsured patients who are eligible for Medi-Cal health care benefits. Ms. Guevara advised that uncompensated care recovery services include (a) assistance on behalf of SFGH patients to complete their Medi-Cal eligibility applications, and (b) related representation for SFGH patients during Medi-Cal appeals.

Subsequent to a competitive Request for Proposal (RFP) process in 2001, DPH entered into a previous agreement with Health Advocates, LLC (HA), a private firm, for HA to provide uncompensated health care recovery services to DPH for the 63-month period between January 1, 2001 and March 31, 2006. That previous agreement was approved by the Board of Supervisors (File 01-0881).

In 2006, DPH rebid the agreement for uncompensated health care recovery services, and subsequently awarded a new agreement (which is the existing agreement) to Health Advocates, LLC (HA), the only firm which responded to the RFP, for an additional 45-month period from April 1, 2006 through December 31, 2009, in an amount not-to-exceed \$7,700,000<sup>1</sup>. That agreement was approved retroactively by the Board of Supervisors on May 9, 2006 (File 06-0337). Under the existing agreement, DPH agreed to pay HA a percentage of the Medi-Cal reimbursements collected by HA. According to Ms. Guevara, Medi-Cal reimburses DPH for care on a per diem basis, such that DPH receives a flat amount for each day of care provided to Medi-Cal eligible patients, and the amount of per diem reimbursement fluctuates annually<sup>2</sup>. To avoid increased collection fees paid to HA resulting simply from increasing Medi-Cal per diem rates, DPH established a cap on the amount of the per diem reimbursements under which HA’s collection fees would apply. The percentage collection fees for the amount of collections under the per diem cap are shown in Table 1 below.

**Table 1: Annual Fee Schedule**

Medi-Cal Reimbursements Collected by Health Advocates, LLC On Behalf of DPH for Health Care Services Provided to SFGH Uninsured Patients	Percentage of Collections Payable to HA
The first \$2,000,000 collected (\$0 to \$2,000,000 in total collections)	16%
The next \$2,000,000 collected (\$2,000,001 to \$4,000,000 of total collections)	18%
Any additional collections (Over \$4,000,001 in total collections)	20%

<sup>1</sup> The 2006 agreement was originally awarded without a not-to-exceed amount. However, on December 29, 2009, this agreement was subsequently amended by DPH to include the current not-to-exceed amount of \$7,700,000.

<sup>2</sup> Because (a) the per diem reimbursement rates from Medi-Cal fluctuate annually, and (b) the caps on per diem reimbursements under which HA collection fees apply are fixed each year of the agreement and therefore provide a more reliable basis for future collection and related collection fee estimates, the term “collections”, for the purposes of this report, refers to those collection amounts which are under the per diem cap and subject to HA collection fees.



According to Ms. Guevara, the average collection fees paid to HA since April of 2006 is 16.75 percent of collections under the per diem cap.

According to Ms. Guevara, although the existing agreement between the City and HA expired on December 31, 2009, HA has continued to provide uncompensated health care reimbursement recovery services to DPH without being under contract. However, DPH has not made any payments to HA for the HA services provided to DPH since the existing agreement with HA expired on December 31, 2009. Ms. Guevara stated that DPH intends to pay HA for the services provided by HA which HA provided to DPH since January 1, 2010<sup>3</sup>, if the proposed amendment to extend the existing agreement with HA is approved by the Board of Supervisors.

### DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve an amendment to the existing agreement with HA, which expired on December 31, 2009, to increase the not-to-exceed collection fee amount payable to HA by \$8,870,000, from \$7,700,000 to \$16,570,000 and extending the agreement term by 48 months (four years), from a term of 45 months expiring on December 31, 2009, to a term of 93 months expiring on December 31, 2013.

Ms. Guevara advised that for the period between April 1, 2006 and December 31, 2009, DPH paid HA collection fees totaling \$6,266,146. Ms. Guevara estimates for the services provided during the proposed four year amendment period of January 1, 2010 through December 31, 2013, HA will realize an additional estimated \$7,958,353 in collection fees for a total of \$14,224,499, as shown in Table 2 below. Ms. Guevara advised that the not-to-exceed amount in the proposed amendment of \$16,570,000 is \$2,345,501, or 16.5 percent, higher than the projected fees to be paid to HA of \$14,224,499, in order to provide for payments to HA which may result if HA collects more than the anticipated revenues for the City.

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<sup>3</sup> Ms. Guevara stated that in January of 2010, HA collected \$898,968 on behalf of the City and earned fees of approximately \$143,835 at the 16 percent collections fee. Ms. Guevara added that collections for February of 2010 were not yet available.

**Table 2: Amended Not-To-Exceed Amount Calculation**

	Collections by HA paid to the City	Fees Paid to HA by the City	Net Revenues to the City	Percentage of Fees to Collections
Prior to January 1, 2010 (actual)	\$37,399,942	\$6,266,146	\$31,133,796	16.75%
From January 1, 2010 and December 31, 2013 (projected)	47,500,000	7,958,353	\$39,541,647	16.75%
<b>Subtotal</b>	<b>\$84,899,942</b>	<b>\$14,224,499</b>	<b>\$70,675,443</b>	<b>16.75%</b>
Allowance for Higher Than Anticipated Collections (29.5% of the projected collections)		2,345,501		
<b>Total</b>		<b>\$16,570,000</b>		

In order for HA to collect the additional fees of \$2,345,501, HA must collect an additional estimated \$13,999,292 for DPH (16.75 percent times \$13,999,292)

The Budget and Legislative Analyst notes that, as compared to the proposed amended agreement's not-to-exceed amount which includes an allowance for up to \$2,345,501 in higher than anticipated collection fees, typical not-to-exceed contract amounts awarded by the City do not include allowances for higher than anticipated fees. However, the agreement with HA would only result in higher than anticipated collection fees paid to HA if HA actually collects higher than anticipated health care reimbursement revenue to DPH. Therefore, including this allowance provides an incentive for HA to collect as much as health care reimbursement revenues for DPH as possible.

**FISCAL IMPACTS**

As shown in Table 2 above, the proposed amendment is projected to result in additional revenues to DPH of \$47,500,000 and fees paid to HA totaling \$7,958,353 (at the historical collection fee average rate of 16.75 percent), over the proposed four year extension of the agreement, for a net increase in DPH revenues of \$39,541,647 (\$47,500,000 less \$7,958,353).

**POLICY CONSIDERATIONS**

**DPH decided to request the proposed amendment rather than undergo a new competitive RFP process.**

According to Ms. Guevara, DPH has determined that extending the existing agreement with HA, rather than undergoing a new competitive RFP process, is in the public interest because (a) HA was selected on a competitive basis out of three bidders in 2001, (b) HA was the only firm who responded to the RFP issued in 2006 which resulted in the existing agreement, and (c) HA has surpassed the annual collection targets established by DPH at the time of award by an average of 53 percent, as shown in Table 3 below.

**Table 3: Collection Goals Established by DPH for Health Advocates, LLC, as Compared to Actual Collections**

Year	Collection Goal	Actual Collections	Percentage of Collections Above Goal
2006	\$4,582,500	\$6,493,475	42%
2007	6,370,000	10,828,945	70%
2008	6,630,000	11,345,290	71%
2009	6,916,000	8,732,232	26%
<b>Total</b>	<b>\$24,498,500</b>	<b>\$37,399,942</b>	<b>53%</b>

Ms. Guevara added, as stated in the attached memorandum, that HA has provided “more than satisfactory” service as well as “good follow through in pursuing difficult cases of uninsured homeless patients discharged from the hospital”.

DPH Chief Financial Officer Mr. Gregg Sass also stated:

“When (DPH) bid this contract in 2006, 4-5 firms attended the bidders conference and (DPH) expected 1-2 of them to submit proposals. This experience is a clear indication that the competing firms did not believe they could compete with Health Advocates on a fee basis or in terms of the level of commitment to on-site staff and legal support to follow applications through the fair hearing process.”

However, the Budget and Legislative Analyst notes that without undergoing a competitive RFP process, it cannot be determined if another qualified firm could provide the needed collection services for lower collections fees than are currently being charged by HA. Therefore, the Budget and Legislative Analyst recommends amending the proposed resolution to authorize a six month extension, instead of a four year extension, to the term of the existing agreement, in order to allow DPH sufficient time to undergo a new competitive RFP process.

In response to the Budget and Legislative Analyst’s statement regarding other qualified firms which may offer lower collection fees than those which are currently charged to DPH, Mr. Sass stated:

“In addition to submitting Medi-Cal applications, which produced \$49M in recoveries, Health Advocates provided legal representation to patients during Medi-Cal appeals and recovered an additional \$13.7M from that process (since 2002). The size and scope of their legal practice, which includes many other hospitals, (including LA County, UCSF, and Stanford Hospital to name just a few) provides an economy of scale to support a legal team and make this viable. A competing firm can offer a lower fee, and reduce its investment in the costly appeals process, and potentially realize more profit, but the net recovery to SFGH would be less.”

Regarding the statement by Mr. Sass that awarding an agreement to a competing firm would result in a net recovery at SFGH that “would be less” than that provided by HA, the Budget and Legislative Analyst notes that it is uncertain as to which firm would generate the highest net revenues to DPH.

**The proposed amendment would be retroactive to January 1, 2010.**

According to Ms. Guevara, the proposed amendment was not submitted to the Board of Supervisors prior to its effective date of January 1, 2010 because negotiations with HA over the terms of the proposed amendment took longer than anticipated. Therefore, the Budget and Legislative Analyst recommends that the proposed resolution be amended to provide for retroactive approval back to January 1, 2010.

**RECOMMENDATIONS**

1. Amend the proposed resolution to (a) provide for retroactive approval as of January 1, 2010, and (b) authorize a six month extension, instead of a four year extension, to the term of the existing agreement, in order to allow DPH sufficient time to undergo a new competitive RFP process.
2. Approve the proposed resolution, as amended.



Harvey M. Rose

cc: Supervisor Avalos  
Supervisor Mirkarimi  
Supervisor Elsbernd  
President Chiu  
Supervisor Alioto-Pier  
Supervisor Campos  
Supervisor Chu  
Supervisor Daly  
Supervisor Dufty  
Supervisor Mar  
Supervisor Maxwell  
Clerk of the Board  
Cheryl Adams  
Controller  
Greg Wagner



**Gavin Newsom  
Mayor**

**San Francisco General Hospital Campus  
Bldg 10 B200**

**CHN Patient Financial Services**

Tele: 415 206-3286

Fax: 415 206-4192

Date: February 17, 2010

To: Nathan Cruz, Budget and Legislative Analyst's Office  
San Francisco Board of Supervisors

From: Diana Guevara, Director, Patient Finance Services

Subject: Health Advocates, LLC – Extending the contract

Health Advocates LLP was initially contracted for the same Program from Dec. 31, 2002 through Dec. 31, 2005.

When the initial contract expired in 2005, DPH issued a new RFP for the Uncompensated Care Reimbursement Recovery Program. Health Advocates LLP was the only qualified bidder, and was awarded the Contract effective April 1, 2006.

This vendor has continued to meet and exceed DPH annual targeted goal of reimbursement recovery set in the contract agreement. As the contract manager, we have found Health Advocates client service to be more than satisfactory particularly in the population that we serve. Vendor has adhered to the scope of service and most importantly, provided good follow-through in pursuing difficult cases of uninsured homeless patients discharged from the hospital to apply for State and federal programs.

Because Health Advocates was the only bidder in 2006, and has performed satisfactorily, DPH has decided to amend the contract with Health Advocates instead of issuing a new RFP.

The amendment was not available for Board of Supervisors review before the existing contract expired on December 31, 2009, because negotiations with Health Advocates took longer than expected.





Gavin Newsom  
Mayor

Mitchell H. Katz, MD  
Director of Health

*File # 100105*

January 26, 2010

Ms. Angela Calvillo  
Clerk of the Board  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Dear Ms. Calvillo:

Attached please find an original and four copies of a proposed resolution for Board of Supervisors approval for a contract between the Department of Public Health and Health Advocates, LLC, to provide uncompensated care reimbursement recovery services.

This contract is submitted to the Board of Supervisors for review and approval under San Francisco Charter Section 9.118, as projections estimate the revenue collection under this contract will exceed \$1,000,000 and also total contract amount exceeds \$10,000,000.

The following person may be contacted regarding this matter:

Diana Guevara, Director  
CHN Patient Financial Services  
Department of Public Health  
Tele: 415 206-3286  
Fax: 415 206-4192

We would appreciate calendaring of this resolution at the earliest opportunity, to enable timely contract approval and payment.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch Katz".

Mitch Katz, M.D.  
Director of Health

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2010 JAN 27 PM 12: 07  
BY \_\_\_\_\_

**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division**

**Second Amendment**

THIS AMENDMENT (this "Amendment") is made as of January 8, 2010, in San Francisco, California, by and between Health Advocates, LLC ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to increase contract amount and extend the contract term;

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number 2012-08/09 on July 6, 2009;

NOW, THEREFORE, Contractor and the City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

a. **Agreement.** The term "Agreement" shall mean the Agreement dated April 1, 2006 from RFP 22-2005 Contract Number BPHG06500027 between Contractor and City, as amended by this First Amendment.

First Amendment: dated December 29, 2009 Contract Number BPHG06500027, and this Second Amendment.

b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**2a. Section 1 of the Agreement currently reads as follows:**

***1. CERTIFICATION OF FUNDS; BUDGET AND FISCAL PROVISIONS; TERMINATION IN THE EVENT OF NON-APPROPRIATION***

This Agreement is subject to the budget and fiscal provisions of the CITY'S Charter. Charges will accrue only after prior written authorization certified by the CONTROLLER, of the City and County of San Francisco, hereinafter referred to as "CONTROLLER", and the amount of CITY'S obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to CITY at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.



CITY has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. CITY budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. CONTRACTOR'S assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

Such section is hereby amended in its entirety to read as follows:

**1. CERTIFICATION OF FUNDS; BUDGET AND FISCAL PROVISIONS; TERMINATION IN THE EVENT OF NON-APPROPRIATION**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

2a. Section 2 of the Agreement currently reads as follows:

**2. TERM OF THE AGREEMENT**

Subject to Section 1, the term of this Agreement shall be from April 1, 2006 to December 31, 2009.

Such section is hereby amended in its entirety to read as follows:

**2. TERM OF THE AGREEMENT**

Subject to Section 1, the term of this Agreement shall be from April 1, 2006 to December 31, 2013.

2b. Section 5 of the Agreement currently reads as follows:

**5. COMPENSATION –**

Compensation shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 4 of this Agreement, that the Director of the Department of Public Health], in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed Seven Million Seven Hundred Thousand Dollars (\$7,700,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by Department of Public Health as being in accordance with this Agreement. City may withhold payment to

Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

Such section is hereby amended in its entirety to read as follows:

**5. COMPENSATION**

Compensation shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 4 of this Agreement, that the Director of the Department of Public Health, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed Sixteen Million Five Hundred Seventy Thousand Dollars (\$16,570,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by Department of Public Health as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

2c. Appendix A-1 dated September 30, 2009 is hereby attached.

3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. **Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

**CITY**

**CONTRACTOR**

Recommended by:

**Health Advocates, LLC**

\_\_\_\_\_  
**Mitchell H. Katz, M.D.**  
Director of Health

\_\_\_\_\_  
**Al Leibovic**  
President  
13412 Ventura Blvd, Suite 300J  
Sherman Oaks, CA 91423

City vendor number: 70234

Approved as to Form:

Dennis J. Herrera  
City Attorney

By:

\_\_\_\_\_  
**Aleeta Van Runkle**  
Deputy City Attorney

Approved:

\_\_\_\_\_  
**Naomi Kelly**  
Director of the Office of Contract Administration,  
and Purchaser

Appendix A-1

STATEMENT OF WORK

CONTRACTOR: Health Advocates, LLC (HEALTH ADVOCATES)  
13412 Ventura Blvd., Suite 300  
Sherman Oaks, CA 91423

CONTRACT TERM: January 1, 2010 through December 31, 2013

COMPENSATION: A. Pertains only to San Francisco General Hospital (SFGH) Medical Non-Psych In-Patient:

HEALTH ADVOCATES will be paid in accordance with the contingency rates outlined below which are dependent upon the amount of recoveries on accounts referred by the San Francisco Department of Public Health (DPH) for uncompensated care reimbursement recovery.

Contingency fees are scheduled as follows:

<u>Cumulative Net Collection</u>			
<u>Subject To Contingency Fee</u> (a)			
<u>Each Contract Year</u>			
<u>January through December</u>			<u>Contingency Fee</u>
\$0	to	\$2,000,000	<u>NET</u> 16%
\$2,000,001	to	\$4,000,000	<u>NET</u> 18%
\$4,000,001	and	above	<u>NET</u> 20%

(a) Total Net Cash Collections reduced for effect of Medi-Cal per diem caps.

HEALTH ADVOCATES further agrees to base its contingency fees on the per diem rates stated below:

1. For all referrals with admission dates of 1/1/2010 through 12/31/2010 the per diem rate is \$1,500 per day.
2. For all referrals with admission dates of 1/1/2011 through 12/31/2011 the per diem rate is \$1,545 per day.
3. For all referrals with admission dates of 1/1/2012 through 12/31/2012 the per diem rate is \$1,591 per day.
4. For all referrals with admission dates of 1/1/2013 through 12/31/2013 the per diem rate is \$1,639 per day.
5. EXEMPT from the above contingency fees, 1, 2, 3 and 4, for SFGH Medical Non-Psych Inpatient are the "Short Stays" of three (3) days or less. Short Stays' contingency rate fee will be paid at a Flat 20% of per diem rate, subject to the annual per diem rates indicated above.

NOTE: The term "NET" does not include any unique program determinations of allowable amounts and the deduction of contractual allowances. HEALTH ADVOCATES may not take credit or a fee for total charges allowed, only the actual NET payment not to exceed the per diem rates indicated above.

B. Pertains only to SFGH Psych In-Patient for the Community Mental Health Program:

- HEALTH ADVOCATES' Contingency Fee for Psych In-Patient accounts will be a flat rate of **20% NET** of the Medi-Cal approved rates.
- Fees will be calculated against the "Total Approved Adjusted Amount" posted on the Medi-Cal Psych In-Patient remittances.
- If for any reason any approved Psych In-Patient accounts are not paid by Medi-Cal within 180 days from the date that notice of approved Medi-Cal was sent to Community Mental Health, HEALTH ADVOCATES will be entitled to a fee applied on the first paid Medi-Cal Psych In-Patient account following the month of approval. This fee shall be patient specific.
- HEALTH ADVOCATES will provide necessary LOA's and hard copy MHI980 claim forms and Good Cause Certification Letters to Community Mental Health for retro Medi-Cal eligibility approved 12 months from date of service or Medi-Cal application, whichever is longer. For retro-eligible with Medi-Cal Share of Cost obligation (SOC), an MC-177 Share of Cost Clearance form is also needed. Community Mental Health shall submit a monthly status report of Over-1-Year claims submitted for retro-eligible clients referred to HEALTH ADVOCATES.

C. Third Party Payer (includes Cobra and Workers Comp):

16% of payer collection with a fee cap of \$100,000 on non or pre-legal cases (includes liens filed). Or

20% of payer collection with a fee cap of \$500,000 on referred cases paid as an outcome of a litigation including arbitration, Administrative Law judge, or judicial proceedings.

**I. PERFORMANCE REQUIREMENTS**

**1. HEALTH ADVOCATES will provide the following:**

- A.
- i. A minimum of **three (3)** trained, bilingual, on-site eligibility workers. **Two (2)** mandatory Spanish speaking and **one (1)** preferred Chinese speaking on-site eligibility workers.
  - ii. **One (1)** eligibility worker with a minimum of **two (2)** years public or teaching hospital or Department of Social Services experience to serve as the **on-site lead employee**, and **two (2)** with a minimum of **one (1)** year public or teaching hospital or Department of Social Services experience.
  - iii. Additionally, personnel identified in (i) and (ii) above must have **three (3) or more years** of actual experience qualifying patients for Medi-Cal in a public and/or teaching hospital setting.

B. The eligibility workers will:

- i. Screen 100% of all unsponsored patient admissions after SFGH Eligibility Staff have interviewed and determined if Medi-Cal or the potential for other reimbursement sources exist.
- ii. Secure authorization to represent the patient and complete Medi-Cal applications or applications for other programs such as Victims of Crime at the bedside or, if appropriate, at the patient's residence or wherever the patient may be located after discharge.

- iii. Represent the patient in Fair Hearings or appeals proceedings, if applications are denied.
  - iv. Appeal Medi-Cal Field Office or other Pre-Treatment Authorization Program denials for care.
  - v. Investigate possible third party liability or Workers' Compensation reimbursement. File liens to protect the City and County's interest whenever appropriate or possible.
  - vi. Referred accounts may be recalled in writing only within five (5) business days of the referral date.
- C. A supervisor with a minimum of **three (3) years** eligibility worker experience and **three (3) or more years** experience identifying and securing payment from programs such as Victims of Crime and/or Workers' Compensation and/or California Children's Services must be on-site at least **four (4) hours** per day to oversee the operations of the contract program, supervise on-site eligibility staff, coordinate with on-site lead worker, supervise field workers and be available to meet with DPH management and staff on a mutually agreed upon schedule.
- D. A minimum of **one (1)** full-time "Field Worker" dedicated to case management of homeless or transient patients for whom Medi-Cal applications are pending. The Field Worker will also assist patients with transportation to and from Appeals and Hearings, assist patients in obtaining necessary documents, and provide direct support of any means to help with the Medi-Cal application process.
- E. HEALTH ADVOCATES will be responsible for billing and securing Medi-Cal payment on newly approved Medi-Cal patients, assisting the Utilization Review Department to pursue retroactive treatment authorization for service, and billing Medi-Cal for payment of such services.
- F. HEALTH ADVOCATES must conduct criminal background checks on all personnel who will be assigned to provide services, and provide the results of such background checks to the Contractor Administrator.
- G. HEALTH ADVOCATES shall prepare weekly, monthly, quarterly and annual status, accounts receivable and other reports, as required by SFGH.
- H. HEALTH ADVOCATES shall provide its on-site staff with all required office equipment, including telephones, computers, printers, fax machines, copy machines, desks, chairs and courier services. SFGH provides only limited office space and access to records and patients relating only to the cases referred.
- I. HEALTH ADVOCATES must provide the following services at no additional charge:
- i. In-service training to Hospital staff on government program changes.
  - ii. Telephone and personal consultation with attorneys and healthcare experts for answers to any questions, which have an impact on SFGH's accounts receivables.
  - iii. Information systems technology to enhance or insure monitoring of Host's system for referred Medi-Cal cases, including support of programming.
  - iv. Assistance with implementing major program changes related to the State/Federal Medi-Cal Medicaid program, including State and County programs.
- J. HEALTH ADVOCATES must have on staff or through formal agreements with individuals with legal expertise of a minimum of **three (3) years**, who have appeared on behalf of clients/patients before an Administrative Law Judge for the purpose of appealing denied Medi-Cal/Disability claims. HEALTH

ADVOCATES must show that it has attorneys at law, admitted to the California Bar on staff or available to file legal action, if necessary, to secure benefits and reimbursement for their clients.

- K. In consultation with the City Attorney's Office, licensed attorneys employed by HEALTH ADVOCATES will prepare and file legal actions, as necessary, and when justified, to obtain reimbursement for medical treatment.
- L. Provide a qualified Project Manager, who will oversee the operations of the contract program, supervise assigned and on-site staff, and be available to meet with DPH management and staff on a mutually agreed upon schedule.
- M. Performance under this contract shall be overseen by a HEALTH ADVOCATES Partner or Manager and SFGH Assistant Administrator for Patient Finance.
- N. DPH retains the right to request replacement of any of HEALTH ADVOCATES' employees assigned to DPH's contract.
- O. HEALTH ADVOCATES' on-site staff is expected to maintain regular office hours, providing coverage, as necessary, for lunch and rest breaks, dress and behave in a professional manner, respect the rights of patients, the public and DPH employees, paying close attention to patient confidentiality at all times. HEALTH ADVOCATES is responsible for managing its on-site staff to ensure professional work ethics are adhered to at all times.
- P. HEALTH ADVOCATES' on-site employees must provide proof of negative TB (tuberculosis) tests for employees or have employees obtain and pass TB tests from SFGH Employee Health prior to first day of work, as well as any other immunizations required by the Department of Public Health. If testing is performed by SFGH, HEALTH ADVOCATES shall be billed for tests, x-rays, etc. Also its on-site employees may be required to have periodic tuberculosis testing or other Hospital, Health and Safety required immunizations, as well as attend mandatory training designed to protect staff from infection exposure and injury.
- Q. HEALTH ADVOCATES will be expected to maximize revenues for DPH. Collection targets are established as follows:

<u>CONTRACT YEARS</u>	<u>COLLECTION TARGETS</u>
January 2010 through December 2010	\$7,500,000
January 2011 through December 2011	\$7,725,000
January 2012 through December 2012	\$7,955,000
January 2013 through December 2013	\$8,195,000

It is understood that conditions beyond HEALTH ADVOCATES' control may impact this target, e.g., Welfare and Immigration reform, mandated Managed Care, declining inpatient census, timely referrals and/or changing State and Federal regulations, and that this target may be adjusted to reflect these occurrences.

HEALTH ADVOCATES must meet performance targets, as mutually established. Expected performance will be set to no less than DPH's prior year's collection performance.

- R. HEALTH ADVOCATES will not be required to bill and secure Medi-Cal payments for referred mental health inpatients. For retroactive Medi-Cal approved past twelve (12) months HEALTH ADVOCATES will provide necessary Eligibility Letters of Authorization (LOA Form MC-190) to Community Mental Health. Community Mental Health Services is responsible for billing and securing payments on

retroactive Medi-Cal eligible mental health inpatients to the State. Contract Administrator for this contract or designee will act as a liaison only on behalf of HEALTH ADVOCATES for referrals to DPH's Community Mental Health Services.

**2. HEALTH ADVOCATES and DPH will continue to provide/perform the following:**

- A. Quarterly reconciliation of all cases referred by SFGH Eligibility Manager, Director of Patient Finance or Director of Utilization Management or their designees utilizing Acknowledgements, Referral, Status and Close reports.
- B. SFGH will identify accounts referred to HEALTH ADVOCATES by adding an identifier to the account in the SFGH Financial Management System (INVISION). For reconciliation purposes, a report of open/active referred accounts will be provided to HEALTH ADVOCATES on a monthly basis. SFGH agrees to remove the aforementioned identifier within fifteen (15) business days of being notified by HEALTH ADVOCATES that the account has been closed by HEALTH ADVOCATES. Failure by SFGH to remove this identifier will suspend the quarterly reconciliation of referred accounts.
- C. Once a case referred to HEALTH ADVOCATES is certified for Medi-Cal or other program eligibility, HEALTH ADVOCATES will assist SFGH to obtain all necessary Treatment Authorizations.
- D. HEALTH ADVOCATES will receive copies of all Medi-Cal remittance advices (R/A), program payment tapes or SFGH payment transaction reports to determine when their accounts have been paid. HEALTH ADVOCATES shall be entitled to its fee for all payments received more than seven (7) business days after the initial referral of an account.
- E. HEALTH ADVOCATES will submit an invoice for services bi-monthly within fifteen (15) days from the close of each bi-monthly period. The invoice must include the following:
  - 1) HEALTH ADVOCATES' name and mailing address
  - 2) Current Contract Number
  - 3) Date of Invoice
  - 4) Invoice Number
  - 5) Period of Billing
  - 6) Amount of ACTUAL Net Payments Received (prior to deductions of fees)
  - 7) Fee due in accordance with the terms and conditions of this Agreement
  - 8) A detail of accounts for which HEALTH ADVOCATES has perfected eligibility or obtained approval for payment. The detail must be separated by Payor Type and must include the following:
    - a) Patient Name
    - b) Patient Account Number
    - c) HEALTH ADVOCATES' account number
    - d) Dates of Service
    - e) Remittance or payment date
    - f) Payment amount
    - g) Balance due after payment, if any
    - h) Fees due to HEALTH ADVOCATES



- F. DPH agrees that upon termination or cancellation of this Agreement, HEALTH ADVOCATES has the right of completion to final disposition on each case previously referred by DPH, including but not limited to, collection of liens, completion of eligibility, TAR and billing, appeals, and litigation, etc., and shall be entitled to its fees on all monies paid to DPH.
- G. DPH reserves the right to audit each invoice for accuracy and verification of the cases that were referred to HEALTH ADVOCATES. Any disputed amounts will be adjusted from the invoice and negotiated between the parties, and the undisputed portion shall be paid immediately. Any adjusted amounts will be included on a separate invoice when HEALTH ADVOCATES is successful in substantiating the disputed amounts. No dispute shall be raised if an account has been referred to HEALTH ADVOCATES, has not been recalled in writing within five (5) business days of the referral and payment was received more than seven (7) business days after the initial referral of an account.
- H. HEALTH ADVOCATES will not be paid in advance of collections of funds. Should HEALTH ADVOCATES receive any payments directly, HEALTH ADVOCATES agrees to immediately submit full payment to DPH.
- I. HEALTH ADVOCATES will invoice their contingency fees based only on NET payments received by DPH and will not be reimbursed for any expenses incurred in connection with their performance under this contract.

**3. HEALTH ADVOCATES agrees to perform under the terms of Section II, Scope of Work, and stipulates to the following, relative to the practice of law under the terms of the contract:**

- A. HEALTH ADVOCATES will not pursue any claim against any City Department or file any legal actions on behalf of represented clients in pursuit of reimbursement for services rendered without the express approval of the Department and the City Attorney's Office, with the exception of Social Security Disability (SSD), Social Security Supplemental Security Income (SSI), Conservatorships and Letters of Administrators, etc., required to qualify patients for public or private benefits.
- B. HEALTH ADVOCATES will pursue Fair Hearings and Appeals for eligibility, treatment authorization, and/or insurance denials on any and all appropriate cases within the statute of limitations as provided by regulation or law. No unique Departmental approval is required for these actions.
- C. HEALTH ADVOCATES will coordinate with other CITY departments or agencies on referred patient cases to avoid overlap of patient cases already assigned to other agencies or CITY departments.

**II. SCOPE OF WORK**

- A. SFGH, Director of Patient Finance or Eligibility Manager will review all inpatient admissions where SFGH Eligibility Workers have been unsuccessful in identifying a source of payment. After determining that staff has exhausted all reasonable efforts the case may be referred to HEALTH ADVOCATES, which will make reasonable efforts, including but not limited, to making home calls, assisting the applicant to secure required documentation, providing interpreter services and transportation, etc., so that the applicant can complete the application, Fair Hearing or Appeal process. Referrals shall be at the discretion of managers authorized to make such referrals.
- B. The Director of Utilization Review may refer select Treatment Authorization (TAR) denials, together with copies of the medical records, to HEALTH ADVOCATES for administrative appeals or legal action where justified and substantiated by medical records, regulation or law. HEALTH ADVOCATES shall make the final determination if there is legal merit for an administrative appeal or further legal

action. HEALTH ADVOCATES shall be responsible for initiating and for follow through of Treatment Authorization approvals with SFGH's Utilization Review Department.

- C. When HEALTH ADVOCATES establishes third-party eligibility (Medi-Cal, Workers' Compensation, California Children's Services, Victim of Crime, etc.) HEALTH ADVOCATES will provide to SFGH supporting evidence of Notice of Eligibility or Letter of Authorization (whichever applies).
- D. For referrals for which Medi-Cal was denied or those for which Medi-Cal applications were not initiated, HEALTH ADVOCATES will provide written explanation of why an application was not initiated or why a Fair Hearing was not pursued, and if a Fair Hearing was pursued, why it was unsuccessful. This information will be provided on the monthly Close report provided by HEALTH ADVOCATES.
- E. HEALTH ADVOCATES shall be responsible for billing and follow-up of payment on approved Medi-Cal cases. HEALTH ADVOCATES will not be required to bill and secure Medi-Cal payments for referred mental health inpatients. Community Mental Health Services is responsible for billing and securing payments on retroactive Medi-Cal eligible mental health inpatients to the State. HEALTH ADVOCATES understands that the Contract Administrator or designee for the services will act as a liaison only on behalf of HEALTH ADVOCATES for referrals to DPH's Community Mental Health Services.
- F. HEALTH ADVOCATES will perform a timely review of referred cases and potential Fair Hearing cases. Cases determined to be Medi-Cal ineligible due to no linkage with no other potential source of payment shall be returned to DPH as soon as the screening, application or Fair Hearing process is completed, together with a Close report indicating why the account was being closed. If no Medi-Cal application, Fair Hearing or lien is initiated within three (3) months following the month of treatment, the case shall be closed and returned immediately. SFGH reserves the right to engage other consultants to perform a second review of returned accounts after they appear on the HEALTH ADVOCATES' Close report.
- G. HEALTH ADVOCATES is to provide on-site dial-up access of HEALTH ADVOCATES' systems for the status of cases referred, during its regular business hours.
- H. HEALTH ADVOCATES' designated management will meet with DPH management bi-monthly to provide oral and written assessments of HEALTH ADVOCATES' performance, including account audits and statistical analysis. These meetings also will provide the opportunity to address any concerns and/or project recommendations.
- I. HEALTH ADVOCATES will provide DPH with a means of measuring our efforts through our management reports. In particular, HEALTH ADVOCATES' Status Report and case notes shall serve as an audit trail of all activity applied to each account and the Remittance Report shall serve as an audit for all payments received.
- J. HEALTH ADVOCATES will provide DPH with a monthly Status Report reflecting those accounts which are still active and a monthly Close report reflecting accounts closed during the reporting month, which will include in alpha sequence, patient name, account number, referral date, account amount, latest activity and/or the reason for closing the account. HEALTH ADVOCATES also will provide weekly Acknowledgement Reports, verifying each referral, monthly Remittance Reports summarizing all payments and statistical analysis reports.
- K. HEALTH ADVOCATES will provide three (3) hard copies and/or e-mail files of the following weekly or monthly reports, within fifteen (15) days from the close of the calendar month, that include the following data:

- i. Client Status Report - detailed listing and status/aging of outstanding accounts
- ii. Close Report - cases cancelled/closed and reason for closing
- iii. Acknowledgement Report – a weekly detailed listing of accounts referred to HEALTH ADVOCATES by DPH in the prior calendar month
- iv. Invoices and Remittance Reports (See Appendix A, Section I.2.E.)
- v. Other reports as required by DPH

L. HEALTH ADVOCATES agrees to provide at no additional cost:

- i. Inservice trainings and/or procedural updates to hospital staff on government program changes on new/revised public assistance programs.
- ii. Assistance with interpretations of new/revised regulations and laws affecting eligibility and billing. Telephone and personal consultation with attorneys and healthcare experts and other professional/legal assistance deemed appropriate by both parties to be in our mutual interest and benefit for answers to any questions, which have an impact on DPH's accounts receivables.
- iii. Assistance with implementing major program changes such as Managed Care for Medi-Cal.
- iv. Information systems specialists, programmers and equipment necessary to keep an on line database tracking system current.

### III. GOALS, OBJECTIVES AND REVIEWS

A. The objective of this contract is to maximize revenues from all sources covered under this Agreement. Other objectives include:

- i. Provide assistance to DPH in gathering meaningful data reflecting patient financial mix; estimating future revenues from expanded eligibility programs; developing statistical data needed for government program reporting requirements and analyzing program impacts on staffing.
- ii. Increase staff productivity and knowledge through training and support.

B. A specific goal is to increase approved Medi-Cal days and meet and/or exceed revenue targets as indicated in Appendix A, Section I. I.Q.

C. Reviews will include:

- i. Monthly revenue analysis
- ii. Monthly analysis of referral trends
- iii. Monthly review of DSS performance on pending cases
- v. Quarterly review of overall performance
- vi. Quarterly review of DPH 's DSS staff productivity
- vii. Meetings, as necessary, with local and State program representatives
- viii. Ongoing review and reporting to DPH and DPH Administration on HEALTH ADVOCATES' performance

## Appendix B

### Calculation of Charges

#### 1. Method of Payment

A. Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to the Contract Administrator and the CONTROLLER and must include the Contract Progress Payment Authorization number or Contract Purchase Number. All amounts paid by CITY to CONTRACTOR shall be subject to audit by CITY. The CITY shall make monthly payments as described below. Such payments shall not exceed those amounts stated in and shall be in accordance with the provisions of Section 5, COMPENSATION, of this Agreement.

Compensation for all SERVICES provided by CONTRACTOR shall be paid in the following manner. For the purposes of this Section, "General Fund" shall mean all those funds which are not Work Order or Grant funds. "General Fund Appendices" shall mean all those appendices which include General Fund monies.

(1) Fee For Service (Monthly Reimbursement by Certified Units at Budgeted Unit Rates)

CONTRACTOR shall submit monthly invoices in the format attached, Appendix F, and in a form acceptable to the Contract Administrator, by the fifteenth (15<sup>th</sup>) calendar day of each month, based upon the number of units of service that were delivered in the preceding month. All deliverables associated with the SERVICES defined in Appendix A times the unit rate as shown in the appendices cited in this paragraph shall be reported on the invoice(s) each month. All charges incurred under this Agreement shall be due and payable only after SERVICES have been rendered and in no case in advance of such SERVICES.

(2) Cost Reimbursement (Monthly Reimbursement for Actual Expenditures within Budget):

CONTRACTOR shall submit monthly invoices in the format attached, Appendix F, and in a form acceptable to the Contract Administrator, by the fifteenth (15<sup>th</sup>) calendar day of each month for reimbursement of the actual costs for SERVICES of the preceding month. All costs associated with the SERVICES shall be reported on the invoice each month. All costs incurred under this Agreement shall be due and payable only after SERVICES have been rendered and in no case in advance of such SERVICES.

#### B. Final Closing Invoice

(1) Fee For Service Reimbursement:

A final closing invoice, clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of each fiscal year of the Agreement, and shall include only those SERVICES rendered during the referenced period of performance. If SERVICES are not invoiced during this period, all unexpended funding set aside for this Agreement will revert to CITY. CITY'S final reimbursement to the CONTRACTOR at the close of the Agreement period shall be adjusted to conform to actual units certified multiplied by the unit rates identified in Appendix B attached hereto, and shall not exceed the total amount authorized and certified for this Agreement.

(2) Cost Reimbursement:

A final closing invoice, clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of each fiscal year of the Agreement, and shall include only those costs incurred during the referenced period of performance. If costs are not invoiced during this period, all unexpended funding set aside for this Agreement will revert to CITY.

C. Payment shall be made by the CITY to CONTRACTOR at the address specified in the section entitled "Notices to Parties."

#### 2. Program Budgets and Final Invoice

A. Program Budgets are listed below and are attached hereto.

Budget Summary

Appendix B-1 Statement of Work

**B. COMPENSATION**

Compensation shall be made in monthly payments on or before the 30<sup>th</sup> day after the DIRECTOR, in his or her sole discretion, has approved the invoice submitted by CONTRACTOR. The breakdown of costs and sources of revenue associated with this Agreement appears in Appendix B, Cost Reporting/Data Collection (CR/DC) and Program Budget, attached hereto and incorporated by reference as though fully set forth herein. The maximum dollar obligation of the CITY under the terms of this Agreement shall not exceed Sixteen Million Five Hundred Seventy Thousand Dollars (\$16,570,000) for the period of April 1, 2006 through June 30, 2013.

CONTRACTOR understands that, of this maximum dollar obligation, \$0 is included as a contingency amount and is neither to be used in Appendix B, Budget, or available to CONTRACTOR without a modification to this Agreement executed in the same manner as this Agreement or a revision to Appendix B, Budget, which has been approved by the Director of Health. CONTRACTOR further understands that no payment of any portion of this contingency amount will be made unless and until such modification or budget revision has been fully approved and executed in accordance with applicable CITY and Department of Public Health laws, regulations and policies/procedures and certification as to the availability of funds by the Controller. CONTRACTOR agrees to fully comply with these laws, regulations, and policies/procedures.

(1) For each fiscal year of the term of this Agreement, CONTRACTOR shall submit for approval of the CITY's Department of Public Health a revised Appendix A, Description of Services, and a revised Appendix B, Program Budget and Cost Reporting Data Collection form, based on the CITY's allocation of funding for SERVICES for the appropriate fiscal year. CONTRACTOR shall create these Appendices in compliance with the instructions of the Department of Public Health. These Appendices shall apply only to the fiscal year for which they were created. These Appendices shall become part of this Agreement only upon approval by the CITY.

(2) CONTRACTOR understands that, of the maximum dollar obligation stated above, the total amount to be used in Appendix B, Budget and available to CONTRACTOR for the entire term of the contract is as follows, notwithstanding that for each fiscal year, the amount to be used in Appendix B, Budget and available to CONTRACTOR for that fiscal year shall conform with the Appendix A, Description of Services, and a Appendix B, Program Budget and Cost Reporting Data Collection form, as approved by the CITY's Department of Public Health based on the CITY's allocation of funding for SERVICES for that fiscal year.

April 1, 2006 through June 30, 2007	\$2,477,228
July 1, 2007 through June 30, 2008	\$1,500,000
July 1, 2009 through June 30, 2010	\$3,722,772
July 1, 2010 through June 30, 2011	\$2,250,000
July 1, 2011 through June 30, 2012	\$2,317,500
July 1, 2012 through June 30, 2013	\$2,466,050
July 1, 2013 through December 31, 2013	\$1,836,450
<hr/>	
April 1, 2006 through June 30, 2010	\$16,570,000

(3) CONTRACTOR understands that the CITY may need to adjust sources of revenue and agrees that these needed adjustments will become part of this Agreement by written modification to CONTRACTOR. In event that such reimbursement is terminated or reduced, this Agreement shall be terminated or proportionately reduced accordingly. In no event will CONTRACTOR be entitled to compensation in excess of these amounts for these periods without there first being a modification of the Agreement or a revision to Appendix B, Budget, as provided for in this section of this Agreement.

C. CONTRACTOR agrees to comply with its Budget as shown in Appendix B in the provision of SERVICES. Changes to the budget that do not increase or reduce the maximum dollar obligation of the CITY are subject to the provisions of the Department of Public Health Policy/Procedure Regarding Contract Budget Changes. CONTRACTOR agrees to comply fully with that policy/procedure.

D. No costs or charges shall be incurred under this Agreement nor shall any payments become due to CONTRACTOR until reports, SERVICES, or both, required under this Agreement are received from CONTRACTOR and approved by the DIRECTOR as being in accordance with this Agreement. CITY may withhold payment to CONTRACTOR in any instance in which CONTRACTOR has failed or refused to satisfy any material obligation provided for under this Agreement.

E. In no event shall the CITY be liable for interest or late charges for any late payments.

F. CONTRACTOR understands and agrees that should the CITY'S maximum dollar obligation under this Agreement include State or Federal Medi-Cal revenues, CONTRACTOR shall expend such revenues in the provision of SERVICES to Medi-Cal eligible clients in accordance with CITY, State, and Federal Medi-Cal regulations. Should CONTRACTOR fail to expend budgeted Medi-Cal revenues herein, the CITY'S maximum dollar obligation to CONTRACTOR shall be proportionally reduced in the amount of such unexpended revenues. In no event shall State/Federal Medi-Cal revenues be used for clients who do not qualify for Medi-Cal reimbursement.

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 11/18/09
PRODUCER <b>USI Southern California</b> Lic # 0351162 21600 Oxnard Street, 8th Floor Woodland Hills, CA 91367	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED <b>Health Advocates, LLC &amp; Leibovic Law Group LLP</b> 13412 Ventura Boulevard #300 Van Nuys, CA 91411	INSURERS AFFORDING COVERAGE	NAIC #
	INSURER A: <b>National Fire Insurance Co. of Hartford</b>	20478
	INSURER B: <b>Valley Forge Insurance Company</b>	20508
	INSURER C: <b>Everest National Insurance Company</b>	10120
	INSURER D: <b>Evanston Insurance Company</b>	35378
	INSURER E: <b>Continental Casualty Company</b>	20443

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO.JECT <input type="checkbox"/> LOC	4016880268	08/10/09	08/10/10	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
E	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS  GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	4016880271	08/10/09	08/10/10	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000  BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ \$10,000	4016880254	08/10/09	08/10/10	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	CA2001162009	08/10/09	08/10/10	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	OTHER Prof. Liab. CLAIM MADE FORM RETRO: 6/27/02	LA805263	09/15/09	09/15/10	\$2,000,000 Each Claim \$2,000,000 Aggregate \$50,000 SIR Each Claim

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**RE: All Operations of the Named Insured. City & County of San Francisco, Its Officers, Agents & Employees are named as Additional Insureds, and coverage is primary per written contract per attached General Liability form G-147167-B99 12/06. Except with respects to the Limits of Insurance the general liability applies separately to each insured against (See Attached Descriptions)**

<b>CERTIFICATE HOLDER</b>  City and County of San Francisco Its Officers and Employees 101 Grove Street Room 307 San Francisco, CA 94102	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL *30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE <i>Lisa Piscitello</i>
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## DESCRIPTIONS (Continued from Page 1)

whom a claim is made or "suit" is brought. The City will not be responsible for any premiums or assessments on the policy. The City is named as an additional insured under the automobile liability per page 2 of form CA0001 03/06 attached. \*Except 10 day notice of cancellation for non payment of premium.





**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**GENERAL LIABILITY EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Part.

**1. ADDITIONAL INSURED – BLANKET VENDORS**

WHO IS AN INSURED (Section II) is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
  - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - b. Any express warranty unauthorized by you;
  - c. Any physical or chemical change in the product made intentionally by the vendor;
  - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g. Products which, after distribution or sale by you, have been labeled or

re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omission or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Subparagraphs d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
3. This provision 1. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Coverage Part.
4. This provision 1. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Coverage Part or by endorsement.

**2. MISCELLANEOUS ADDITIONAL INSUREDS**

WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.g. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal injury and advertising injury," but



Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

**a. State or Political Subdivisions**

A state or political subdivision subject to the following provisions:

(1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:

(a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

(b) The construction, erection, or removal of elevators; or

(2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

**b. Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

(1) Their financial control of you; or

(2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

**c. Managers or Lessors of Premises**

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises

leased to you and subject to the following additional exclusions:

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**d. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

**e. Owners/Other Interests - Land is Leased**

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to lease that land; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**f. Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

**g. Lessor of Equipment**

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured



under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury," "property damage," or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs a. through g. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

As respects the coverage provided under this endorsement, Paragraph 4.b. SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS is deleted and replaced with the following:

#### 4. Other Insurance

##### b. Excess Insurance

This insurance is excess over:

Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or agreement specifically requires that this insurance be either primary or primary and noncontributing. Where required by written contract or agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and noncontributing with this insurance.

#### 3. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

Paragraph 3.a. of Section II – Who Is An Insured is deleted and replaced by the following:

Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization, whichever is earlier.

#### 4. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANY COVERAGE

##### A. The following is added to Section II – Who Is An Insured:

4. You are an insured when you had an interest in a joint venture, partnership or limited liability company which terminated or ended prior to or during this policy period but only to the extent of your interest in such joint venture, partnership or limited liability company. This coverage does not apply:

- a. Prior to the termination date of any joint venture, partnership or limited liability company; or
- b. If there is other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

##### B. The last paragraph of Section II – Who Is An Insured is deleted and replaced by the following:

Except as provided in 4. above, no person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

#### 5. PARTNERSHIP OR JOINT VENTURES

Paragraph 1.b. of Section II – Who Is An Insured is deleted and replaced by the following:

- b. A partnership (including a limited liability partnership) or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

#### 6. EMPLOYEES AS INSURED – HEALTH CARE SERVICES

For other than a physician, paragraph 2.a(1)(d) of Section II – Who Is An Insured does not apply with respect to professional health care services provided in the course of employment by you.

#### 7. SUPPLEMENTARY PAYMENTS

A. Under Section I – Supplementary Payments – Coverages A and B, Paragraph 1.b., the limit of \$250 shown for the cost of bail bonds is replaced by \$2,500:

B. In Paragraph 1.d., the limit of \$250 shown for daily loss of earnings is replaced by \$1,000.



## 8. MEDICAL PAYMENTS

A. Paragraph 7. **Medical Expense Limit**, of **Section III – Limits of Insurance** is deleted and replaced by the following:

7. Subject to 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most we will pay under **Section – I – Coverage C** for all medical expenses because of "bodily injury" sustained by any one person. The Medical Expense Limit is the greater of:

- (1) \$15,000; or
- (2) The amount shown in the Declarations for Medical Expense Limit.

B. This provision 8. (**Medical Payments**) does not apply if **Section I – Coverage C Medical Payments** is excluded either by the provisions of the Coverage Part or by endorsement.

C. Paragraph 1.a.(3)(2) of **Section I – Coverage C – Medical Payments**, is replaced by the following:

The expenses are incurred and reported to us within three years of the date of the accident; and

## 9. NON-OWNED WATERCRAFT

Under **Section I – Coverage A – Bodily Injury and Property Damage**, Exclusion 2.g., subparagraph (2) is deleted and replaced by the following.

- (2) A watercraft you do not own that is:
  - (a) Less than 55 feet long; and
  - (b) Not being used to carry persons or property for a charge.

## 10. NON-OWNED AIRCRAFT

Exclusion 2.g. of **Section I – Coverage A – Bodily Injury and Property Damage**, does not apply to an aircraft you do not own, provided that:

1. The pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. It is rented with a trained, paid crew; and
3. It does not transport persons or cargo for a charge.

## 11. LEGAL LIABILITY – DAMAGE TO PREMISES

A. Under **Section I – Coverage A – Bodily Injury and Property Damage 2. Exclusions**, Exclusion j. is replaced by the following.

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to **Damage To Premises Rented To You** as described in **Section III – Limits of Insurance**.



Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

- B. Under **Section I – Coverage A – Bodily Injury and Property Damage** the last paragraph of 2. Exclusions is deleted and replaced by the following.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **Section III – Limits Of Insurance**.

- C. Paragraph 6. **Damage To Premises Rented To You Limit of Section III – Limits Of Insurance** is replaced by the following:

6. Subject to 5. above, (the Each Occurrence Limit), the **Damage To Premises Rented To You Limit** is the most we will pay under **Section – I – Coverage A** for damages because of "property damage" to any one premises while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days. The **Damage To Premises Rented To You Limit** is the greater of:

- a. \$200,000; or
- b. The **Damage To Premises Rented To You Limit** shown in the Declarations.

- D. Paragraph 4.b.(1)(b) of **Section IV – Commercial General Liability Conditions** is deleted and replaced by the following:

(b) That is property insurance for premises rented to you or temporarily occupied by you with the permission of the owner; or

- E. This provision 11. (**LEGAL LIABILITY – DAMAGE TO PREMISES**) does not apply if **Damage To Premises Rented To You Liability** under **Section I – Coverage A** is excluded either by the provisions of the Coverage Part or by endorsement.

## 12. BROAD KNOWLEDGE OF OCCURRENCE

The following is added to paragraph 2. of **Section IV – Commercial General Liability Conditions – Duties In The Event of Occurrence, Offense, Claim or Suit**:

You must give us or our authorized representative notice of an "occurrence," offense, claim, or "suit" only when the "occurrence," offense, claim or "suit" is known to :

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An executive officer or the employee designated by you to give such notice, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

## 13. NOTICE OF OCCURRENCE

The following is added to paragraph 2. of **Section IV – Commercial General Liability Conditions – Duties in The Event of Occurrence, Offense Claim or Suit**:

Your rights under this Coverage Part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this Coverage Part. However, you shall give written notice of this "occurrence," offense, claim or "suit" to us as soon as you are aware that this insurance may apply to such "occurrence," offense claim or "suit."

## 14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Based on our reliance on your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure.

## 15. EXPANDED PERSONAL AND ADVERTISING INJURY

A. The following is added to **Section V – Definitions**, the definition of "personal and advertising injury":

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- (1) Not done intentionally by or at the direction of:
  - (a) The insured; or



- (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and
  - (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any insured.
- B. Exclusions of Section I – Coverage B – Personal and Advertising Injury Liability is amended to include the following:**
- p. Discrimination Relating To Room, Dwelling or Premises**  
Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.
  - q. Fines Or Penalties**  
Fines or penalties levied or imposed by a governmental entity because of discrimination.
- C. This provision 15. (EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE) does not apply to discrimination or humiliation committed in the states of New York or Ohio. Also, EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE does not apply to policies issued in the states of New York or Ohio.**
- D. This provision 15. (EXPANDED PERSONAL AND ADVERTISING INJURY COVERAGE) does not apply if Section I – Coverage B – Personal And Advertising Injury Liability is excluded either by the provisions of the Coverage Part or by endorsement.**

## 16. BODILY INJURY

**Section V – Definitions**, the definition of "bodily injury" is changed to read:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the bodily injury, sickness or disease.

## 17. EXPECTED OR INTENDED INJURY

Exclusion a. of **Section I – Coverage A – Bodily Injury and Property Damage Liability** is replaced by the following:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

## 18. LIBERALIZATION CLAUSE

If we adopt a change in our forms or rules which would broaden coverage under this endorsement without an additional premium charge, your policy will automatically provide the additional coverages as of the date the revision is effective in your state.

## 19. PROPERTY DAMAGE – ELEVATORS

With respect to Exclusions of **Section I – Coverage A**, paragraphs (3), (4) and (6) of Exclusion j. and Exclusion k. do not apply to the use of elevators.

The insurance afforded by this provision 19. is excess over any valid and collectible property insurance (including any deductible) available to the insured, and the Other Insurance Condition is changed accordingly.

### B. Owned Autos You Acquire After The Policy Begins

1. If Symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
  - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
  - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

### C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto."
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
  - a. Breakdown;
  - b. Repair;
  - c. Servicing;
  - d. "Loss"; or
  - e. Destruction.

## SECTION II – LIABILITY COVERAGE

### A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto."

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos." However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident."

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a

"covered pollution cost or expense." However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

### 1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto."
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
  - (1) The owner or anyone else from whom you hire or borrow a covered "auto." This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
  - (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
  - (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
  - (4) Anyone other than your "employees," partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees," while moving property to or from a covered "auto."
  - (5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

- c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

### 2. Coverage Extensions

#### a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.

## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.