



RALPH M. TERRAZAS  
FIRE CHIEF

June 2, 2017

BOARD OF FIRE COMMISSIONERS  
FILE NO. 17-073

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: AGREEMENT WITH ASERETH MEDICAL SERVICES, INC., FOR  
TEMPORARY PHARMACIST SERVICES

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 Withdrawn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

### SUMMARY

The County of Los Angeles has notified the LAFD that County Pharmacies will no longer restock our controlled medications effective July 1, 2017. Consequently, the LAFD (through the Department of General Services) has entered into a lease agreement with CareFusion, Inc., to procure five (5) Pyxis MedStations ADS, which will be strategically placed in regional fire stations (FS13, FS59, FS64, FS77, and FS84). Also to be leased is the central Pyxis CII safe that will be located at the Supply & Maintenance Division (S & M), where a licensed pharmacist would receive and distribute the controlled medications, and adhere to all regulatory requirements of the Drug Enforcement Agency. Regularly assigned Emergency Medical Services (EMS) Battalion Captains will be able to access any Pyxis MedStation to restock their assigned paramedic ambulances with their controlled medication cache of Morphine and Midazolam.

Security of the stock of controlled medications will be enhanced utilizing the following features:

- Biometric Identification using Spectral Image Technology
- Dual log-in requirements (PosID)
- Closed-circuit surveillance systems
- Seismic anchoring
- Pyxis MedStations placed at EMS Battalion Captain Fire Stations (FS13, FS59, FS64, FS77, and FS84)

- Central Pyxis CII safe/vault placed inside the Medical Supply Unit located at the Supply & Maintenance Division (S & M)

The Business and Professionals Code Section 4119.1(d) mandates that the operation of the automated drug delivery systems must be under the supervision of a licensed pharmacist. The LAFD will order the medications from an approved pharmaceuticals vendor, to be delivered to the LAFD S & M, Medical Supply Unit. The pharmacist will receive the medication deliveries from the pharmaceuticals vendor to the LAFD S & M, Medical Supply Unit, will store the medications in the central Pyxis CII safe/vault, and when necessary will distribute medications to the Pyxis MedStation ADS machines in each Geographical Bureau (FS13, FS59, FS64, FS77, and FS84). The pharmacist will reconcile each and every use of a controlled medication with a specific patient via specific booklet numbers from the electronic patient care reports. The pharmacist will also assist with the identification of data to be captured and the reports to be generated for monitoring medication use, waste reconciliation, and discrepancies.

Once these controlled medications are delivered to satellite Pyxis MedStation locations, only EMS Battalion Captains and specific EMS Bureau administrative personnel will have access to retrieve controlled medications from these machines. Further security measures include closed circuit cameras located directly above the machines. To enhance privacy, these cameras will be focused solely on the machine to enable the cameras to capture images of individuals who open or attempt to open the machines. The cameras will not capture the surrounding environment.

The pharmacist is legally authorized to transport controlled medications to/from the central Pyxis CII safe/vault and each satellite Pyxis MedStation ADS via an approved locking transport container and in a manner approved by the Board of Pharmacy and regulations established by the Drug Enforcement Agency. Due to the urgency of implementing this program by July 1, 2017, the Department proposes to enter into a short-term Agreement with Asereth Medical Services, Inc., a pharmacist registry, to provide temporary licensed pharmacist services until a Request for Proposal (RFP) process is completed for selection of a longer-term contractor. The designated temporary pharmacist will be an employee of Asereth Medical Services, Inc. In compliance with Charter Section 1022, it has been determined that the City does not have personnel with the required knowledge and skill necessary to provide these services, and it is more economical to have the services be provided by the Contractor on a short-term basis.

The term of this Agreement would be from contract execution through December 31, 2017. The Fire Chief, at his sole discretion, could continue the Agreement on a month-to-month basis through June 30, 2018, as necessary to complete the RFP process. Compensation would be at the hourly rate of \$95, plus mileage at the Internal Revenue Service rate for travel while performing the services described in the Agreement. Mileage is not paid for travel from and to the pharmacist's home before and after on-

duty hours. Total compensation will not exceed \$150,000 for the term of this Agreement, including all of the month-to-month extensions, if any. The Contractor will execute a Business Associate Agreement which requires that the Contractor ensure that the designated pharmacist complies with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

### **RECOMMENDATION**

That the Board:

1. Approve and transmit to the Mayor, in accordance with Executive Directive No. 3, the Agreement with Asereth Medical Services, Inc., for temporary pharmacist services.
2. Authorize the Fire Chief to execute the Agreement with Asereth Medical Services, Inc., for an initial term from contract execution through December 31, 2017, with authority for the Fire Chief to continue the Agreement on a month-to-month basis through June 30, 2018.

### **FISCAL IMPACT**

Total compensation for the Agreement with Asereth Medical Services, Inc. will not exceed \$150,000. Funding would be provided by the Targeted Destination Ambulance Services (Kaiser) Trust Fund. There is no impact to the General Fund.

Board Report prepared by Marc Eckstein, M.D., MPH, Medical Director, Commander, EMS Bureau.

Attachments

**AGREEMENT NO. \_\_\_\_\_**

**AGREEMENT BETWEEN**

**THE CITY OF LOS OF LOS ANGELES (LAFD)**

**AND**

**ASERETH MEDICAL SERVICES, INC.**

**FOR**

**TEMPORARY PHARMACIST**

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## LIST OF EXHIBITS

EXHIBIT A – ASERETH MEDICAL SERVICES, INC. SCOPE OF SERVICES

EXHIBIT B – STANDARD PROVISIONS FOR CITY CONTRACTS (3/09)

ATTACHMENT No. 1 – BUSINESS ASSOCIATE AGREEMENT (HIPAA)

**AGREEMENT NO. \_\_\_\_\_**  
**BETWEEN**  
**THE CITY OF LOS OF LOS ANGELES (LAFD)**  
**AND**  
**ASERETH MEDICAL SERVICES, INC.**

This Agreement (hereinafter referred to as "Agreement") is made and entered into by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as "City"), acting by and through its Los Angeles Fire Department (hereinafter referred to as "Fire Department" or "LAFD"), and Asereth Medical Services, Inc., a California corporation (hereinafter referred to as "Contractor"), with reference to the following:

**WHEREAS**, the Fire Department is a Los Angeles County, Department of Health Services (County) approved Emergency Medical Services (EMS) provider agency; and

**WHEREAS**, Fire Department responses to EMS calls for service may necessitate administering controlled medications to patients for proper and effective treatment; and

**WHEREAS**, controlled medications in the past have been dispensed to EMS provider agencies by County-operated hospital pharmacies; and

**WHEREAS**, the Fire Department and other EMS provider agencies have been notified by the County that its hospital pharmacies will cease issuing controlled medications to EMS provider agencies as of July 1, 2017; and

**WHEREAS**, to continue fulfilling its public safety responsibilities in the provision of emergency medical services, the Fire Department must utilize the services of a pharmacist licensed by the California State Board of Pharmacy, in compliance with state and federal regulations, to procure, stock, store and dispense controlled medications from Department facilities; and

**WHEREAS**, for public safety purposes, there is an urgent need for the Fire Department to begin the transition to have a temporary pharmacist provide services regulating controlled medications prior to July 1, 2017; and

**WHEREAS**, meeting this timeline requires execution of a short-term contract for the performance of professional services of a temporary nature for which the Fire Department finds competitive bidding is not practical or advantageous; and

**WHEREAS**, pursuant to Los Angeles City Charter Section 1022, the City has found that: it does not have personnel with the required knowledge and skill necessary to provide these services; it is more economical to have the services be provided by the

Contractor on a short-term basis; and time constraints require immediate staffing to provide the services.

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

## **1.0 PARTIES TO THE AGREEMENT AND REPRESENTATION**

### **1.1 Parties to the Agreement**

The parties to the Agreement are:

- A. City – The City of Los Angeles, a municipal corporation, having its principal office at 200 North Spring Street, Los Angeles, California, 90012, acting by and through its Fire Department, having its principal office at 200 North Main Street, 18<sup>th</sup> Floor, Los Angeles, California 90012.
- B. Contractor – Asereth Medical Services, Inc., a California corporation, having its principal office at 257 S. Fair Oaks Avenue, Suite 100, Pasadena, California 91105-2050.

### **1.2 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 this Agreement:

Ralph M. Terrazas, Fire Chief  
Los Angeles Fire Department  
200 North Main Street, Room 1800  
Los Angeles, California 90012

With copies to:

Marc Eckstein, M.D., Chief Physician and Medical Director  
Emergency Medical Services Bureau  
Los Angeles Fire Department  
200 North Main Street, Room 1860  
Los Angeles, California 90012

- B. The Contractor's representative is, unless otherwise stated in the Agreement:

Theresa A. Taylor, Pharm. D  
Chief Executive Officer and Director of Operations  
Asereth Medical Services, Inc.  
257 South Fair Oaks, Suite 100  
Pasadena, California 91105-2050

### **1.3 Notices**

Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal deliver or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

## **2.0 TERM OF AGREEMENT**

The term of this Agreement will commence upon attestation by the Los Angeles City Clerk and will terminate on December 31, 2017, with the option for the City, at its sole discretion, to continue the contract on a month-to-month basis through June 30, 2018. Exercising each option to extend on a month-to-month basis is at the sole discretion of the Fire Chief and each option shall be exercised by a letter to the Contractor, signed by the Fire Chief.

## **3.0 SERVICES TO BE PROVIDED BY THE CONTRACTOR**

- 3.1 The Contractor shall provide the Fire Department with a primary pharmacist and a back-up pharmacist(s) to provide the services described in Exhibit A - Asereth Medical Services, Inc., Temporary Pharmacist Scope of Services.
- 3.2 As soon as possible after execution of this Agreement, the Contractor shall meet with the Fire Department to discuss the Scope of Services and the skills and minimum qualifications required of the designated pharmacist(s). The Contractor shall not charge the Fire Department for this meeting.

Thereafter, on an as-needed basis and upon request by the Fire Department, the Contractor shall meet in person or by telephone with the Fire Department to discuss any concerns the Fire Department may have regarding the performance by the pharmacist(s) and any refinement of the Scope of Services. The Contractor shall not charge the Fire Department for said meetings.



- 3.3 The Contractor shall identify three to five licensed pharmacists, with at least two (2) years of experience as a pharmacist, for the Fire Department to interview. The Fire Department will select one primary pharmacist and one or two back-up pharmacists. The back-up pharmacists will provide the services described in Exhibit A of this Agreement whenever the primary pharmacist is not available.
- 3.4 The designated pharmacists are employees of the Contractor and are not employees of the City or the Fire Department.
- 3.5 The Fire Department is a Covered Healthcare Entity within the City of Los Angeles organization, and in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and as part of this Agreement, the Fire Department entered into a separate Business Associate Agreement (BAA) with the Contractor to ensure the security of Fire Department records containing Protected Health Information (PHI). Said BAA is attached hereto as Attachment No. 1. The designated pharmacist(s) will have access to PHI in order to reconcile the medication and comply with federal regulations and standards. The Contractor shall ensure that the designated pharmacist(s) assigned to provide services to the Fire Department are in compliance with HIPAA regarding Fire Department records containing Protected Health Information (PHI).
- 3.6 The Fire Department shall have the right to have the designated pharmacist or back-up pharmacist replaced whenever the pharmacist's performance is not satisfactory.

#### **4.0 COMPENSATION**

The City will pay the Contractor for satisfactory services rendered by the pharmacist(s) at an hourly rate of \$95.00, plus mileage at the Internal Revenue Service rate for travel while performing the services described in Exhibit A for the City. Mileage is not paid for travel from and to the pharmacist's home before and after on-duty hours. Total compensation will not exceed One Hundred Thousand Fifty Dollars (\$150,000.00) for the term of this Agreement, including all extensions to the term pursuant to Section 2.0 of this Agreement.

The Contractor shall submit monthly invoices to:

Marc Eckstein, M.D.  
Chief Physician and Medical Director  
Emergency Medical Services Bureau  
Los Angeles Fire Department  
200 North Main Street, Room 1860  
Los Angeles, California 90012

The invoice must contain the following:

- a. Name and address of company or firm;
- b. Name and address of the Fire Department;
- c. Date of the invoice and period covered;
- d. Reference to contract number;
- e. Description of completed task, amount due for the task, and name of pharmacist performing the task;
- f. Payment terms, total due, and due date;
- g. Certification by a duly authorized officer of the Contractor;
- h. Discounts and terms (if applicable); and
- i. Remittance address (if different from company address).

## **5.0 NON-EXCLUSIVE**

The Fire Department and the Contractor understand and agree that this is a non-exclusive Agreement to provide services to the Fire Department and that the Fire Department reserves the right to enter into agreement with other contractors/consultants to provide similar services during the term of this Agreement.

## **6.0 STANDARD PROVISIONS**

By entering into this Agreement with the City, the Contractor agrees to abide by the Standard Provisions for City Contracts (rev. 3/09), attached hereto and incorporated herein as Exhibit B, with the exception of PCS-27: Non-Discrimination, PSC-28: Equal Employment Practices and PSC- 29: Affirmative Action Program, which are superseded by the related provisions below.

## **7.0 NON-DISCRIMINATION**

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

## 8.0 EQUAL EMPLOYMENT PRACTICES

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

- A. During the performance of this Agreement, the Contractor agrees and represents that it will provide Equal Employment Practices and the Contractor and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. The Contractor agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.
- B. The Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- C. At the request of the Awarding Authority or the Designated Administrative Agency (hereinafter referred to as "DAA"), the Contractor shall certify in the specified format that he or she has not discriminated in the performance of City Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- D. The Contractor shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices

provisions of City Agreements. Upon request, the Contractor shall provide evidence that he or she has or will comply therewith.

- E. The failure of any Contractor to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of City Agreements. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.
- F. Upon a finding duly made that the Contractor has failed to comply with the Equal Employment Practices provisions of a City Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the City. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of the Los Angeles Administrative Code. In the event of such a determination, the Contractor shall be disqualified from being awarded an Agreement with the City for a period of two (2) years, or until the Contractor shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Agreement, the City shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Agreement, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish the Agreement compliance program.
- I. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

- J. By affixing its signature on an Agreement that is subject to Section 10.40 *et seq.* of the Los Angeles Administrative Code, the Contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Agreements.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:
  - 1. hiring practices;
  - 2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
  - 3. training and promotional opportunities; and
  - 4. reasonable accommodations for persons with disabilities.
- L. All Contractors subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the City, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the Contractor. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1 of the Los Angeles Administrative Code. Failure of the Contractor to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Agreement with the City.

## **9.0 AFFIRMATIVE ACTION PROGRAM**

Every non-construction and construction Contract with, or on behalf of, the City for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Agreement:

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

condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. The Contractor shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.
- B. The Contractor shall, in all solicitations or advertisements for employees placed, by or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
- C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.
- D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City Agreements and, upon request, to provide evidence that it has or will comply therewith.
- E. The failure of any Contractor to comply with the Affirmative Action Program provisions of City Contracts may be deemed to be a material breach of a City Agreement. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.
- F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of a City Agreement, the Agreement may be

forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of the Los Angeles Administrative Code. In the event of such determination, the Contractor shall be disqualified from being awarded an Agreement with the City for a period of two (2) years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City, or any court of competent jurisdiction, that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City Agreement, there may be deducted from the amount payable to the Contractor by the City under the Agreement, a penalty of ten dollars (\$10.00) for each person for each calendar day on which the person was discriminated against in violation of the provisions of a City Agreement.
- H. Notwithstanding any other provisions of a City Agreement, the City shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City Agreements, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this Agreement compliance program.
- J. Nothing contained in City Agreements shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. By affixing its signature to an Agreement that is subject to this article, the Contractor shall agree to adhere to the provisions in this article for the duration of the Agreement. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement

a qualifying Affirmative Action Program.

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

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

- (i) Advertising employment opportunities in minority and other community news media or other publications;
- (ii) Notifying minority, women and other community organizations of employment opportunities;
- (iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities;
- (iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives;
- (v) Promoting after school and vacation employment opportunities for minority, women and other youth;
- (vi) Validating all job specifications, selection requirements, tests, etc.;
- (vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker; and
- (viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

- (b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.



- (c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.
  - (d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.
  - (e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.
  - (f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.
  - (g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Agreements. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Agreements.
  - (h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:
    - (i) What steps were taken, how and on what date;
    - (ii) To whom those efforts were directed;
    - (iii) The responses received, from whom and when;
    - (iv) What other steps were taken or will be taken to comply and when; and
    - (v) Why the Contractor has been or will be unable to comply.
2. Every Agreement of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

- L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups; provided, however, that any Agreement subject to this ordinance shall require the Contractor, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, Subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- N. This ordinance shall not confer upon the City or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Agreements.

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

#### **10.0 MUNICIPAL LOBBYING ORDINANCE**

The Contractor is required to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if Contractors qualify as a lobbying entity under Los Angeles Municipal Code Section 48.02.

By submitting the Bidder Contribution Form CEC 50, the Contractor acknowledges and agrees to comply with the requirements of the Municipal Lobbying Ordinance, Los Angeles Municipal Code Section 48.02. Contractors who fail to comply with City Law may be subject to penalties, termination of contract and debarment.

#### **11.0 CHARTER SECTION 470(c)(12)**

Charter Section 479(c)(12) and related ordinances state that proposers may not make campaign contributions to and/or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit a proposal until either the contract is approved or, for successful proposers, 12 months after the contract is signed. The proposer's principals and subcontractors performing \$100,000 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. By submitting the Prohibited Contributors Form CEC 55, as prescribed by the City Ethics Commission, the Contractor acknowledges and agrees to comply with the requirements of Charter Section 470(c)(12) and related ordinances. Proposers or contractors who fail to comply with City Law may be subject to penalties, termination of contract and debarment.

#### **12.0 IRAN CONTRACTING ACT OF 2010**

In accordance with California Public Contract Code Sections 2200-2208, all bidders submitting proposals for, entering into, or renewing contracts with the City for goods and services estimated at \$1,000,000 or more are required to

complete, sign, and submit the "Iran Contacting Act of 2010 Compliance Affidavit."

### **13.0 ENTIRE AGREEMENT**

This Agreement contains the complete Agreement between the parties. No verbal agreement(s) or conversation(s) with any officer or employee of either party will affect or modify the terms and conditions of this Agreement.

### **14.0 NUMBER OF PAGES AND ATTACHMENTS**

This Agreement is executed in four (4) quadruplicate originals, each of which is deemed to be an original. This Agreement includes sixteen (16) pages and two (2) Exhibits which constitute the entire understanding and agreement of the parties.

**[SIGNATURE PAGE FOLLOWS]**

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

**THE CITY OF LOS ANGELES**

By: \_\_\_\_\_  
RALPH M. TERRAZAS, Fire Chief

Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
MARCIA GONZALES-KIMBROUGH  
Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**  
**HOLLY L. WOLCOTT, City Clerk**

By: \_\_\_\_\_  
Deputy City Clerk

Date: \_\_\_\_\_

**ASERETH MEDICAL SERVICES, INC.,  
a California Corporation**

By\*: \_\_\_\_\_  
THERESA TAYLOR  
Chief Executive Officer

Date: \_\_\_\_\_

By\*\*: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

NOTE: If Contractor is a corporation, two signatures are required.

\* The signature of President, Chairman of the Board, or Vice President is required here; and

\*\* an additional signature of Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer is also required for the Corporation.

City Business Tax Registration Certificate Number: 0000005786-0001-9

Internal Revenue Service ID Number: 95-4301454

Agreement Number: \_\_\_\_\_

# EXHIBIT A

ASERETH MEDICAL SERVICES, INC.

SCOPE OF SERVICES

**ASERETH MEDICAL SERVICES, INC.  
TEMPORARY PHARMACIST SCOPE OF SERVICES**

The Contractor shall provide a licensed pharmacist that will provide the following services to the Los Angeles Fire Department (LAFD). The services to be provided by the pharmacist will involve the use of automated drug delivery systems: the Praxis CII safe (also referred to as the "Central Medication Safe") and the Pyxis MedStations ADS machines to be located at several LAFD satellite locations. The LAFD will provide training to the pharmacist on the use and operation of the Pyxis products. The LAFD will order the medication from an approved pharmaceutical vendor for delivery to the LAFD Supply & Maintenance Division.

1. Personally sign for all controlled medication deliveries for LAFD at LAFD Supply & Maintenance Division, located at 140 North Avenue 19, Los Angeles, California 90031 and secure the medications in a central safe in the Medical Supplies Office (Central Medication Safe) at this location.
2. Assist with the adherence to policies and procedures that meet the established professional and federal guidelines that ensure safe controlled medication storage, distribution, access, and use wherever they are deployed, including meeting required environmental conditions for the storage and handling of controlled medications.
3. Complete all required documentation to ensure compliance with federal/Drug Enforcement Administration (DEA) policies regarding the procurement, distribution, and administration of controlled medications.
4. Follow established standards for safety, accuracy, and timeliness of any required forms or reports in order to be in full compliance with applicable local, state, and federal standards regarding the prescribing, procurement and distribution of controlled medications.
5. Assist with the identification of data to be captured and the reports to be generated for monitoring medication use, waste reconciliation, and discrepancies.
6. Prepare medications for external usage; break down bulk medical supplies into dispensable units and restock Central Medication Safe and all satellite automated medication dispensing machines; maintain medications under all required security, as prescribed by Federal and State laws. This will entail transporting controlled medication to and from the Central Medication Safe to all satellite locations via an approved locking transport container (to be provided by the LAFD) and in a manner approved by the board of Pharmacy and regulations established by the DEA.

7. Assess medication inventory levels of Central Medication Safe and satellite automated medication dispensing machines; restock Central Medication Safe and satellite automated medication dispensing machines based on pre-determined thresholds; maintain security and control of all medications during transport; and rotate medications to minimize expiration of unused controlled medications.
8. Reconcile each and every use of a controlled medication with a specific patient via specific booklet numbers from the electronic patient care reports.
9. Run periodic queries to identify any unusual controlled medication usage by paramedics in the field.
10. Maintain records of all controlled medication deliveries and all corresponding regulatory/compliance forms and documents.
11. Regularly survey controlled medication inventories to ensure that medications are rotated and are not kept or dispensed past their expiration dates.
12. Ensure that medications are maintained in satisfactory environmental conditions and that there is no evidence of any tampering of controlled medications.
13. Maintain an inventory of controlled medications received and dispensed; audit inventory of controlled medications and assure that adequate pharmaceutical supplies are maintained.
14. Maintain diligence in security and control of medications.
15. Notify the LAFD Medical Director immediately upon learning of any controlled medication discrepancy, potential diversion issue, or controlled medication tampering.
16. Maintain controlled medication formulary.
17. Enter and update approved users of automated dispensing machines; assign template, privilege and access level of automated dispensing machines; and assist in proper configuration and authorized access of Central Medication Safe.
18. Monitor automated dispensing machine status and manage medication error messages.
19. The pharmacist must provide their own personal vehicle for use in carrying out the services described in this Scope of Services. The vehicle must be maintained in good working order and properly insured, and must have security measures to ensure safe-keeping and safe transport of medication by the pharmacist.



# EXHIBIT B

## Standard Provisions for City Contracts (3/09)

# ATTACHMENT No. 1

## Business Associate Agreement (HIPAA)

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

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

**RECITALS**

WHEREAS, BA will provide services of a Pharmacist registered with the California State Board of Pharmacy who will procure, stock, store and dispense controlled medications from LAFD facilities as stipulated in Contract No. C-\_\_\_\_\_, the ("Contract");

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

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

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

**A. DEFINITIONS**

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

1. **Breach** means the acquisition, access, use, or disclosure of protected health

information in a manner not permitted under subpart E of 45 C.F.R. Part 164.

2. **Business Associate** (“BA”) shall have the meaning ascribed in 45 C.F.R. §\_160.103 and refers to Asereth Medical Services, Inc. for purposes of this Agreement.
3. **Contract** means Los Angeles City Contract Number C-\_\_\_\_\_ and all amendments by and between the City of Los Angeles (“City”) and Asereth Medical Services, Inc. which includes performing the activities related to providing services of a Pharmacist registered with the California State Board of Pharmacy who will procure, stock, store and dispense controlled medications from LAFD facilities.
4. **Covered Entity** (“CE”) means the Los Angeles Fire Department (“LAFD”), a Health Care Component of the City of Los Angeles, a Hybrid Entity.
5. **Designated Record Set** means a group of records maintained by or for a Covered Entity that are: (i) medical records about individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record system maintained by or for a health plan; and/or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a Covered Entity.
6. **Health Care Component** (“HCC”) means those portions of the Hybrid Entity that perform HIPAA-related activities. The LAFD became a HCC by the Los Angeles City Council action which adopted the recommendation of the Personnel Committee meeting on July 30, 2010 [Council File No. 10-1181] or as modified [Council File No. R3-0240; August 16, 2013].
7. **HITECH Act** (“HITECH”) means the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act, and any amendments, regulations, rules and guidance issued thereto and the relevant dates for compliance.
8. **HIPAA Final Regulations** means 45 C.F.R. Parts 160, 162 and 164 as amended on January 23, 2013 and effective on March 23, 2013 but only to the extent it allies to a Covered Entity, Hybrid Entity and/or Business Associate.
9. **Hybrid Entity** (“HE”) means, for purposes of this Agreement, the City of Los Angeles, a single legal municipal entity that is (i) a Covered Entity; (ii) whose business activities include both covered and non-covered HIPAA functions; and (iii) that has designated its LAFD, along with other portions of the City of Los Angeles, as a HHC pursuant to 45 C.F.R. § 160.103.

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

**B. DISCLOSURE OF PHI TO BUSINESS ASSOCIATE**

In connection with the services provided by BA to or on behalf of CE, described in this Agreement, CE may disclose PHI to BA for the purpose of providing services of a Pharmacist registered with the California State Board of Pharmacy who will procure, stock, store and dispense controlled medications from LAFD facilities.

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

**C. OBLIGATIONS OF COVERED ENTITY**

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

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

**D. OBLIGATIONS OF BUSINESS ASSOCIATE**

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

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

(c) Notification to Covered Entity. Agree to notify the designated Privacy Officer of CE of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules within 72 hours of discovery of the improper use or disclosure. The determination as to whether a use or disclosure for a purpose not provided for by this Agreement is a Breach within the meaning of 45 C.F.R. 164.402 shall be determined by the CE using the criteria determined in 45 C.F.R. 164.402 (2)(i)-(iv) after BA notifies CE of the use or disclosure of the PHI;

(d) Breach Notification. BA agrees to follow 45 C.F.R.164.410 after first notifying CE of the use or disclosure not provided by this Agreement and CE makes a determination that a breach has occurred pursuant to paragraph C(5) of this Agreement; and

(e) For purposes of the Breach Notification provision in 45 C.F.R. 164.410, BA in this Agreement is not the agent of CE.

2. Data Aggregation. In the event that BA works for more than one covered entity, BA is not permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the HIPAA Administrative Simplification.
3. De-identified Information. BA may use and disclose de-identified health information if (i) the use is disclosed to CE in writing and permitted in writing by CE in its sole discretion and (ii) the de-identification is in compliance with 45 CFR §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 CFR §164.514(a) and (b).
4. Safeguards. BA shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by law. BA shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of CE.
5. Minimum Necessary. BA shall attempt to ensure that all uses and disclosures of PHI which pertain to the billing or operations of the CE are subject to the principle of “minimum necessary use and disclosure,” i.e., that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.

6. Disclosure to Agents and Subcontractors. If BA discloses PHI received from CE, to agents, including a subcontractor, BA shall require the agent or subcontractor to agree to the same restrictions and conditions as apply to BA under this Agreement. BA shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of the CE. BA shall be liable to CE for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were BA's own acts, failures or omissions, to the extent permitted by law. BA further expressly warrants that its agents or subcontractors will be specifically advised of, and will comply in all respects with, the terms of this Agreement.
7. Individual Rights Regarding Designated Record Sets. If BA maintains a Designated Record Set on behalf of CE, BA agrees as follows:
- (a) Individual Right to Copy or Inspection. BA agrees that if it maintains a Designated Record Set for CE that is not maintained by CE, it will, in the event any Individual delivers directly to BA a request for access to PHI, in order for CE to respond to such Individual, forward such request to CE in order to meet the requirements of 45 CFR §164.524(a)(1). Under the HIPAA Final Rules, CE is required to take action on such requests as soon as possible, but not later than 30 days following receipt of the request. [45 C.F.R. § 164.524(b)(2).] BA agrees to make reasonable efforts to assist CE in meeting this deadline. The information shall be provided in the form or format requested if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged. If CE maintains the requested records, CE, rather than BA shall permit access according to its policies and procedures implementing the HIPAA Administrative Simplification.
- (b) Individual Right to Amendment. BA agrees, if it maintains PHI in a Designated Record Set, to make the Designated Record Set available to CE for amendments to PHI pursuant to 45 CFR §164.526.
- (c) Accounting of Disclosures. BA agrees to maintain documentation of the information required to provide an accounting of disclosures of PHI in accordance with 45 CFR §164.528, and to make this information available to CE upon CE's request, in order to allow CE to respond to an Individual's request for accounting of disclosures. Under the HIPAA Final Rules, CE is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. BA agrees to use its best efforts to assist CE in meeting this deadline. Such accounting must be provided without cost to the individual or CE if it is the first accounting requested by an individual within any 12 month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if BA informs the CE in advance of



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

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

**E. TERM AND TERMINATION**

1. Term. The Term of this Agreement shall be effective as of the Effective Date of the Contract, and shall terminate when all of the PHI provided by CE to BA, or created or received by BA on behalf of CE, is destroyed or returned to CE, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
2. Termination for Cause. Upon CE's knowledge of a material breach by BA, CE shall either:
  - (a) Provide an opportunity for BA to cure the breach or end the violation and terminate this Agreement and the Contract if BA does not cure the breach or end the violation within the time specified by CE;
  - (b) Immediately terminate this Agreement and the Contract if BA has breached a material term of this Agreement and cure is not possible; or
  - (c) If neither termination nor cure is feasible, CE shall report the violation to the Secretary.
3. Effect of Termination.
  - (a) Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, BA shall return or destroy all PHI received from CE, or created or received by BA on behalf of CE. This provision shall apply to PHI that is in the possession of subcontractors or agents of BA. BA shall retain no copies of the PHI and shall confirm, in writing, to the CE that all PHI has been returned to the CE or destroyed and, state the method of destruction.
  - (b) In the event that BA determines that returning or destroying the PHI is infeasible, BA shall provide to CE written notification of the conditions that make return or destruction infeasible. Upon discovering that return or destruction of PHI is infeasible, BA shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as BA maintains such PHI.

**F. MISCELLANEOUS**

1. Indemnification.
  - (a) To the extent permitted by law, BA agrees to indemnify and hold harmless CE from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages

recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by CE arising out of, resulting from, or attributable to any acts or omissions or other conduct of BA or its agents in connection with the performance of BA's or its agents' and/or subcontractor's duties under this Agreement. This indemnity shall not be construed to limit CE's rights, if any, to common law indemnity.

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

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

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

If to Covered Entity:

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

And:

June Gibson, Fire Administrator  
Los Angeles Fire Department  
200 North Main Street, Room 1630  
Los Angeles, California 90012  
(213) 978-3731  
(213) 978-3414 Fax

If to Business Associate:

Asereth Medical Services, Inc.  
Theresa A. Taylor, Pharm. D.  
Director of Operations  
257 South Fair Oaks Avenue, Suite 100  
Pasadena, California 91105-2050  
(626) 449-0099  
(626) 449-7388 Fax

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

provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.

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

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

**THE CITY OF LOS ANGELES**

By: \_\_\_\_\_  
RALPH M. TERRAZAS  
Fire Chief

Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Judith Thompson  
Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**  
**HOLLY L. WOLCOTT, City Clerk**

By: \_\_\_\_\_  
Deputy City Clerk

Date: \_\_\_\_\_

**ASERETH MEDICAL SERVICES, INC.,  
a California Corporation**

By\*: \_\_\_\_\_  
THERESA A. TAYLOR, PHARM. D.

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By\*\*: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

NOTE: If Contractor is a corporation, two signatures are required.

\* The signature of President, Chairman of the Board, or Vice President is required here; and

\*\* an additional signature of Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer is also required for the Corporation.

City Business Tax Registration Certificate Number:

Internal Revenue Service ID Number:

Agreement Number: C- \_\_\_\_\_