

LOS ANGELES FIRE DEPARTMENT



RALPH M. TERRAZAS
FIRE CHIEF

June 23, 2016

BOARD OF FIRE COMMISSIONERS
FILE NO. 16-091

TO: Board of Fire Commissioners

FROM: Ralph M. Terrazas, Fire Chief

A handwritten signature in black ink, appearing to be "RMT", is written over the printed name of Ralph M. Terrazas.

SUBJECT: RESTATEMENT AND FIRST AMENDMENT TO AGREEMENT C-118005
BETWEEN THE LOS ANGELES FIRE DEPARTMENT AND ADVANCED
DATA PROCESSING, INC., A SUBSIDIARY OF INTERMEDIX, INC.

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 Withdrawn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

SUMMARY

The Los Angeles Fire Department (LAFD), entered into an Agreement (C-118005) with Advanced Data Processing, Inc., a subsidiary of Intermedix (ADPI) on October 22, 2010 to provide Emergency Medical Billing Services. The LAFD has had success with EMS billing collections through ADPI's services, collecting approximately \$379 million over the term of the Agreement.

The Agreement, which expires October 21, 2016, provides for six three-year renewal options. The LAFD proposes to execute the first three-year renewal option to extend the term of the Agreement through October 21, 2019.

RECOMMENDATION(S)

That the Board:

Approve the report and transmit the First Amendment to the Agreement with Advanced Data Processing, Inc. to the Mayor and City Council for consideration and approval.

FISCAL IMPACT

This agreement compensates the vendor a set percentage based on actual receipts received. The LAFD has negotiated a lower percentage fee, from 5.3 percent to 5.1 percent, for the upcoming contract term. Annual average EMS transports and revenue has been on the increase over the past three years. The projected total EMS revenue for the term through October 21, 2019 is estimated at \$220 million.

Based on this projection, the cost of the First Amendment to Agreement C-118005 is approximately \$11,350,000 over the three-year term or approximately \$3,785,000 per year.

Board report prepared by William Jones, Senior Management Analyst II, of the Administrative Services Bureau.

Attachment

**FIRST AMENDMENT TO AGREEMENT NUMBER C-118005
BETWEEN
THE CITY OF LOS ANGELES AND
ADVANCED DATA PROCESSING INC. (a subsidiary of Intermedix)
FOR EMERGENCY MEDICAL SERVICES SYSTEM (EMSS)**

THIS AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into by and between the CITY of Los Angeles, California, a municipal corporation (hereinafter referred to as the "CITY") by and through the Los Angeles Fire Department (hereinafter referred to as the "LAFD"), and Advanced Data Processing, Inc. (a subsidiary of Intermedix), a Delaware corporation (hereinafter referred to as the "CONTRACTOR"), effective 10/22/2010 (C.F. 10-1078), with reference to the following:

WHEREAS, automating the emergency medical service billing and collection function and providing for certified medical billing specialists will generate significantly more revenue for the CITY than the current system and facilitate compliance with federal and state privacy laws; and

WHEREAS, the CITY Council directed the LAFD to issue a Request for Proposals (RFP) to automate and outsource emergency medical service billing and collections services (C.F. 03-0814); and

WHEREAS, on August 22, 2007 the CITY issued a Request for Proposals (RFP) in accordance with Section 372 of the City Charter, seeking qualified proposals and found CONTRACTOR's response to satisfy the level of qualifications and experience necessary to provide the type and level of service required by the CITY; and

WHEREAS, the CITY performed its Charter Section 1022 review and determined that the information technology portion of the work is proprietary to the CONTRACTOR and that the Software installation, maintenance and service must be performed by CONTRACTOR's staff; and

WHEREAS, the CITY currently performs emergency medical service billing and collections; however, the work can be performed more economically by the CONTRACTOR because its services are automated to the extent possible and performed by certified specialists; and

WHEREAS, the work to be performed is expert and technical in nature; and

WHEREAS, the parties wish to enter into an Agreement pursuant to which the CONTRACTOR will perform emergency medical service billing and collections services for LAFD; and

WHEREAS, the CITY and CONTRACTOR desire to execute the first renewal option and First Amendment to Agreement No. C-118005 (C-118005-1), to increase the ceiling limit, extend the term to October 22, 2019, restate the continuing terms and incorporate necessary amendments; and

NOW THEREFORE, in consideration of the promises, representations, covenants and Agreements set forth herein, the parties represent, covenant and agree as follows:

1.0 GLOSSARY OF TERMS

CONTRACTOR'S Billing System means the Software and all services required to perform this Agreement.

Documentation means:

- a. Evidential or reference documents: documents provided or collected together as evidence or as reference material;
- b. Process of providing written information: the process of providing written details or information about something;
- c. Computer software information: the instructions, tutorials, and reference information provided to explain how to install and use software or a computer system.

EMS means emergency medical service.

FMIS means Financial Management Information System. The City's current Electronic Comprehensive Financial Management System.

FMS means The City's future Electronic Comprehensive Financial Management System, which the City expects to implement on July 1, 2011.

Fee Ordinances means Los Angeles Administrative Code Sections 5.181 and 22.210.2, as amended from time to time and any such other ordinances relating to fees that may be adopted during the term of the Agreement.

HCPCS means Healthcare Common Procedure Coding System, which are the numeric and alpha-numeric code sets to identify medical services, procedures and equipment used by Medicare and monitored by the Centers for Medicare and Medicaid Services (CMS). They are based on the CPT Codes (Current Procedural Technology codes) maintained by the American Medical Association, and are assigned to every task and service a medical practitioner may provide to a Medicare patient including medical, surgical, and diagnostic services.

Litigation Account means any account that has been identified as being involved in litigation.

Project Implementation means the presentation of a fully operational, fully hosted EMS billing system for LAFD using ADPI's Software. **Project Plan** means the document which identifies objectives and tasks to be completed during the transition from the LAFD's current EMS billing system to the CONTRACTOR's Billing System. The Project Plan shall provide a detailed description of key deliverables with timing projections, including a detailed task breakdown. The task breakdown shall include the following details for each identified task: assumptions, prerequisites, responsibilities for each of the parties, key staff involvement for each of the parties, start/stop dates, milestones, and estimated work hours.

Procedures Manual means a document that defines the operations and procedures guidelines established through collaborative efforts of the CONTRACTOR and LAFD to effectively manage the terms and conditions of this Agreement.

Software means the Intermedix billing IMX software or billing system, or other ambulance billing software of equal or better functionality that is acceptable to LAFD.

Users shall mean: (i) any employees of CITY and (ii) any medical professional who is authorized to perform medical services for CITY in the area in which CITY operates its emergency medical services as of the Agreement Amendment Effective Date.

2.0 PARTIES TO THE AGREEMENT AND REPRESENTATIVES

2.1 Parties to the Agreement

The parties to this Agreement are:

- a. The CITY, by and through the LAFD, having its principal office at 200 North Main Street, 18th Floor, Los Angeles, California 90012;
- b. CONTRACTOR, having its principal address at 6451 North Federal Highway, Suite 1001, Fort Lauderdale, Florida 33308.

2.2 Representatives of the Parties

The representatives of the parties who are authorized to administer this Agreement and to whom formal notices, demands and communications will be given are as follows:

- a. The CITY's representative is, unless otherwise stated in the Agreement:

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

And:

June Gibson, Fire Administrator
Los Angeles Fire Department
Bureau of Administrative Services
200 N. Main St., Room 1630
Los Angeles, California 90012 (213) 978-3731
(213) 978-3414 fax

- b. The CONTRACTOR's representative is, unless otherwise stated in the Agreement:

Attn: General Counsel
Intermedix Corporation
6451 N. Federal Hwy., Suite 1000
Fort Lauderdale, FL 33308
Tel: (954) 308-8700
Fax: (954) 308-8725

With a copy to:
Michael Brook, Senior Vice President
Intermedix Corporation
5820 Stoneridge Mall Road, Suite 117
Oakland, California 94588
Tel: (510) 904-5713

2.3 Notices

- a. Formal notices, demands and communications to be given hereunder by either party must be made in writing and may be effected by personal delivery or by mail, postage prepaid, return receipt requested and will be deemed communicated upon the earlier of the date of receipt or five days after mailing;
- b. If the name or address of the person designated to receive the notices, demands or communications is changed, written notice will be given in accordance with this Section, within five (5) working days of said change;
- c. Informal notifications and general business related communications shall be made via email or by telephone as provided in the Procedures Manual.

3.0 TERM OF AGREEMENT

The term of this Agreement commenced on October 22, 2010 and shall remain in full force and effect for a nine (9) year period from that date, unless terminated earlier as provided herein. By mutual agreement between CITY AND CONTRACTOR, The CITY, may exercise five (5) additional options to extend the term of this Agreement in three (3) year increments. Where services may have been required to be continued on an on-going basis prior to execution of this First Amendment, and where those services are consistent with the terms and conditions of the Agreement, those services are hereby ratified.

4.0 PROCEDURES MANUAL

The Parties shall develop and maintain a Procedures Manual, which may be amended by the Parties as needed, governing the manner in which the Parties will conduct daily business. Either Party's failure to comply with practices established in such Manual may be deemed to be a material breach of the Agreement. The cure period shall be 30 days but otherwise subject to the provisions in Section 15.2 of this Agreement. The Parties agree to review and consider updates to the procedure manual on a quarterly basis.

5.0 WEB HOSTING LICENSE

5.1 License

CONTRACTOR grants to CITY a limited, non-exclusive and non-transferable license: (i) to access and use the CONTRACTOR'S proprietary Software in executable code format via Internet connection to CONTRACTOR's hosting facility solely in support of the billing and collection with respect to the CITY's EMS services; and (ii) to use any associated end-user Documentation provided by CONTRACTOR (the "Documentation") in support of CITY's authorized use of the Software. Except as expressly permitted herein, no express or implied license is granted to CITY to use, receive, reproduce, copy, market, sell, distribute, license,

sublicense, lease, timeshare, or rent the Software or any component thereof. No modification of, or preparation of derivative works based on the Software or Documentation is permitted. CITY shall not disassemble, decompile, decrypt or reverse engineer the Software or in any way attempt to discover or reproduce source code for the Software, or any portion thereof. CITY shall not develop or license any third party programs, applications, tools or other products which interface or interact with the Software without the prior written consent of CONTRACTOR. CITY agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Software. The Software may incorporate software under license from a third party. If the third party requires CITY's notification of such use through an End User License Agreement ("EULA"), CONTRACTOR will provide such notification to CITY. In order to use the Software, CITY agrees to be bound by all EULA(s) provided at the time of delivery whether by hardcopy or displayed upon installation or use of the Software. CITY's use of the Software subsequent to such notice(s) shall constitute CITY's acceptance of the EULA(s).

5.2 Service disruption caused by CITY

CONTRACTOR shall not be liable for service outages caused by direct CITY actions.

5.3. Intellectual Property. CITY agrees that the equipment, computer hardware and software, billing and collection processing, the services, Billing System and other related systems and equipment are the property and trade secrets of CONTRACTOR, and that CITY will not release any information regarding such Confidential Information (as such term is defined in Section 13.1 (a) and/or trade secrets of CONTRACTOR to any third party without the prior written consent of CONTRACTOR. CITY further agrees that, in connection with the use of certain data entry devices, CITY may gain access to the intellectual property of third parties. CITY understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. CITY agrees to enter into such arrangements at CONTRACTOR's request.

6.0 SERVICES TO BE PROVIDED

Upon execution of this Agreement the CONTRACTOR shall provide the goods and services as required under this Agreement.

6.1 Transition

1. CONTRACTOR and LAFD agree that they shall fully cooperate with each other in transitioning EMS billing services from LAFD to CONTRACTOR. Subject to CONTRACTOR'S approval, LAFD may transfer uncollected patient accounts, created prior to the commencement of this Agreement, to CONTRACTOR. CONTRACTOR agrees to create accounts for patients, treated before the effective date of this Agreement, for whom no accounts have been created. CONTRACTOR agrees to create all accounts for patients treated on the effective date of this Agreement and thereafter. CONTRACTOR agrees to accept LAFD's patient and other data relating to transition accounts in any format. All accounts transitioned or created subject

to this provision shall be processed consistent with the terms of this Agreement;

2. LAFD will provide the CONTRACTOR with information relating to the transitioned accounts adequate to enable CONTRACTOR's proper coding, billing, or collection of the transitioned accounts in accordance with CONTRACTOR's obligations under this Agreement. To the extent such information is inadequate; CONTRACTOR agrees to exert commercially reasonable efforts to perform the services with respect to the transitioned accounts.

6.2 Project Plan

- a. Within the first 14 days of this Agreement, CONTRACTOR shall conduct a complete review of LAFD'S billing practices, which shall consist of on-site visits and data evaluation to aid in development of the Project Plan;
- b. Within 15 days of the effective date of the Agreement, CONTRACTOR shall conduct a planning meeting with the LAFD's Project Manager regarding elements of the Project Plan;
- c. Within 30 days of the effective date of the Agreement, CONTRACTOR, working with the LAFD'S Project Manager, shall deliver a draft Project Plan to the LAFD;
- d. Within 15 days of receipt of the draft Project Plan, LAFD shall provide comments and instruction to CONTRACTOR;
- e. CONTRACTOR shall provide a Final Project Plan within 15 days of receiving LAFD's comments.

6.3 Support

1. CONTRACTOR's Billing System for LAFD
 - a. CONTRACTOR shall provide to LAFD on-going support and upgrades of the CONTRACTOR's Billing System, including Documentation and/or training when substantial change occur in CONTRACTOR's Billing System;
 2. Issues resulting in a work stoppage or that are otherwise deemed critical will receive an immediate response and resolution. Non-critical issues will be prioritized and resolved according to the priority level and time of submission. After hours, CONTRACTOR's holiday, and weekend support shall be provided;
 3. CONTRACTOR shall provide a full-time individual for on-site support, at LAFD's designated location, during Project Implementation;
 4. CONTRACTOR shall meet with LAFD at its offices or through technology aided meetings at the discretion of LAFD quarterly or more often.

2. Support for Patients

CONTRACTOR shall operate a call center providing Email and telephone support between 7:00 a.m. and 5:00 p.m. Pacific Time Monday through Friday (CONTRACTOR's holidays excluded). CONTRACTOR will provide voicemail services after the close of business and respond to inquiries within one business day.

6.4 Integration

- a. At its expense, CONTRACTOR shall integrate its Billing System with applicable CITY systems in a manner that provides regular information updates, within a reasonable period of time as agreed by the parties. The CITY shall provide its required specifications governing all applicable integrations in the Procedures Manual. In the event that the CITY implements new systems, the CONTRACTOR agrees to work with the CITY to integrate its Billing System with the CITY's new system(s) within a reasonable period of time as agreed by the Parties;
- b. At its expense, CONTRACTOR shall integrate its Software with applicable CITY systems in a manner that provides regular information updates, within a reasonable period of time as agreed by the parties. The CITY shall provide its required specifications governing all applicable Software integrations in the Procedures Manual. In the event that the CITY implements new systems, the CONTRACTOR agrees to work with the CITY to integrate its Software with the CITY's new system(s) within a reasonable period of time as agreed by the Parties;
- c. At its expense, CONTRACTOR shall integrate its Billing System with other relational database system the CITY requests, assuming the requirements do not place undue burden on the CONTRACTOR. The parties shall negotiate cost sharing to finance this task, if the CONTRACTOR provides evidence that CITY requirements create an undue burden;
- d. Integration shall be achieved when each of the CITY Systems is fully compatible with CONTRACTOR's Billing System, that all necessary data transmission pathways are fully operational, and that all data transmissions conform with the CITY'S security standards. CONTRACTOR shall acquire any reasonable software licenses required for access to or integration with any CITY systems;
- e. ADPI understands that in order to perform the work required under this Contract, ADPI must work cooperatively with Physio-Control, the CITY's field data capture and PHI transmission contractor. ADPI agrees to work cooperatively with Physio-Control and all other CITY contractors in the performance of the Agreement.

6.5 Eligibility/Data Capture

- a. CONTRACTOR shall use reasonable efforts to obtain missing, and correct erroneous patient demographic and insurance information provided by LAFD;

- b. CONTRACTOR shall maintain a complete record of patient account activity, including all communications;
- c. CONTRACTOR shall establish arrangements with hospitals or hospital associations to obtain patient demographic and insurance eligibility information where possible. If hospitals refuse to share information, CONTRACTOR shall notify the LAFD.

6.6 Billing and Collection of Payments

- 1. CONTRACTOR shall process all patient accounts using the Software, except as otherwise agreed in writing by LAFD. The Software shall generate electronic claims in the format required by major payers, and shall be capable of being updated regularly to facilitate capture of the most current HCPCS;
- 2. CONTRACTOR shall conduct all business in the most effective manner possible, consistent with industry established best practices and the Procedures Manual;
- 3. Before pursuing payment directly from patients, CONTRACTOR shall attempt to identify and qualify the patient for available insurance opportunities;
- 4. CONTRACTOR shall turnover to LAFD any payment received after the account has been returned to the LAFD. CONTRACTOR is not entitled to compensation for an account after it has been returned to the LAFD;
- 5. CONTRACTOR shall have view access only to the designated EMS Lockbox account within the CITY's authorized banking system;
- 6. CONTRACTOR shall establish and maintain fully auditable billing, collection and accounts receivable systems in accordance with Generally Accepted Accounting Principles and Governmental Accounting Standards Board guidelines. CONTRACTOR shall maintain appropriate accounting procedures for reconciling all deposits, receivables, billings, patient accounts, adjustments, and refunds;
- 7. CONTRACTOR shall collect patient signatures and create a master lifetime signatures file. To the extent LAFD obtains signatures of patients or their representatives, it shall be in accordance with the requirements established by law, commercial insurers, and LAFD policies. In the event that LAFD fails to obtain proper signatures or under circumstances in which the patient refused or was unable to sign, CONTRACTOR agrees to seek signatures from patient. If LAFD and CONTRACTOR fail to obtain a patient signature, CONTRACTOR agrees to continue to bill patient only in a manner that is consistent with the law;
- 8. CONTRACTOR shall return Litigation Accounts to the LAFD and cease billing efforts upon receiving notice of litigation. CONTRACTOR shall flag Litigation

Accounts in its billing system. CONTRACTOR shall forward all payments for Litigation Accounts to LAFD. CONTRACTOR shall not deposit such payments without express direction from LAFD;

9. CONTRACTOR shall utilize an account identification system that cross references easily with LAFD's assigned dispatch numbers;
10. CONTRACTOR shall have all form letters reviewed and approved 1 by LAFD. CONTRACTOR shall comply with CITY ordinances and state and federal law;
11. CONTRACTOR's Billing System shall include working with patients to establish payment plans and establish a mechanism to track partial and periodic payments;
12. CONTRACTOR shall return uncollectible accounts to LAFD as soon as practicable, and as defined by CITY Financial Policy, and as outlined in the Procedures Manual;
13. CONTRACTOR shall bill all EMS patient accounts, unless exempt from collection under the law or instructed otherwise by the CITY;
14. CONTRACTOR shall not report delinquent accounts to credit reporting agencies;
15. CONTRACTOR shall provide the written HIPAA Privacy Notice to patients in the initial bill, if requested by LAFD. The additional cost of providing the HIPAA Privacy Notice is described in Exhibit B- Fee Schedule;
16. CONTRACTOR shall provide for bill payments via mail, walk-ins at LAFD, telephone, and a secure Internet connection;
17. CONTRACTOR shall only make Adjustments to patient accounts in accordance with Exhibit B- Fee Schedule of this Agreement.

6.7 Training

1. CONTRACTOR shall monitor all developments in the law and industry best practices relating to health care insurance and billing. CONTRACTOR shall inform LAFD of relevant developments and make timely recommendations regarding compliance, if necessary;
2. CONTRACTOR shall assist the LAFD in developing plan(s) to guide the LAFD in its efforts to comply with the law, as amended or changed from time to time, related to the services provided under this Agreement;
3. CONTRACTOR shall train its employees and designated LAFD employees with respect to the following subjects:
 1. The legal requirements and CONTRACTOR's business practices associated with EMS billing, including but not limited to, the requirements of Medicare, Medicaid, and commercial insurers relating to

documentation, medical necessity, assignment of diagnostic and procedural codes, and preparation and submission of claims;

2. The consequences of failing to comply with applicable laws, including the penalties for fraud, abuse, and HIPAA violations.
4. CONTRACTOR shall furnish a review course on an annual basis to all employees performing medical necessity determination and medical diagnostic coding services under this Agreement. The annual course must include a review and update of the CONTRACTOR's Compliance Program and Agreement Services but shall not serve as a substitute course for the complete training requirement, referred to above.

6.8 Security

CITY acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems, including malware prevention software on User's computers. CITY is responsible for requiring its Users to use a password to access the software- Billing System in compliance with the Billing Security Characteristics. The "Billing Security Characteristics" means a password to access the Billing System, which must be at least eight (8) characters in length, and contain three (3) of four (4) of the following characteristics: lowercase letter, uppercase letter, special character or a number. CONTRACTOR shall use commercially reasonable efforts to maintain the security of the software-Billing System and date, but shall not be responsible for the CITY's loss or dissemination of passwords or other breaches beyond CONTRACTOR's reasonable control..

6.9 Audits

1. CONTRACTOR shall provide LAFD access to all requested information related to this Agreement in order for LAFD to perform appropriate and periodic audits;
2. The CITY will provide a one week notice to CONTRACTOR before any periodic audit, which shall be conducted during the CONTRACTOR's normal business hours;
3. Audit reports may be run at any time.

6.10 Standards/Laws

1. CONTRACTOR's Billing System shall comply with all applicable CITY, county, state, and federal laws and rules governing emergency medical service billing;
2. CONTRACTOR shall create, implement and comply with a Compliance Plan consistent with the intent and activities included in the U.S. Office of Inspector General (OIG) Compliance Program Guidance for Third Party Medical Billing Companies 63 FR 70138; (December 18, 1998).

6.11 Reports

1. CONTRACTOR's reporting system shall enable the LAFD to monitor, evaluate, manage and audit accurately the CONTRACTOR's performance under this Agreement;
2. CONTRACTOR shall provide the reports specified in the Procedures Manual as well as any other reports that CONTRACTOR provides in the normal course of business;
3. CONTRACTOR shall provide ad hoc reporting capability;
4. CONTRACTOR shall provide accounting reports in electronic format, pursuant to Generally Accepted Accounting Principles, on a monthly, quarterly, and annual basis; or as requested by the LAFD. Accounting reports shall be made available to the LAFD 10 business days after the end of the month.

6.12 Fee Changes

CONTRACTOR shall make recommendations to LAFD regarding EMS Fee Ordinance amendments. CONTRACTOR shall abide by the CITY's Fee Ordinances. Any proposed change to the Fee Ordinances may only be made by amendment to the ordinances.

6.13 Access to and Maintenance of Records

1. The CONTRACTOR shall make available its Software to authorized LAFD personnel 24 hours each day and 7 days each week for the duration of this Agreement. CONTRACTOR's Billing System shall be capable of archiving and retrieving either electronic images or original billing records, signature verifications, and related data;
2. Access to data shall be limited to persons authorized by either the CONTRACTOR or the CITY. A complete access form for each of CITY's personnel authorized to access the Software must be submitted to and approved by CONTRACTOR as provided in the Procedures Manual;
3. CONTRACTOR shall maintain all records related to the performance of this Agreement in a format that meets all requirements under the law. CONTRACTOR may not destroy data without written approval of the Los Angeles City Attorney;
4. CONTRACTOR shall perform regular data backup, as provided in the Procedures Manual;
5. CONTRACTOR shall have a disaster recovery and business restoration plan in place. CONTRACTOR shall test its disaster recovery capabilities annually to ensure that data can be retrieved and made available to the LAFD. LAFD may audit documentation of these capabilities periodically;

6. CONTRACTOR shall provide City with periodic data downloads, in a usable format by the City, of all patient account information, as further defined in the Procedures Manual;
7. All records must be returned to the LAFD upon expiration or termination of this Agreement, whichever occurs first.

7.0 OBLIGATIONS OF LAFD

7.1 Documentation

1. LAFD shall provide CONTRACTOR with patient encounter information on a timely basis and in sufficient detail to support diagnosis and procedure coding. LAFD shall also provide patient demographic information necessary for accurate patient identification including name, address, social security number, date of birth, and telephone number, to the extent possible. Where possible, LAFD will obtain and provide CONTRACTOR with patient health insurance, auto insurance, or other insurance information;
2. LAFD shall provide CONTRACTOR with requested documents, to the extent possible.

7.2 Policies

LAFD shall provide CONTRACTOR with its approved billing policies and procedures including Fee Ordinances. LAFO may engage a third party collection service to collect uncollected accounts after CONTRACTOR has exhausted its billing efforts or returned the account to LAFD, if necessary.

7.3 Refunds

LAFD shall provide timely process for refunds identified by CONTRACTOR for account overpayments or wrong payments, providing CONTRACTOR supplies sufficient documentation to support the refund. If any refunds of patient accounts of CITY are required to be refunded to or offset by any government and commercial payor as a result of CITY's violation of its obligations set forth in Section 7.6. (an "Excluded Person Refund"), CONTRACTOR shall not be required to refund to CITY any commissions or fees earned or previously paid to CONTRACTOR as a result of its collection of such Excluded Person Refund or otherwise include such Excluded Person Refunds in its calculation of Net Collections as set forth in Exhibit B (Fee Schedule).

7.4 Lock Box and Credit Cards

LAFD shall provide a lock box address to CONTRACTOR and will instruct lock box vendor to forward all lock box documents to CONTRACTOR for processing if LAFD desires to utilize the services of a lock box vendor. LAFD agrees that it will be solely responsible for the cost of any and all lock-box services related to EMS lock box deposits. LAFD also agrees that it will be solely responsible for any cost associated with any credit card acceptance program in which LAFD elects to participate.

7.5 Bank Balance

LAFD shall, at its discretion, provide CONTRACTOR with daily bank balance reporting capabilities via the bank's designated web site for the EMS billing lock box account only.

7.6 Compliance

LAFD shall cooperate with CONTRACTOR in all matters to ensure proper compliance with laws and regulations. Furthermore, CITY represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for CITY: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.

7.7 Internet Access

CITY shall be responsible for providing its own Internet Access, and in no event shall CITY be provided with direct access (by modem or otherwise) to the Software server unless otherwise agreed by the parties, other than access that is available to third parties generally through the Internet. The parties acknowledge that, since the Internet is neither owned nor controlled by any other entity, CONTRACTOR makes no guarantee that any given user will be able to access the Software at any given time. There are no assurances that access will be available at all times and uninterrupted, and CONTRACTOR shall not be liable to CITY for its inability to access the Software.

7.8 Security Software

CITY acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems.

8.0 EXCLUSIVE AGREEMENT

The Parties understand and agree that this is an exclusive agreement to provide the CONTRACTOR's Billing System described herein. LAFD will not enter into any other agreements for the services described in this Agreement before this Agreement expires or otherwise earlier terminates, unless agreed upon by the Parties through a written amendment to this Agreement. The CONTRACTOR understands that delinquent bill collections pursued under L.A.A.C. Section 5.181 are not covered by this Agreement. The CONTRACTOR understands that patient accounts for which the LAFD has commenced the billing process, but which are not transitioned to CONTRACTOR are not covered by this Agreement.

9.0 COMPENSATION AND METHOD OF PAYMENT

9.1 Compensation

1. For satisfactory services rendered under this Agreement, the CITY shall pay the CONTRACTOR in accordance with Exhibit B - Fee Schedule. The CITY

shall issue a check for the amount invoiced, less any disputed amounts, within 30 days of approval of a complete invoice, but not later than 40 days after receipt. CONTRACTOR shall resolve any disputed amounts within 60 days from the date the CITY gives notification of a dispute;

2. CONTRACTOR's compensation will be adjusted by the performance guarantee, if applicable.

9.2 Method of Payment

The CONTRACTOR must include the following information, and any other documentation requested by the LAFD on each invoice, unless instructed otherwise by LAFD.

1. Date of invoice;
2. Invoice number;
3. Agreement number;
4. Description of services;
5. Amount of Invoice, including the basis of the calculation;
6. Detailed listing of the invoices paid by patient or insurance providers, including date of calculation, amount of collection, and basis of calculation of CONTRACTOR's fee;
7. A computation of the performance guarantee calculated in accordance with Section 10.0, if any.

Except as otherwise expressly provided for in 6.0 Services to be Provided, all other costs incurred by CONTRACTOR in the performance of the CONTRACTOR Services (including, but not limited to postage, materials, communications and phone costs and other operating costs) will be CONTRACTOR's sole responsibility.

10.0 PERFORMANCE PENALTY

10.1 Background

CONTRACTOR and CITY agree that optimizing collection performance requires that both CONTRACTOR and CITY meet their obligations under this Agreement. Based on CONTRACTOR's projections of increased collections, and CITY's provision of historical financial and reimbursement performance information, CITY has established a Minimum Threshold as a collection performance standard.

10.2 Definitions for Performance Penalty:

Collections means the amount of money collected for transports associated with a specific date of service, reduced or increased by refunds, check deposits with non-sufficient funds (NSF), and any other applicable Adjustment(s).

Billed Transports means any transport from a specific date of service for which an invoice is sent by CONTRACTOR to either a patient or a third party payer (e.g., insurance) and for which payment is otherwise expected. CONTRACTOR shall have the authority to determine which transports can be billed. CONTRACTOR will incorporate, among other things, the CITY's requirements of what accounts cannot be billed due to CITY policy. Examples of un-billable transports may include transports of patients who are homeless, transports for which the demographic information is inadequate for the successful delivery of an invoice to the patient, and transports for which insurance cannot be identified after reasonable attempts to identify the patient or patient insurance coverage through hospital outreach, skip tracing or insurance sweeps. Also excluded from the definition of Billed Transports are those accounts where CONTRACTOR, in its sole discretion, determines that submitting a claim would be in violation of law, regulations, or rules promulgated by any Federal, State, or local authority with relevant jurisdiction. Any transport that the CITY withdraws from the billing cycle due to policy reasons (e.g., police custody, accounts in litigation that the CITY pursues payment on) qualify as unbillable accounts for which payment is not expected by the CONTRACTOR.

Collections per Billed Transport means Collections divided by Billed Transports.

Performance Period means the fiscal year for which a potential performance penalty is being calculated.

Transport means any transport from a specific date of service for which charges are created and maintained on a patient account.

Collections per Transport means Collections divided by all Transports.

Minimum Threshold means the performance level, expressed as Collection per Billed Transport, used to compute the performance penalty, if any. The Minimum Threshold shall be subject to adjustments as provided in Section 10.3, below. After fiscal year 2011/2012 the Minimum Threshold shall be adjusted annually to be equal to the actual Collection per Billed Transport for the previous fiscal year. The Minimum Threshold shall be measured on or about the July 1 that occurs twelve months after the Performance Period ends. The Minimum Threshold shall be adjusted when documented changes occur in the reimbursement environment, which are outside of the control of the Contractor and impact actual revenue by more than 5%.

For the fiscal year 2010/2011 and the fiscal year 2011/2012 the Minimum Threshold shall be \$348 per Billed Transport, unless otherwise adjusted under this Agreement. a For each of those fiscal years the actual Collection per Billed Transport was \$392.00

For the fiscal year 2012/2013 the Minimum Threshold was \$392.00 with no adjustments required under this Agreement. The actual collection was \$391.00.

For fiscal year 2013/2014 the Minimum Threshold was \$391.00 with no adjustments required under this Agreement. The actual collection was \$373.00 with no adjustments required under this Agreement.

For fiscal year 2014/2015 the Minimum Threshold was \$373 which was based on 2013/2014 actual collection with no adjustments required under the performance penalty agreement. The actual collection was \$369 as measured on July 4, 2016. Based on the penalty schedule, we fall into the 95% or greater with 0% performance penalty..

For fiscal year 2015/2016 the Minimum Threshold shall be measured on or about July 1, 2017.

For fiscal year 2016/2017 the Minimum Threshold shall be measured on or about July 1, 2018.

For fiscal year 2017/2018 the Minimum Threshold shall be measured on or about July 1, 2019.

Annual Fee means the actual fees paid to the CONTRACTOR by CITY for services rendered by CONTRACTOR for Billed Transports for which the date of transport occurs during the Performance Period as defined in Exhibit B- Fee Schedule.

10.3 Computation of the Performance Penalty

a. For the fiscal year 2010/2011 and fiscal year 2011/2012 only:

1. Performance Penalty Schedule

<u>% of Minimum Threshold Achieved</u>	<u>Performance Penalty %</u>
100% or greater	0%
90-99%	5% of Annual Fee
80-89%	10% of Annual Fee
70-79%	25% of Annual Fee
<70%	50% of Annual Fee

2. Minimum Threshold Reset - The computation of a Minimum Threshold for the initial two fiscal years involved certain assumptions to be made about past and projected collections performance. It is recognized that the CITY's information about past collection performance is incomplete and based on data definition and billing practices that do not reflect certain billing policies that CONTRACTOR may implement. Accordingly, if any of the below assumptions prove to be materially incorrect (defined as a greater than 2% variance between the actual amounts ultimately realized and the assumed amounts), the Minimum Threshold for that fiscal year shall be reset to equal the actual Collections per Billed Transport for that fiscal year or portion of the fiscal year for which the CONTRACTOR had sole billing responsibility;

- i. The initial Minimum Threshold computation assumes that total Collections for the fiscal year 2010/2011 will equal \$63,000,000. The Minimum Threshold Reset provisions of this Section 10.3.1 shall apply if the actual Collections for the portion of the fiscal year 2010/2011 that CONTRACTOR has sole billing responsibility are less than a prorated portion of \$63,000,000, and the shortfall is due either to inaccuracies in the computation of the assumption or to

circumstances beyond the control of the CONTRACTOR. The proration will be done based upon the number of days during the fiscal year that CONTRACTOR has sole billing responsibility. For example, if CONTRACTOR assumes sole billing responsibility for all transports that occur on or after September 1, 2010, then the prorated reimbursement assumption shall be \$ multiplied by 303 days/365 days which equals \$52,298,630;

- ii. The Minimum Threshold computation assumes that Billed Transports for the Fiscal Year 2010/2011 will equal 181,000, which was determined by computing an average number of Billed Transports over the past seven fiscal years. This Section 10.3.1 will apply if the actual Billed Transports for the portion of the fiscal year that CONTRACTOR has sole billing responsibility are materially more than a prorated portion of the 181,000 assumed Billed Transports, and if that variance results from either an inaccurate assumption or to circumstances beyond the control of the CONTRACTOR;
- iii. The Minimum Threshold computation assumes that there will be no material changes in the amount or timing of reimbursement by major payers such as Medicare, Medi-Cal, workers compensation, or commercial insurance carriers as a result of fee schedule changes, Federal or California Healthcare reform, other Federal or State legislative or regulatory actions, CITY, California, or Federal fiscal distress, or any other reason beyond the control of the CONTRACTOR. In the event such changes occur, the Minimum Threshold reset provision of this Section 10.3.1 will apply.

b. For fiscal year 2012/2013 through to fiscal year 2013/2014

1. Performance Penalty Schedule - If the actual Collection per Billed Transport for the Performance Period is less than the Minimum Threshold, as defined in section 10.2 and, if necessary, reset under section 10.3.b.2, CONTRACTOR shall incur a Performance Penalty in accordance with the following schedule:

<u>%of Minimum Threshold Achieved</u>	<u>Performance Penalty %</u>
95% or greater	0%
90-94%	5% of Annual Fee
80-89%	10% of Annual Fee
70-79%	25% of Annual Fee
<70%	50% of Annual Fee

2. Performance Penalty Calculation- The calculation of the Performance Penalty will be done on a date of service basis, and will be performed twelve months from the last month of the end of the Performance Period and shall be computed by comparing the Collections per Billed Transport for the Performance Period to the Minimum Threshold;

CONTRACTOR will provide a Performance Penalty calculation to LAFD within 30 days from the date such Performance Penalty, is calculated. If the CONTRACTOR does not meet the Minimum Threshold, and documents that

the reasons for not meeting the Minimum Threshold were both material and related to factors outside of its control, the LAFD shall adjust the Minimum Threshold to account for the factors outside the CONTRACTOR's control and the Performance Penalty will be recalculated based on the adjusted Minimum Threshold. For the purposes of this clause material shall mean changes outside the CONTRACTOR's control that impact Collections per Billed Transport by more than 5% compared to the Minimum Threshold.

For each Performance Period where any penalties have been imposed and CONTRACTOR subsequently achieves the Minimum Threshold, 80% of the penalty shall be recouped by CONTRACTOR.

3. Performance Penalty from 2012/2013 through 2014/2015 – Effective with the collection of accounts with a service date of 7/1/2015 and beyond, this section will no longer be utilized to calculate the annual performance penalty.

c. For fiscal year 2015/2016 onward:

1. Performance Penalty Schedule – Should the actual Collection per Billed Transport for the Performance Period be less than the Minimum Threshold, as defined in section 10.2 and, if necessary, reset under the Section 10.3.c.2, CONTRACTOR shall incur a Performance Penalty in accordance with the following Schedule:

<u>% of Minimum Threshold Achieved</u>	<u>Performance Penalty %</u>
95.00% or greater	No Penalty
90.00 – 94.99%	5% of Annual Fee
80.00 – 89.99%	10% of Annual Fee
70.00 – 79.99%	25% of Annual Fee
Less than 70.00%	50% of Annual Fee

2. Performance Penalty Calculation– the calculation of the Performance Penalty will be done on a date of service basis, and will be performed twelve months from the last month of the end of the Performance Period, and shall be computed by comparing the Collections per Billed Transports for the Performance Period to the Minimum Threshold. For purposes of Section 10.3.c, the measurement of the Minimum Threshold shall apply to all accounts with a service date commencing on July 1st, of each year, through to the following June 30th, and the measurement shall be made within 10 calendar days following 24 months after the start of the performance period (for example: a performance period of July 1, 2014 through to June 30, 2015, the minimum threshold must be calculated between July 1, 2016 and July 10, 2016).

CONTRACTOR will provide a Performance Penalty calculation to the LAFD within 5 days from the date such Performance Penalty is calculated. If the CONTRACTOR does not meet the Minimum Threshold and documents that the reasons for not meeting the Minimum Threshold were both material and related to factors outside its control, the LAFD shall adjust the Minimum Threshold to account for the factors outside the CONTRACTOR's control and the Performance Penalty will be recalculated based on the adjusted Minimum

Threshold. For the purposes of this clause material shall mean changes outside the CONTRACTOR's control that impact Collections per Billed Transport by more than 5% compared to the minimum Threshold.

For a Performance Period where any penalties are to be imposed, the CONTRACTOR will be afforded a grace period of six (6) months following the initial calculation of the performance penalty to achieve the previously established Minimum Threshold. If the Contractor does not achieve the Minimum Threshold by the end of the six (6) month grace period, the Performance Penalty shall be due, immediately, unless otherwise agreed by the parties.

11.0 COMPLIANCE STANDARDS

11.1 Compliance Program. CONTRACTOR shall have a compliance program that encompasses the following elements, to assure compliance with all applicable laws and conform to best practices in the field of emergency medical service billing and soft collection, throughout the performance of this Agreement

- a. The development and distribution of written standards of conduct, as well as written policies and procedures that promote the billing company's commitment to compliance (e.g., by including adherence to the compliance program as an element in evaluating managers and employees, subcontractors and agents) and that addresses specific areas of potential fraud, such as the claims submission process, code gaming and financial relationships with its providers;
- b. The designation of a chief compliance officer and other appropriate bodies, e.g., a corporate compliance committee, charged with the responsibility of operating and monitoring the compliance program and who report directly to the CONTRACTOR's senior leadership and the governing body/board;
- c. The development and implementation of regular, effective education and training programs for all affected employees, subcontractors and agents;
- d. The creation and maintenance of process, such as a hotline, to receive complaints and the adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation;
- e. The development of a system to respond to allegations of improper/illegal activities and the enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable status, regulations or Federal, State or private payer health care program requirements;
- f. The use of audits and/or other risk evaluation techniques to monitor compliance and assist in the reduction of identified program areas;
- g. The investigation and correction of identified systemic programs and the development of policies addressing the non-employment of sanctioned individuals;

- h. At any point, the LAFD may participate in the Compliance Program and may request additional details regarding the accounts reviewed. In instances where changes are made as a result of the claims review findings, the LAFD may audit the effectiveness of the new process or request the CONTRACTOR to do so.

11.2 Claims Review:

- a. CONTRACTOR shall perform a claims review, using a random sample of 500 accounts, on a quarterly basis. The CONTRACTOR shall select a random sample of 500 accounts and will review the accounts for accuracy of:
 - 1. Coding;
 - 2. Medical necessity determination on government claims;
 - 3. Charges captured (all and proper);
 - 4. Charges to the LAFD's charge master;
 - 5. Claim filing;
 - 6. Signatures documented for Medicare claims;
 - 7. Payments and adjustments posted correctly to account (for time lagged accounts);
 - 8. Patient invoicing, where applicable, occurred correctly (for time lagged accounts).
- b. CONTRACTOR shall base its sample selection on Federal Governmental Accountability Standards (RAT-STAT);
- c. For each area identified above, the CONTRACTOR shall divide the number of problem accounts by 500. In any area where the error rate exceeds 5%, CONTRACTOR shall research the root cause of the problem, document the remediation plan, and then implement the plan;
- d. The claims review will result in a summary report of the findings, which at minimum, will include:
 - 1. An overview of the findings
 - 2. Specific results for the various areas audited
 - 3. In any area where the audit identified less than 90% accuracy, an explanation of the remediation activities the CONTRACTOR shall implement
- e. The CONTRACTOR shall retain the audit documentation for at least thirty-six (36) months should the LAFD wish to review the accounts in detail.

12.0 KEY PERSONNEL

12.1 LAFD Key Personnel

- a. Project Manager as designated by the Fire Chief.
- b. System Administrator.

The System Administrator shall be designated by the LAFD Information Systems Manager (ISM) the Policy Manual referenced in Section XX of this Agreement.

- c. Authorized Users.
The LAFD shall, through its Management Information Systems Section, maintain a list of authorized users to the CONTRACTOR's System, which will be reviewed and updated as changes occur.

12.2 CONTRACTOR Key Personnel

- a. A Staff Assignment Table, as defined in the Procedures Manual, lists all Key Personnel and their assignments during the project, including any subcontractor personnel. The table contains all key assigned personnel who have been approved for work on this project, including replacement personnel who may be substituted for an assigned staff member should they be ultimately be unavailable;
- b. The LAFD reserves the right to approve or disapprove key personnel. The LAFD will allow a CONTRACTOR or subcontractor to substitute out key personnel upon LAFD written approval, as long as approval is not unreasonably withheld, conditioned, or delayed. Replacement of reassigned personnel, if approved, shall be with personnel with equal or greater ability and qualifications, and provided at no charge for their first 10 business days following their start date. In addition, LAFD reserves the right to require a replacement of personnel whom LAFD judges to be unsuitable, or whose continued use is deemed to be contrary to the best interest of the LAFD.

13.0 CONFIDENTIALITY

13.1 Confidentiality

- a. Confidential Information. The parties agree that any Confidential Information provided under this Agreement shall be held and maintained in strict confidence, subject to applicable statutory requirements regarding public records. Each party agrees to protect the Confidential Information of the other party in a manner consistent with the protections used to protect its own Confidential Information, including, without limitation, informing its employees of its obligations under this Agreement and taking such steps as are reasonable in the circumstances, or as reasonably requested by the other party, to prevent any unauthorized disclosure, copying or use of Confidential Information. "Confidential Information" means any proprietary or other information that is required or allowed to be maintained in confidence under the laws governing a municipal corporation including software, Billing System and intellectual property. "Confidential Information" shall also include Protected Health Information as defined in Exhibit C - Business Associate Agreement. The LAFD recognizes that the CONTRACTOR may desire to protect information relating to its business from disclosure under the California Public Records Act under circumstances when the CITY determines that disclosure is otherwise appropriate. Therefore, the LAFD

shall notify the CONTRACTOR of every California Public Records request, immediately upon receipt;

- b. The CONTRACTOR must ensure that each individual sent on an assignment under this Agreement shall have executed a Confidentiality Agreement prior to commencing any assignment. CONTRACTOR agrees to provide the signed Confidentiality Agreement to the LAFD prior to commencing any assignment. The Confidentiality Agreement to be used is attached hereto as Exhibit D. The CONTRACTOR is responsible for ensuring compliance with the Confidentiality Agreements;
- c. CONTRACTOR shall protect the confidentiality of all patient records as set forth in State and/or Federal laws on confidentiality of medical records;
- d. Unauthorized Disclosure. The recipient of any Confidential Information shall, upon discovery of any unauthorized use or disclosure of such Confidential Information by recipient, or any other breach of these confidentiality obligations by the recipient, fully cooperate with the disclosing party to assist the disclosing party regain possession of the Confidential Information and prevent the further unauthorized use or disclosure of the Confidential Information.

13.2 CONTRACTOR'S Interaction with the Media

CONTRACTOR shall refer all inquiries from the media to LAFD, shall, as soon as practical, contact LAFD to inform LAFD of the inquiry, and shall comply with the procedures of LAFD'S public affairs staff regarding statements to the media relating to this Agreement or CONTRACTOR's services hereunder.

13.3 Requirements Apply to All Subcontractors

The CONTRACTOR shall ensure that these requirements are provided to and apply to all Subcontractors of this Agreement.

13.4 Continued Requirements

The requirements of this Section survive termination of this Agreement.

14.0 INSURANCE

14.1 CONTRACTOR shall procure and maintain for the duration of this Agreement, the following insurance coverage:

- a. Workers' Compensation insurance in compliance with the applicable state and federal laws, and not less than \$1,000,000;
- b. General Liability insurance in an amount no less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
- c. Coverage for business interruption, destruction of data processing equipment and media, liabilities affecting accounts receivable, and valuable documents in an amount no less than \$5,000,000 aggregate;

- d. Liability coverage for all vehicles whether owned, hired or used in the amount of \$500,000; and

14.2 The policies are to contain, or be endorsed to contain, the following provisions:

a. General Liability and Automobile Liability Coverage

1. LAFD, its officers, officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR, including the insured general supervision of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protections afforded LAFD, its officers, officials, employees or volunteers;
2. CONTRACTOR's insurance coverage shall be primary insurance as respects LAFD, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by LAFD, its officers, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it. CONTRACTOR hereby waives subrogation rights for loss or damage against LAFD;
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to LAFD, its officers, officials, employees or volunteers;
4. CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability;
5. Companies issuing the insurance policy, or policies, shall have no recourse against LAFD for payment of premiums or assessments for any deductibles with are all at the sole responsibility and risk of CONTRACTOR.

b. All Coverage

1. Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to LAFD;
2. CONTRACTOR shall furnish LAFD with certificates of insurance and with original endorsements effecting coverage required by this Section if requested. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by LAFD before work commences. LAFD reserves the right to require complete, certified copies of all required insurance policies at any time;

3. Payment Withholding: Should any of CONTRACTOR or Subcontractor's required insurance lapse during the term of the Agreement, the CITY shall not process any requests for payments originating after such lapse until the CITY receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. CITY shall notify CONTRACTOR of any payment withholding and the reason for the withholding.

15.0 AGREEMENT TERMINATION

15.1 Termination for Convenience

The CITY may terminate this Agreement for the CITY's convenience at any time by giving CONTRACTOR at least ninety (90) days written notice thereof. Upon receipt of said notice, CONTRACTOR shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The CITY shall pay CONTRACTOR its fees through the effective date of termination and those reasonable and necessary costs incurred by CONTRACTOR to affect such termination. Thereafter, CONTRACTOR shall have no further claims against the CITY under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become CITY property upon the date of such termination. CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY's ownership of rights provided herein. CONTRACTOR may terminate this Agreement without cause upon six (6) months prior written notice to CITY.

15.2 Termination for Breach of Agreement

- a. If CONTRACTOR fails to perform a material component of the provisions of this Agreement, the CITY may give CONTRACTOR written notice of a default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to the CITY within the time permitted by the CITY, then the CITY may terminate this Agreement due to CONTRACTOR's breach of this Agreement;
- b. If CONTRACTOR engages in any dishonest conduct related to the performance or administration of this Agreement or violates the CITY's lobbying policies, then the CITY may immediately terminate this Agreement;
- c. In the event the CITY terminates this Agreement as provided in Section 15.2 a. and b., the CITY may procure, upon such terms and in such manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to the CITY for all reasonable costs associated with the change.
- d. If CITY materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from CONTRACTOR specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

15.3 General

- a. All finished or unfinished CITY documents and materials produced or procured under this Agreement, including all intellectual property rights thereto, shall become CITY property upon date of such termination and returned to the CITY promptly. CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY's ownership of rights provided herein;
- b. If, after notice of termination of this Agreement under the provisions of this section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Termination for Convenience, above;
- c. The rights and remedies of either party provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement;
- d. The amount due the CONTRACTOR by reason of termination shall be determined as follows:
 1. If the termination is for the CITY's convenience, the CONTRACTOR will be paid in accordance with Section 9.0 of this Agreement;
 2. If the termination is for the CONTRACTOR's default, the total sum payable to the CONTRACTOR will be determined in accordance with Section 9.0 of this Agreement. The CITY, however, may retain from said payment an amount equal to any additional costs incurred by the CITY in completing that part of the work that is in default.

16.0 LIMITATION OF LIABILITY

With regard to professional negligence, it is agreed that CONTRACTOR's liability will not exceed \$20,000,000 for the six (6) year term the Agreement remains in full force and effect. CONTRACTOR will not be liable to CITY in the event of CITY'S, its employees and its director's gross negligence, willful misconduct or violation of any laws and regulations. In no event will either party be liable to the other for any special or consequential damages. Notwithstanding the foregoing, and notwithstanding any other provision of this Agreement to the contrary, no limitation of liability or limitation of warranty or disclaimer shall be applicable to CONTRACTOR's breach of its obligations under Exhibit A - Standard Provisions for City Contracts, or to a party's breach of its obligations under Section 10 and/or Exhibit C - Business Associate Agreement, it being the intent of the respective parties that the breaching party remain fully liable therefore.

17.0 STANDARD PROVISIONS

With the exceptions of PSCs 10, 17 and 24, the CONTRACTOR shall comply with the applicable requirements of the Standard Provisions for City Contracts Agreements (Rev. 3/09), attached hereto as and incorporated herein by reference.

18.0 FIRST SOURCE HIRING

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

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

CONTRACTOR further pledges that it will, during the term of the Agreement, a) At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) Interview qualified individuals referred by CDD; and c) Prior to filling any employment opportunity, the CONTRACTOR shall inform the LAFD of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR interviewed and the reasons why referred individuals were not hired.

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

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

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

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

19.0 CALIFORNIA IRAN CONTRACTING

The California Legislature adopted the Iran Contracting Act of 2010 to respond to policies of Iran in a uniform fashion (PCC §2201(q)). The Iran Contracting Act prohibits bidders engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A bidder who "engages in investment activities in Iran" is defined as either:

1. A bidder providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including provision of oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. A bidder that is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2203(b) as a person engaging in the investment activities in Iran.

The bidder shall certify that at the time of submitting a bid for new contract or renewal of an existing contract, the bidder is not identified on the DGS list of ineligible businesses or persons and that the bidder is not engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts (PCC § 2205).

To comply with the Iran Contracting Act of 2010, the bidder shall provide its vendor or financial institution name, and City Business Tax Registration Certificate (BRTC) if available, in completing ONE of the options shown in Exhibit D.

20.0 CHARTER SECTION 470

20.1 CEC FORM 50

Certain contractors agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if those contractors qualify as a lobbying entity under Los Angeles Municipal Code §48.02. CEC Form 50 attached. Agreements submitted without a completed CEC Form 50, by proposers that qualify as a lobbying entity under Los Angeles Municipal Code §48.02 shall be deemed nonresponsive.

Campaign Contributions – Per City Charter Sections 470(c) (12) the CONTRACTOR is subject to Charter section 470(c) (12) and related ordinances. As a result, the CONTRACTOR may not make campaign contributions to and/ or engage in fundraising for certain elected City officials or candidates during the proposal process or for 12 months after the contract is signed. The CONTRACTOR'S principals and subcontractors performing \$100,000.00 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

20.2 CEC FORM 55

CEC Form 55 requires the CONTRACTOR to identify with their principals, their subcontractors performing \$100,000 or more in work on the Agreement, and the principals of those subcontractors. The CONTRACTOR must also notify their principals and subcontractors in writing of the restrictions and include the notice in Agreements with subcontractors. CEC Form 55 is attached. Agreements submitted without a completed CEC Form 55 shall be considered nonresponsive. Bidders who fail to comply with City law may be subject to penalties, termination of contract, and

debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org

21.0 TABLE OF EXHIBITS

The Exhibits listed below are incorporated into this Agreement by this reference.

Document

Exhibit A Standard Provisions for City Contracts

Exhibit B Fee Schedule

Exhibit C Business Associate Agreement Exhibit D Confidentiality Agreement

[Signature page follows]

IN WITNESS THEREOF, the parties hereto have caused this First Amendment to Agreement C-118005 to be executed by their duly authorized representatives:

THE CITY OF LOS ANGELES

By _____
RALPH M. TERRAZAS
Fire Chief

Date _____

ADVANCED DATA PROCESSING, Inc.,
A Delaware Corporation
A subsidiary of Intermedix Corporation

By _____
JOEL R. PORTICE
Chief Executive Officer

Date _____

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

ATTEST:

HOLLY L. WOLCOTT

By _____
Laurel L. Lightner
Assistant City Attorney

By _____
Deputy City Clerk

Date _____

Date _____