



PASCO COUNTY BOARD OF COMMISSIONERS
PURCHASING DEPARTMENT
8919 GOVERNMENT DRIVE
NEW PORT RICHEY, FLORIDA 34654
TELEPHONE: (727) 847-8194
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www.PascoPurchasing.com

REQUEST FOR PROPOSALS (RFP)

RFP NO. 09-154

DEBT COLLECTION SERVICES

Pasco County, a political subdivision of the State of Florida (herein referred to as "County," "Lead Public Agency" or "LPA"), on behalf of local and other government entities in Florida (herein referred to as "Participating Public Agencies" or "PPAs") is requesting proposals from firms qualified and experienced in providing collection services for bad debt and past due accounts. The successful firm will enter into a Master Agreement with the LPA for the subject services. It is the County's intent to secure such debt collection services in a manner that maximizes recovery and minimizes the PPA's out-of-pocket expenditure. The County intends to measure proposed solutions against the traditional contingency-based model to determine their viability and to ensure the return is maximized.

The Pasco County Purchasing Department will receive sealed proposals until **4:30 p.m.**, local time, (our clock) on **September 15, 2009**, in the Pasco County Purchasing Department, 8919 Government Drive, New Port Richey, Florida. Responses received after this time and date will not be accepted. Responses will be publicly opened at the above stated time and date, with only the names of the offerors submitting proposals being read. All interested parties are invited to attend. Offerors shall submit six (6) proposal copies. Each copy of the proposal shall be bound in a single volume.

Questions concerning the scope of work, response submittal, or process should be directed, in writing, to the Purchasing Director, Scott P. Stromer. Questions may be faxed to (727) 847-8065.

Copies of the RFP Documents may be obtained from the Purchasing Department or downloaded at www.pascopurchasing.com at no cost. The County is not responsible for expenses incurred prior to award by the Board of County Commissioners. Pasco County reserves the right to reject any and all responses and to waive any irregularities or informalities. We look forward to receiving your response.

Scott P. Stromer
Purchasing Director
Pasco County Board of County Commissioners

IMPORTANT! - PLEASE READ CAREFULLY BEFORE RESPONDING

PASCO COUNTY GENERAL PROVISIONS

ACKNOWLEDGMENT OF AMENDMENTS

Offerors shall acknowledge receipt of any amendment to the solicitation by letter, by returning a copy of the issued amendment with the submittal, or notation on the submitted proposal. The acknowledgment must be received by Pasco County by the time, date and place specified for the receipt of proposals. Failure to acknowledge an issued amendment may result in submittal rejection and disqualification.

ADDITIONAL INFORMATION

Questions concerning this request must be submitted in writing to Scott P. Stromer, Purchasing Director, Pasco County Purchasing Department; 8919 Government Drive; New Port Richey, Florida 34654; fax machine number (727) 847-8065. Offerors are cautioned that any statements made by individuals, or employees of Pasco County, that materially change any portion of this request shall not be relied upon unless subsequently ratified by a formal written amendment. No questions will be accepted after ten (10) days prior to the date set for opening.

APPLICABLE LAW

The resulting Master Agreement shall be construed to be in accordance with and governed in all respects by the laws of the State of Florida, and any litigation with respect thereto shall be brought in the courts of Pasco County, Florida or the competent jurisdiction of the affected Participating Public Agency (PPA). The contractor shall comply with all applicable Federal, State, and local laws and regulations. Lack of knowledge by the offeror will in no way be a cause for relief from responsibility.

CONFLICT OF INTEREST

The contractor, by responding to this request, certifies that to the best of his/her knowledge or belief, no elected/appointed official or employee of the County is financially interested, directly or indirectly, in the offer of services specified in this request.

CANCELLATION

Pasco County reserves the right to cancel a resulting contract, with cause, if at any time the contractor fails to fulfill or abide by any of the terms or conditions specified. Failure of the contractor to comply with any of the provisions of a resulting contract will be considered a material breach of contract and shall be cause for immediate termination of the contract at the sole discretion of Pasco County. In addition to all other legal remedies available to the County, Pasco County reserves the right to cancel and obtain from another source any services which have not been provided within the required period of time, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by the County.

CONTRACT TERM AND REQUIREMENTS

It is the County's intent to develop an ongoing contract for the services specified herein, contingent upon the appropriation of funds. The initial contract period shall be for two (2) years with an option to renew for three (3) additional one (1) year periods solely at the County's discretion. The contents of the proposal submitted by the successful firm, with any amendments or subsequent revisions, may become part of the resulting contract.

DEBARMENT

By submitting a response, the offeror certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Florida and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contracts issued by any subdivision or agency of the State of Florida.

EXPENSES INCURRED IN PREPARING PROPOSAL

Pasco County accepts no responsibility for any expense incurred by the offeror in the preparation and presentation of a proposal. Such expenses shall be borne exclusively by the offeror.

FAILURE TO DELIVER

In the event of failure of the contractor to deliver the services in accordance with the contract terms and conditions, Pasco County may procure the services from other sources and hold the contractor responsible for any resulting additional costs. A failure to deliver may result in immediate termination of a resulting contract, and immediate disqualification and debarment from submitting proposals to Pasco County for a maximum of three (3) years. These remedies shall be in addition to any other remedies that Pasco County may have available.

INSURANCE

The insurance required must be written by an insurer authorized to do business in the State of Florida and also have an "A" policyholder's rating and a financial rating of at least Class VIII in accordance with the most current *Best's Key Rating Guide*. Prior to the time the contractor is entitled to commence any part of the project, work, or services under this contract, the contractor shall procure, pay for, and maintain at least the following insurance coverages and limits. The said insurance shall be evidenced by delivery to Pasco County of 1) Certificates of Insurance executed by the insurers listing coverages and limits, expiration dates and terms of policies and all endorsements whether or not required by Pasco County, and listing all carriers issuing the said policies; and 2) upon request, a certified copy of each policy, including all endorsements. The insurance requirements shall remain in effect throughout the term of this contract.

Workers' Compensation in at least the limits as required by law; Employers' Liability Insurance of not less than One Hundred Thousand and 00/100 Dollars (\$100,000.00) for each accident. The contractor agrees to waive its right of subrogation as part of this coverage.

Comprehensive Automobile and Truck liability covering owned, hired, and nonowned vehicles with combined single limits of not less than Three Hundred Thousand and 00/100 Dollars (\$300,000.00), each occurrence. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards.

Professional Liability Insurance (including Errors and Omissions) with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, to protect Pasco County against negligence, errors, omissions and the oral or written publication of material that violates rights of privacy.

INFORMALITIES AND IRREGULARITIES

The Pasco County Board of Commissioners reserves the right to reject any or all responses in whole or in part; and/or accept the responses/proposals which are most advantageous and in the best interest of Pasco County.

KEY PERSONNEL

Key personnel included in the proposal may not be substituted without prior written approval of Pasco County. Replacements for key personnel under contract must have equivalent professional qualifications and experience as those individuals listed in the proposal. Approval of substituted personnel will not be unreasonably withheld by Pasco County.

NONAPPROPRIATION

All funds for payment by Pasco County under this contract are subject to the availability of an annual appropriation for this purpose by Pasco County. In the event of nonappropriation of funds by Pasco County for the services provided under the contract, Pasco County will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancelation shall be accepted by the contractor on thirty (30) days' prior written notice, but failure to give such notice shall be of no effect and Pasco County shall not be obligated under this contract beyond the date of termination.

NONCONFORMING TERMS AND CONDITIONS

A response that includes terms and conditions that do not conform to the terms and conditions in the proposal document is subject to rejection as nonresponsive. Pasco County reserves the right to permit the offeror to withdraw nonconforming terms and conditions from its response prior to a determination by Pasco County of nonresponsiveness based on the submission of nonconforming terms and conditions.

PROPOSAL ENVELOPES

Envelopes containing responses must be sealed and marked in the lower left hand corner with the request number, and date and hour of opening. Failure to do so may cause the offeror's proposals not to be considered. Express Company, or Express Mail envelopes containing a sealed response shall also be sealed and marked in the lower left hand corner with the request number, and date and hour of opening.

PUBLIC INFORMATION

Upon public opening of all responses presented to Pasco County as a result of this solicitation, any and all information contained therein is considered public and may be reviewed by any persons interested in doing so.

RIGHT TO AUDIT

The contractor shall maintain such financial records and other records as they relate to the purchase of goods and/or services by Pasco County from the subject vendor. The contractor shall retain these records for a period of three (3) years after final payment, or until they are audited by Pasco County, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three (3) year period for examination, transcription, and audit by Pasco County, its designees, or other authorized bodies.

RESERVATION OF RIGHTS

Pasco County may (1) amend or modify this RFP, (2) revise requirements of this RFP, (3) require supplemental statements or information from any firm, (4) accept or reject any or all responses, (5) extend the deadline for submission of responses, (6) negotiate or hold discussions with any offeror and to waive defects and allow corrections of deficient responses which do not completely conform to the instructions contained herein, and (7) cancel this RFP, in whole or in part, if Pasco County deems it in its best interest to do so. Pasco County may exercise the foregoing rights at any time without notice and without liability to any offering firm or any other party for their expenses incurred in the preparation of response or otherwise.

RESPONSE RECEIPT AND OPENING

Pasco County will receive sealed responses until the date and time indicated on the cover. Responses must be delivered, by hand or mail, to the Pasco County Purchasing Department, located at 8919 Government Drive, New Port Richey, Florida, where they will be opened at the stated time, **READING ONLY THE NAMES OF THE SUBMITTING OFFERORS**. Responses must be time stamped in the Purchasing Department before or on the hour and date indicated on the cover. Responses received after the date and time of the opening will be received, date stamped, and returned to the offeror unopened. It is the responsibility of the offeror to ensure that responses arrive at the designated opening place on time. Late or non-delivery due to mail or express delivery company failure will not be considered adequate reason for consideration of late responses. **FACSIMILE (FAXED) RESPONSES WILL NOT BE ACCEPTED, AND SHALL NOT BE CONSIDERED FOR EVALUATION OR AWARD.**

UNSATISFACTORY WORK

If, at any time during the contract term, the service performed or work done by the contractor is considered by Pasco County to create a condition that threatens the health, safety, or welfare of the community, the contractor shall, on being notified by Pasco County, immediately correct such deficient service or work. In the event the contractor fails, after notice, to correct the deficient service or work immediately, Pasco County shall have the right to order the correction of the deficiency by separate a contract or with its own resources at the expense of the contractor.

VERBAL COMMUNICATIONS

No oral statement of any person shall modify or otherwise affect the terms, conditions, requirements, or scope of work specified herein. All modifications must be made in writing by Pasco County.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

Due to the nature of the work, Pasco County will require the successful vendor to enter into a Health Insurance Portability and Accountability Act of 1996 (HIPAA) Business Associate Agreement. A copy of this agreement is attached.

END OF PASCO COUNTY GENERAL CONDITIONS

IMPORTANT! - PLEASE READ CAREFULLY BEFORE RESPONDING

FLORIDA ASSOCIATION OF COUNTIES COOPERATIVE PURCHASING CONDITIONS

COOPERATIVE PURCHASING—FLORIDA ASSOCIATION OF COUNTIES INVOLVEMENT

The Lead Public Agency (LPA) intends for the marketing and management of this Master Agreement (e.g., promoting the Master Agreement to governmental entities in Florida) to be conducted by the Vendor and the Florida Association of Counties (FAC). FAC is the only organization that represents all county governments before the legislative, executive and judicial branches of Florida. It is intended that FAC will provide marketing support for Vendor's products and services through direct mail, electronic and print publications, annual meetings and other avenues such as personal visits, as appropriate.

COOPERATIVE PURCHASING—PARTICIPATING PUBLIC AGENCY MODEL

The Participating Public Agency model has been successfully employed in the past with suppliers as well as vendors of direct services in Miami-Dade County, Florida; Los Angeles County, California and many other government jurisdictions around the country. By signing Master Agreements, Participating Public Agencies (PPAs) "piggy back" competitively solicited Master Agreements. Vendors comply with the state and local laws, rules and regulations where the products and services are provided. Vendors offer the Master Agreement as their primary contract with PPAs. The Vendors must coordinate directly with any PPA concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payments. Pasco County is not acting on behalf of the PPAs and shall not be held liable for any costs or damages incurred by any other PPA.

COOPERATIVE PURCHASING—USE OF CONTRACT BY OTHER GOVERNMENT ENTITIES

Vendors are advised that the Master Agreement is intended to be a contract that will be extended to other public bodies, or public agencies or institutions of Florida, to permit their use of the contract at the same prices and/or discounts and terms of the Master Agreement. If any other public body decides to use the Master Agreement, the Vendors must deal directly with that public body on matters concerning that public body including, but not limited to, the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. It is the Vendor's responsibility to notify potential PPAs of the availability of the services and products under the Master Agreement. Other PPAs desiring to use the Master Agreement will need to make their own legal determinations as to whether the use of the Master Agreement is consistent with all applicable laws, regulations, and other policies. Each PPA has the option of executing a separate contract with the Vendor. PPAs may add terms and conditions required by laws, ordinances, and regulations, to the extent that they do not conflict with the Master Agreement. If, when preparing such a separate contract, the general terms and conditions of the PPA are unacceptable to the Vendor, the Vendor may withdraw its offer to contract to that PPA. Pasco County **shall not** be held liable for any costs or damages incurred by another PPA as a result of any contract extended to that PPA by the Vendor, whether under the Master Agreement or under separate contract.

COOPERATIVE PURCHASING—REPORTS AND INVOICING

The Vendor must maintain all records in compliance with federal and state regulations. The Vendor must submit to FAC or its designee(s) quarterly sales reporting data as specified in the FAC Administrative Agreement (Attachment 1).

COOPERATIVE PURCHASING—ADMINISTRATIVE FEES

Participating Vendors are required to pay an administrative fee based on the volume of actual sales under the Master Agreement. The administrative fees offset the costs incurred by the LPA and the marketing and administration expenses of FAC. Successful Vendors are required to execute an Administrative Agreement with FAC (see Attachment 1). Quarterly reports and administrative fee payments schedule are as follows (please refer to Attachment 1—FAC Administrative Agreement):

<u>Calendar Year Quarter</u>	<u>Quarterly Report/Admin Fee Due Date</u>
Quarter 1: January 1 – March 31	April 30
Quarter 2: April 1 – June 30	July 31
Quarter 3: July 1 – September 30	October 31
Quarter 4: October 1 – December 31	January 31

COOPERATIVE PURCHASING—VENDOR COMMITMENTS

Each Vendor is required to make three (3) basic commitments, incorporated into the FAC Administration Agreement (Attachment 1), to ensure the overall success of the program:

Corporate Commitment—A commitment that FAC has the support of the Vendor's senior management, and that the Master Agreement is the Vendor's primary offering to PPAs in Florida. Existing local government clients will be transitioned to the program as renewals occur.

Pricing Commitment—A commitment that the PPA's payment to the Vendor under the Master Agreement pricing is the lowest available for government entities in Florida and a further commitment that, if a PPA is eligible for lower pricing through another state, regional or local contract, the Vendor will match the pricing under the Master Agreement.

Sales Commitment—A commitment that the Vendor will aggressively market the Master Agreement and that its sales force will be trained, engaged and committed to offering the Master Agreement to government agencies with a further commitment that all Master Agreement sales be accurately and timely reported to FAC.

COOPERATIVE PURCHASING—VENDOR QUALIFICATIONS AND INVOLVEMENT

In addition to an ability to make the Vendor commitments identified herein, only Vendors meeting the following minimum qualifications are encouraged to submit proposals:

1. A strong presence in Florida easily recognized by local government entities;
2. A sales force easily accessible by local government entities;
3. The capacity to deliver products and services under the terms and conditions of the Master Agreement in a timely manner;
4. A full range of products and services to meet varying requirements of the government agencies;
5. Demonstrated market capacity and commitment to guarantee lowest government pricing to PPAs;

6. Existing capacity to provide toll-free telephone and state of the art electronic facsimile, and internet ordering and billing;
7. A support system to provide assistance to local government entities; and
8. Capacity and desire to meet the mandatory commitments of the Master Agreement and the Administrative Agreement with FAC.

**END OF FLORIDA ASSOCIATION OF COUNTIES
COOPERATIVE PURCHASING CONDITIONS**

STATEMENT OF WORK

1. INTRODUCTION AND BACKGROUND

Pasco County, a political subdivision of the State of Florida (herein referred to as "County," "Lead Public Agency" or "LPA"), on behalf of local and other government entities in Florida (herein referred to as "Participating Public Agencies" or "PPAs") is requesting proposals from firms qualified and experienced in providing collection services for bad debt and past due accounts. The successful firm will enter into a Master Agreement with the LPA for the subject services. It is the County's intent to secure such debt collection services in a manner that maximizes recovery and minimizes the PPA's out-of-pocket expenditure. The County intends to measure proposed solutions against the traditional contingency-based model to determine their viability and to ensure the return is maximized. Routine debt accounts may include, but are not limited to, the following:

- Returned checks
- Traffic infractions
- Property damage claims not reduced to judgments
- Custody evaluation fees
- Franchise fees
- Fire rescue
- Insurance resolution for fire rescue
- Leases for space
- Library fees
- Water bills
- Code enforcement fees
- Animal infraction judgments
- EMS fees
- Hotel/motel taxes
- Building permit fees
- Property taxes

Pasco County (Ambulance Billing Section) estimates that between 9,000 and 10,000 bad debt accounts (with an estimated value of between \$3.6 to \$4.2 million) are referred for collection each year.

The County seeks a debt collection model containing two primary phases. Phase I will feature: letters; phone calls; optional thank you letters for payment received; and credit reporting to the major credit bureaus. The Phase I period should last approximately 120 days. Payments made during this phase will be made directly to the County.

Accounts not collected, within the initial time window established in Phase I, would be transferred to Phase II. Phase II shall include litigation solely at the County's discretion with no additional out-of-pocket cost to the County. The Phase II collections process shall be on a straight contingency fee basis. Phase II payments shall be forwarded to the County monthly from the collection agency.

2. OBJECTIVES

It is the County's intent to award this opportunity to one (1) service provider and establish a five (5) year contract for the routine collection services identified herein. The initial contract period shall be for two (2) years with an option to renew for three (3) additional one (1) year periods solely at the County's discretion. All proposers must be flexible and work with the county to achieve the most cost effective collections methods possible. The County is committed to improving its collection rate through implementation of a debt collection program to locate individuals and companies who default on routine debt as listed in the above referenced section.

This RFP is intended to achieve the following objectives:

- 2.1 Achieve cost savings for Vendors and PPAs through a single solicitation process that eliminates the need for multiple solicitations from PPAs and multiple responses from Vendors.
- 2.2 Provide a comprehensive competitively solicited Master Agreement offering products and services to PPAs in Florida.
- 2.3 Establish the Master Agreement as Vendor's primary offering to PPAs in Florida; and,.
- 2.4 Combine the volumes of PPAs to achieve cost effective pricing.

These objectives do not preempt PPAs from using other contract vehicles or competitive processes as desired or as required by law.

3. SCOPE OF SERVICES

- 3.1 The services to be performed by the successful vendor will include the following:
 - 3.1.1 Formally demanding payment of each collection item and seeking an arrangement satisfactory to the county under which the collection item will be paid;
 - 3.1.2 Skip tracing on returned mail with collection efforts to follow, if necessary;
 - 3.1.3 Handling and processing all customer calls;
 - 3.1.4 Sending all notices to customers;
 - 3.1.5 Receiving and processing all correspondence when applicable;
 - 3.1.6 Receipt and processing of payments;
 - 3.1.7 Reporting to major credit bureaus where appropriate;

3.1.8 Maintenance of appropriate records, including auditable financial records and logs of customer complaints. The successful vendor must be prepared to devote substantial personnel time and resources to this undertaking to assure a major, aggressive but professional and courteous effort is made to collect the collection items without undue delay; and

3.1.9 Legal services for accounts in Phase II, when authorized.

4. MINIMUM REQUIREMENTS

- 4.1 The fee for collection services in Phase I shall be proposed as a fixed fee model (not contingency fee based model).
- 4.2 The Phase I fixed fee must include a guaranteed return on investment (ROI) or refund for unsuccessful work during this phase.
- 4.3 The fixed fee Phase I service must include the following at no additional charge: letters (including one attorney demand); phone calls; optional thank you letters for payment received; and credit reporting to the major credit bureaus.
- 4.4 Collection service shall provide a secure website built for the submission and updating of claims.
- 4.5 Claims purchased on fixed fee must never expire.
- 4.6 Claim submission process must be flexible to the county's needs so that the County may enter individual claims online or send data for entry by the vendor into the web-based system.
- 4.7 Vendor will be required to have debtors make payments directly to the county throughout the Phase I collections process.
- 4.8 Vendor must remit Phase II collections to the county within thirty (30) days of receipt.
- 4.9 All collections must be made in accordance with the Fair Debt Collection Practices Act, Equal Opportunity Credit Act, the Fair Credit Billing Act, the Uniform Consumer Credit Code and the American Collectors Association, Inc. and all other applicable federal, state, and local laws.
- 4.10 Vendor must be authorized to collect nationally and be licensed and bonded in all states where required.

- 4.11 Vendor must have a Florida-based account team designated for the county.
- 4.12 Vendor must provide at least one (1) day of live on-site training to assist with collections successes of county's use of vendor's service. Additional on-site visits to be provided as deemed necessary.
- 4.13 Vendor must provide a written in-depth description of methods and communications used in handling all Pasco County accounts and allow for customization of scripts and letters where requested.
- 4.14 Vendors must establish the following communication links to facilitate customer access and communication:
 - 4.14.1 A designated hotline for the debt collection program.
 - 4.14.2 A fax number for inquiries and orders.
 - 4.14.3 A designated e-mail address for general inquiries.
- 4.15 Vendor must provide online access to case information regarding activities and management reports throughout Phase I process.
- 4.16 Vendors shall provide information detailing their experience in providing the same or similar services as outlined in the RFP to public sector entities and non-profit organizations. This description should include the names of the key person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work.
- 4.17 Vendor shall provide the fee(s) for services as outlined in the Statement of Work.

END OF STATEMENT OF WORK

RESPONSE FORMAT

To ensure fair and equitable evaluation, proposal submissions must be organized into the following separate sections and contain the following information:

Corporate Experience and Capacity:

Provide an executive summary that highlights the qualifications of your firm. In bullet point format, the following information must be included:

1. The number of years in the debt collection business. If the firm has more than one office location, information should be provided for Florida offices and the Corporate headquarters.
2. Listing of key staff members that will be actively working on collection efforts. Details should include title, years and specific type of collection experience, and any collection industry certifications, honors, or affiliations currently held.
3. Listing of key management positions in Florida including title, years and type of collection experience, along with collection industry certifications, honors, and affiliations currently held.
4. Listing of all collection industry certifications and affiliations the firm currently holds.
5. Listing of any non-profit organizations with which the vendor may have partnerships or working relationships.
6. Copy of the firm's most recent annual (audited, if available) financial statement. At a minimum, the financial statement must include the balance sheet, statement of income and retained earnings and footnotes, if applicable.

Methodology & Cost:

1. Provide a description of how the firm intends to provide each of the services specified in the Scope of Work (Section 3). List and provide such description for each. Include information regarding how many phone calls will be placed, how many letters will be sent, when skip tracing will be employed, what type of payment system will be used, and other pertinent information.
2. Provide assurance that your firm fully complies or will comply with each of the Minimum Requirements (Section 4). List and provide such written assurance for each.
3. A concise statement why the County should select your firm for the specified services.
4. A comprehensive fee schedule for the services offered in response to this solicitation, including the "guaranteed return on investment (ROI) or refund" for unsuccessful Phase I work (Section 4, Paragraph 4.2). All fees/costs must be identified and included in the comprehensive fee/cost schedule to be considered.

RESPONSE FORMAT (continued)

Legal and Contract Challenges

1. List by case name and case number all pending litigation in which offeror is involved as a party or offeror's officers are involved as parties in their official capacity. Include cases pending in any Federal or State jurisdiction, court, commission, regulatory body or other authority having the power to determine the rights of parties appearing before it. Also list all arbitrations offeror is involved in as a party and include name & address of the arbitrator(s) for each listing.
2. Within the last three (3) years, have any of your firm's contracts for debt collection services been considered in default, suspended or terminated for cause? If so, please attach an explanation of the matter(s), including the name of the client and contact information.
3. Within the last three (3) years, has your firm been debarred or suspended for any reason by any federal, state or local government procurement agency or refrained from bidding on a public project due to an agreement with such procurement agency? If so, please attach a full explanation.

References:

Provide a list, including current contact information (name and telephone number), of at least three (3) clients, where your firm is performing debt collection services of the size and scope (or larger) specified herein.

END OF RESPONSE FORMAT

REVIEW AND ASSESSMENT

Professional firms will be evaluated on the following criteria. Firms submitting a proposal in response to the RFP may be required to give an oral presentation to County representatives. The County's request for an oral presentation shall in no way constitute acceptance of a proposal or imply that an agreement is pending. The County intends to measure proposed solutions against the traditional contingency-based model to determine their viability and to ensure the return is maximized. The County reserves the right to award the opportunity to provide the services specified herein based on initial proposal submissions without oral presentations.

1. The firm's qualifications and experience related to the specified Scope of Services.
2. Understanding of the required services and proposed methodology.
3. Cost/Return.

The offeror may be required before the award of any contract to show to the complete satisfaction of Pasco County that it has the necessary facilities, ability and financial resources to provide the service specified therein in a satisfactory manner. The offeror may also be required to give past work history and references in order to satisfy Pasco County with regard to the offeror's assigned personnel. Pasco County may make reasonable investigations deemed necessary and proper to determine the ability of the same to perform the work, and the offeror shall furnish to the County all information for this purpose that may be requested. The County reserves the right to reject any response if the evidence submitted by, or investigation of, the offeror and assigned personnel fails to satisfy the County that such is(are) properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the offeror's proposal shall include:

1. A strong presence in Florida easily recognized by local government entities;
2. A sales force easily accessible by local government entities;
3. The capacity to deliver products and services under the terms and conditions of the Master Agreement in a timely manner;
4. A full range of products and services to meet varying requirements of the government agencies;
5. Demonstrated market capacity and commitment to guarantee lowest government pricing to PPAs;
6. Existing capacity to provide toll-free telephone and state of the art electronic facsimile, and internet ordering and billing;
7. A support system to provide assistance to local government entities; and
8. Capacity and desire to meet the mandatory commitments of the Master Agreement and the Administrative Agreement with FAC.

ATTACHMENT 1

**SAMPLE ADMINISTRATIVE AGREEMENT
BETWEEN
THE FLORIDA ASSOCIATION OF COUNTIES, INC.
AND
VENDOR**

THIS ADMINISTRATIVE AGREEMENT (hereinafter "Agreement"), effective on the day of _____, 2009, is hereby made by and between VENDOR, with offices located at _____ (hereinafter "VENDOR "), and the FLORIDA ASSOCIATION OF COUNTIES, INC., a Florida non profit corporation, with offices located at 100 S. Monroe Street, Tallahassee, Florida 32301 (hereinafter "FAC").

WHEREAS, FAC was incorporated to encourage innovative and effective governance in Florida counties; to advocate on behalf of Florida counties; and to provide educational programs and technical assistance resources to counties; and

WHEREAS, the VENDOR has personnel with knowledge, expertise and experience in providing products and services to governmental entities and government officials; and

WHEREAS, FAC desires to create opportunities to leverage local government purchasing power in a manner that promotes economy of scales on behalf of its member counties for quality services and products; and

WHEREAS, VENDOR has been identified through a competitive Request for Proposal ("RFP") process, conducted by Pasco County (RFP No.09-154) as a service provider for a Debt Collection Services Program ("the Program") designed to market, develop, implement, and operate a program for counties and other governmental entities in Florida; and

WHEREAS, VENDOR agrees to act as a marketing and sales advisor and the direct provider of the Program; and

WHEREAS, FAC agrees to provide affinity marketing services for the Program to counties and other governmental entities in Florida;

WHEREAS, FAC and the VENDOR intend for the Program to be offered by VENDOR in accordance with the terms and conditions of this Agreement;

NOW THEREFORE, COMPANY and FAC, in consideration of the mutual promises and covenants contained herein, hereby agree as follows:

- 1.0. RECITALS. The parties agree that the foregoing recitals form a part of this Administrative Agreement and are incorporated herein.

2.0. VENDOR COMMITMENTS

- 2.1. VENDOR commits that FAC has the support of the Vendor's senior management and that the Debt Collection Services Program described herein will be the primary offering to counties and other governmental entities in Florida and that existing counties and governmental clients will be transitioned to the Program as existing contracts expire. Exclusions to this are specifically noted in Exhibit 3.**
- 2.2. VENDOR commits that the Debt Collection Services Program fee structure is the lowest available pricing to governmental entities in Florida and further commits that, if a county or other governmental entity is eligible for a more advantageous fee structure through a state, regional, local or other contract held by the VENDOR, the VENDOR will agree to readjust to the lower fee structure under the Master Agreement to which this Administrative Agreement is attached.**
- 2.3. VENDOR commits that it will aggressively market the Debt Collection Services Program and that its representative network will be trained, engaged and committed to offering the program to counties and other governmental entities in Florida. VENDOR also commits to Pasco County (the "Lead Public Agency") and FAC that all Program usage activity will be accurately and timely reported to FAC and that FAC will be timely and accurately paid under this Agreement.**
- 2.4 VENDOR commits that it will allow FAC to use its logo and brand name in marketing materials for the Program.**

3.0. FAC COMMITMENTS

- 3.1. FAC commits that it will not implement any other programs that will compete with the Program that is the subject of the Master Agreement between the VENDOR and the LPA.**
- 3.2. FAC commits that it will assist VENDOR with access to county and other local government markets in Florida.**
- 3.3. FAC commits that it will jointly develop and produce marketing materials with the VENDOR.**
- 3.4. FAC commits that it will assign a designated lead staff person (the "Program Manager") to coordinate with the VENDOR to carry forward the provisions of this Agreement.**
- 3.5. FAC commits that it will allow the VENDOR to use its logo and brand name in marketing materials in accordance with Section 8.0 of this Agreement.**
- 3.6. FAC commits that during the first year of the Program, it will prepare two (2) reviews of Program performance, and after the first anniversary of this Agreement, annually thereafter, that will be distributed to VENDOR'S Program Manager.**

4.0. APPLICABLE DOCUMENTS

4.1. Exhibits 1, 2, and 3 attached hereto are incorporated herein by reference and form a part of this Administrative Agreement. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable goods, service, or other work, or otherwise, between the Exhibits and the body of this Administrative Agreement, or between such Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to this Administrative Agreement and then to such Exhibits according to the following priority:

- 4.1. Exhibit 1 (Pasco County RFP No. 09-154 and all related documents)
- 4.2. Exhibit 2 (VENDOR Response(s) to Pasco County RFP No. 09-154)
- 4.3. Exhibit 3 (Payment Provisions)

4.2. The terms of this Administrative Agreement and the Exhibits hereto shall constitute the complete and exclusive statement of understanding between the parties, which supersedes all previous agreements, written or oral, and all communications between the parties relating to the subject matter of this Agreement.

5.0. WORK. Subject to the terms and conditions of this Agreement, VENDOR shall provide and deliver services and other work as set forth in Exhibit 2 (VENDOR Response to Pasco County RFP No. 09-154).

6.0. COMPENSATION. VENDOR will compensate FAC under this Agreement as set forth in Exhibit 3 (Payment Provisions) for contracts awarded to the VENDOR that use the Program Master Agreement.

7.0. REPORTS and AUDITS

7.1. VENDOR shall keep organized and complete records of sales made to the counties and other governments pursuant to this Administrative Agreement, and shall deliver to FAC quarterly reports ("Reports") indicating the details of such sales and the payments due to FAC as a result of such sales. The VENDOR shall deliver such Reports together with the quarterly royalty payments.

7.2. FAC may audit the records of the VENDOR once a year to verify the accuracy of the Reports and of the payments made to FAC pursuant to this Agreement. The cost of such audit shall be borne by FAC unless such audit establishes that VENDOR has underpaid the amount due to FAC by an amount in excess of one percent (1%) of the total amount due for any given quarter, in which case such cost shall be borne by the VENDOR.

8.0. USE OF CORPORATE IDENTITY. The VENDOR acknowledges that FAC is the sole and exclusive owner of all proprietary, commercial and other property rights and interests in its name, licensed mark(s) and logo. Nothing in this Agreement shall give the VENDOR any right, title or interest in FAC's name, licensed mark(s) or logo, and agrees that it shall not use FAC's name, licensed mark(s) or logo, without the prior written consent of FAC, which consent shall be given at the sole discretion of FAC.

- 9.0. **REVIEW OF PROMOTIONAL MATERIAL.** The VENDOR shall submit all printed material containing references to FAC and all other presentations or media containing such references, which the VENDOR intends to distribute ("Promotional Material"), to FAC for approval. The VENDOR shall obtain FAC's written pre-approval with regard to all Promotional Material, which approval shall be at the FAC's sole discretion, prior to the reproduction, distribution or use of such Promotional Material.
- 10.0. **GENERAL QUALITY CONTROL/FULFILLMENT.** The VENDOR acknowledges that one of FAC's corporate purposes is to offer superior quality services and products to county governments in Florida and other units of local government, and that the provision of such services and products is integral to FAC's reputation and success. The VENDOR shall cooperate with FAC to achieve and maintain its quality standards, and hereby agrees to use its best efforts to meet the quality standards set by FAC, in its sole discretion, with regard to (i) the services and products offered under the Program; (ii) the manner in which such services and products under the Program are marketed by the VENDOR; (iii) the customer service provided by the VENDOR in connection with the provision of such services and products; and (iv) all other actions taken by the VENDOR which would be likely to affect or reflect upon the goodwill of FAC or the image of FAC in the marketplace.
- 11.0. **TERM.** The term of this Agreement shall commence on and shall expire concurrently with the expiration of the Master Agreement let by Pasco County unless sooner terminated as provided in Section 12 of this Agreement. The term may be automatically extended in accordance with any extension of the Master Agreement or for additional terms, as otherwise agreed to in writing by the parties hereto.
- 12.0. **TERMINATION**
- 12.1. Either party may terminate this Agreement, upon the sending of written notice to the other, if any one of the following occurs:
- A. The other party is adjudged bankrupt or insolvent or files, or has filed against it a voluntary or involuntary bankruptcy petition or admits in writing its inability to pay its debts as they mature;
 - B. The other party makes an assignment for the benefit of creditor;
 - C. The other party applies for, consents in writing to, or has a receiver or trustee appointed over all or a substantial part of its assets;
 - D. The other party is dissolved; or
 - E. The other party is in material breach of any of its representations, covenants or agreements set forth herein or is otherwise negligent in performing, or fails to perform, its obligations hereunder and such material breach, negligence or non-performance is not cured within 60 days after written notice to such party of such material breach, negligence or non-performance.

- 12.2. FAC may terminate this Agreement upon 90 days written notice to the VENDOR for any reason.
- 12.3. FAC may terminate this Agreement upon 30 days written notice to the VENDOR if the VENDOR materially breaches any of its contracts with counties or other local governmental entities entered into pursuant to the Master Agreement.
- 12.4. This Agreement may be terminated by mutual agreement of the parties upon 30 days written notice.
- 12.5. The VENDOR shall be responsible for the continued royalty payments to FAC for applicable contracts obtained pursuant to this Agreement and existing at the time of termination or expiration, until such time as the individual county or other local governmental entity contract expires or is re-solicited.

13.0. AMENDMENTS

- 13.1. No changes to this Agreement or the Exhibits hereto shall be valid and effective unless made in the form of a written amendment executed by authorized officials of both parties.
- 13.2. The VENDOR may not assign or delegate its right or obligations under this Agreement (whether by assignment, change of control, operation of law or otherwise) without the written consent of FAC.

- 14.0. INDEMNIFICATION, LIMITATION OF LIABILITY. Each party shall indemnify, defend, and hold harmless the other party and, their respective agents, officers, and employees from and against any and all damages and liability, including all defense costs and all attorneys' fees, arising out of the negligent actions or willful misconduct of the other, its agents, officers, and employees. Neither party shall be liable for indirect, special, consequential or punitive damages.

15.0. REGULATORY COMPLIANCE

- 15.1. The VENDOR shall be responsible for compliance with any federal, state or local laws, rules or regulations applicable to the performance of the parties hereunder, including without limitation any license or permit requirements or any requirements regarding privacy.
- 15.2. The VENDOR shall inform FAC of any licensing requirements that FAC needs to perform its duties under the terms of this Agreement.

- 16.0. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings used in this Agreement are for convenience only and are not part of this Agreement and shall not be used in construing this Agreement.

- 17.0 **WAIVER.** No waiver of any breach or any provision of this Agreement shall constitute a waiver of any other breach or of any other provision. Failure of any party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The specific rights and remedies set forth in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.
- 18.0 **GOVERNING LAW.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida.
- 19.0 **SEVERABILITY.** If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.
- 20.0 **AUTHORIZATION.** Each party represents and warrants that the person executing this Agreement is an authorized agent who has actual authority to bind such party to each and every term, condition, and obligation of this Agreement applicable to such party and that all requirements of such party have been fulfilled to provide such actual authority.
- 21.0 **NOTICES.** All notices or demands required or permitted to be given or made under this Agreement shall be in writing, shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, or sent by facsimile or overnight courier addressed to the parties at the following addresses and shall be effective upon receipt if delivered by hand, facsimile or overnight courier or five (5) days after deposit in the U.S. mail. Addresses may be changed by either party giving ten (10) days prior written notice thereof to the other party.

If to **VENDOR:**

VENDOR

Attention: Chief Executive Officer

If to **FAC:**

Florida Association of Counties

100 S. Monroe Street

Tallahassee, Florida 32301

Attention: Executive Director

850/922-4300 Phone

850/922-2835 Fax

22.0. **MANAGEMENT OF THE AGREEMENT**

- 22.1. A management committee comprised of the **VENDOR** and **FAC** Program Managers, along with other staff as necessary, shall be established to jointly create, review and modify an annual marketing plan for the Program, oversee the marketing activities of staff, resolve disputes, and facilitate the flow of project information between the parties.
- 22.2. The material terms and provisions of the marketing plan may not be changed without the agreement of the Program Managers of both parties.

- 22.3. The Management Committee shall meet at least annually either in person or by telephone conference call. Every effort shall be made to conduct this annual meeting in person at a location convenient to both parties.
- 22.4. The Management Committee is responsible for developing appropriate marketing material to support the marketing and sales efforts of the Program. During the course of performance on this Agreement, each party, its employees, agents, and subcontractors shall not publish or disseminate commercial advertisements, press releases, opinions or articles that directly relate to the Program, using the name or logo of FAC and the VENDOR without the prior consent of both parties.
- 22.5. Each party will bear its own costs, risks, and liabilities for administration of this agreement and marketing efforts, including but not limited to the pre-proposal, proposal, and contract negotiation effort. The VENDOR will bear the full cost of printing, binding, and delivering proposals.

23.0. EXISTING AND NEW WORK APPLICABILITY

- 23.1. The primary product to be delivered to counties and other local governmental entities under this Agreement is a Debt Collection Services Program. It is fully recognized that the focus of the Program marketing activities under this Agreement is to broaden the understanding and appreciation of the abilities of the VENDOR to deliver these services, to encourage counties and other local governmental entities to purchase these services from the VENDOR and to provide validation that the cost of the services is reasonable within industry standards. The parties agree to work together to enhance the services marketed to counties and other local governmental entities pursuant to the Master Agreement. Neither party will engage in marketing or providing these services to counties except pursuant to this and the Master Agreement.
- 23.2. While the primary product to be delivered to counties and other local governmental entities under the Master Agreement is Debt Collection Services Program, FAC and the VENDOR recognize that collaborative opportunities may exist between the parties to market and deliver other VENDOR services to counties and other local government entities.
- 23.3. The VENDOR will compensate FAC for other collaborative efforts not contained within this Agreement by separate written agreement as identified by the Management Committee and the defined in the marketing plan.

- 24.0. DISPUTES. Except as herein specifically provided, disputes concerning the performance of this Agreement that cannot be resolved by the Management Committee as provided in Section 22 shall be referred to a senior manager designated by FAC and a senior manager designated by the VENDOR. Failing resolution at that level, the parties agree to submit the dispute to mediation by a certified mediator. The prevailing party in any such mediation or litigated dispute concerning the performance of this Agreement shall be entitled to reasonable attorneys' fees and costs from the other.

25.0. **RELATIONSHIP OF PARTIES.** This Administrative Agreement shall not constitute, create, or otherwise imply an employment joint venture, partnership, agency or similar arrangement, and nothing contained herein shall be construed as providing for the sharing of profits or losses arising from the efforts of either or both of the parties hereto. Each party to this Agreement shall act as an independent contractor, and neither shall have the power to act for or behind the other, except as expressly provided for herein.

26.0. **CONFLICT OF INTEREST.** During the term of this Agreement, the parties shall act so as to avoid any conflict of interest or the appearance of a conflict of interest between them, and while this Agreement is in effect shall not solicit the existing, contracted business of the other with respect to this Agreement. However, this Agreement shall not be construed to preclude competition between the parties with respect to procurements not directly related to the Program. Neither party shall, during the term of this Agreement, participate, formally or informally, with another party for the purpose of preparing or submitting a competing proposal addressing the subject matter of this and the Master Agreement.

IN WITNESS WHEREOF, the VENDOR and FAC have caused this Agreement to be signed by their duly authorized representatives on the day and year first set forth hereinabove.

VENDOR

FLORIDA ASSOCIATION OF COUNTIES

Signature
Name:
Title:

Signature
Name:
Title:

AGREEMENT FOR HIPAA BUSINESS ASSOCIATE

BY AND BETWEEN the BOARD OF COUNTY COMMISSIONERS, PASCO COUNTY, FL., a political subdivision of the state of Florida (hereinafter, the COVERED ENTITY) and

_____, whose

business address is _____ (hereinafter the BUSINESS ASSOCIATE).

WHEREAS, the COVERED ENTITY and the BUSINESS ASSOCIATE share health information that is deemed confidential under the Health Insurance Portability and Accountability Act (HIPAA); and

WHEREAS, it is the intent of both parties to comply to the fullest extent possible to the confidentiality requirements under HIPAA; and

WHEREAS, this agreement sets forth the terms and conditions pursuant to which protected health information that is provided by, or created or received by the Business Associate from or on behalf of Covered Entity will be handled.

NOW THEREFORE, the parties do hereby agree as follows:

1. **Definitions:**

- a. **Individual** The term "Individual" shall have the same meaning as the term "individual" in the Privacy Rule and shall include a person who qualifies as a personal representative in accordance with the Privacy Rule.
- b. **Privacy Rule** The phrase "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, as amended from time to time.
- c. **Protected Health Information** "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- d. **Designated Record Set** The phrase "Designated Record Set" shall have the same meaning as the phrase "designated record set" as set forth within the Privacy Rule, as may be amended from time to time.
- e. **Required By Law** "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501 and shall also include the confidentiality requirements under Florida law.

- f. Secretary "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.

2. **Purpose**

This Agreement sets forth the terms and conditions pursuant to which PHI that is held, transmitted, disclosed, received or created by Business Associate from and on behalf of Covered Entity will be handled. Except as otherwise specified herein, Business Associate may make all uses and disclosures of PHI necessary to perform its obligations to the Covered Entity under any written agreement with the Business Associate or pursuant to the Covered Entity's written instruction, provided that such use or disclosure would not violate the Privacy Rule. All other uses and disclosures not required by law, authorized by this Agreement or authorized by any other written agreement with Covered Entity or Covered Entity's written instructions are prohibited.

3. **Obligations and Activities of Business Associate**

- a. Business Associate shall not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
- b. Business Associate shall implement and maintain safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate shall report to the Covered Entity any use or disclosure of the Protected Health Information not permitted for by this Agreement made by the Business Associate, its employees, agent or subcontractor of which it becomes aware within ten (10) days of the Business Associate's discovery of such unauthorized use and/or disclosure.
- e. Business Associate shall require that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of the Covered Entity shall execute a written agreement that agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such Health Information.
- f. Business Associate shall, to the extent Covered Entity determines that any Health Information constitutes a "designated record set" under the Privacy Regulations, (a) make the Health Information specified by Covered Entity available to Covered Entity or to the individual(s) identified by Covered Entity as being entitled to access and

copy that Health Information, and (b) make any amendments to Health Information that are requested by Covered Entity. Business Associate shall provide such access and make such amendments within the time and in the manner specified by Covered Entity.

- g. Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, upon the written request of the Covered Entity in a timely manner.
- h. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and/or disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, the Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner required by the Covered Entity in writing or designated by the Secretary, within ten (10) days of the request for purposes of the Covered Entity determining Covered Entity's compliance with the Privacy Rule.
- i. Upon Covered Entity's request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Health Information made by Business Associate or its employees, agents, representatives or subcontractors as required by the Privacy Regulations. For each Disclosure that requires an accounting under this Section 2.8, Business Associate shall track the information required by the Privacy Regulations, and shall securely maintain the information for six (6) years from the date of the Disclosure.
- j. Business Associate agrees to provide to Covered Entity or an Individual, in a timely manner, information collected in accordance with Section 3 of this Agreement, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528. Within thirty (30) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual to amend the Individual's PHI or to account for disclosures of the Individual's PHI in accordance with the provisions detailing the "Designated Record Set" in the Privacy Rule in accordance with Section 7 of this Agreement.
- k. Unless Business Associate has an independent right to PHI received from, or created or received by Business Associate on behalf of Covered Entity. Upon termination of this Agreement, Business Associate shall return to Covered Entity or destroy, as requested by Covered Entity, all PHI in accordance with Section 8 of this Agreement.
- l. Notwithstanding anything to the contrary in the Underlying Agreement(s), at Business Associate's expense, Business Associate agrees to indemnify, defend and hold harmless Covered Entity and Covered Entity's employees, directors, officers, subcontractors or agents (the "Indemnities") against all damages, losses,

lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) and all liability to third parties arising from any breach of this Agreement by Business Associate or its employees, directors, officers, subcontractors, agents or other members of Business Associate's workforce. Business Associate's obligation to indemnify the Indemnitees shall survive the expiration or termination of this Agreement for any reason.

4. **Permitted Uses and Disclosures by Business Associate**

General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified herein **INSERT ACTIVITIES OR SERVICES TO BE PERFORMED AND/OR NAME AND DATE OF MAIN CONTRACT**, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

5. **Obligations of the Covered Entity**

- a. The Covered Entity will provide the Business Associate a copy of its Privacy Practices and Restrictions.
- b. The Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- c. The Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity. [This provision shall not apply if the Business Associate will use or disclose protected health information for, and the contract between the parties includes provisions for, data aggregation or management and administrative activities of Business Associate].
- d. Handling of "Designated Record Sets" – In the event that a PHI received or created by Business Associate on behalf of Covered Entity constitutes a "Designated Record Set," as defined in the Privacy Rule:
 - a. Business Associate agrees to make any amendments to PHI that Covered Entity directs pursuant to Privacy Rule at the request of Covered Entity or the individual and the time and manner designated by Covered Entity.
 - b. Covered Entity agrees to:
 - (i) Notify Business Associate, in writing, of any PHI Covered Entity that seeks to make available to an Individual pursuant to the Privacy Rule and the time and manner in which Business Associate shall provide

- such access; and
- (ii) Notify Business Associate, in writing, of any amendments to PHI in the possession of Business Associate shall make and the time and manner in which such amendments shall be made.

6. **Term** The Term of this Agreement shall be effective as of the date executed by the Covered Entity, and shall terminate when all of the Protected Health Information provided by the Covered Entity to Business Associate, or created or received by Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Agreement. This Agreement applies to all present and future agreements and relationships, whether written, oral or implied, between Covered Entity and Business Associate, pursuant to which Covered Entity provides PHI to Business Associate in any form or medium whatsoever. This Agreement shall automatically be incorporated into all subsequent agreements between Covered Entity and Business Associate involving the use or disclosure of PHI, whether or not expressly referenced therein
7. **Termination for Cause** Upon the Covered Entity's knowledge of a material breach by Business Associate, the Covered Entity shall either:
 - a. Notify Business Associate of the breach in writing, and provide an opportunity to cure the breach or end the violation within ten (10) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period to the satisfaction of Covered Entity, Covered Entity shall have the right to immediately terminate this Agreement and the Underlying Agreement(s) upon written notice to Business Associate;
 - b. Upon written notice to the Business Associate, immediately terminate this Agreement and the Underlying Agreement(s) if the Business Associate has breached a material term of this Agreement and cure is not possible; or
 - c. If neither termination nor cure are feasible in the Covered Entity's judgment, Covered Entity shall report the violation to the Secretary.
 - d. Covered Entity may terminate the Underlying Agreement(s) and this Agreement upon thirty (30) days written notice in the event (a) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to Section 9.b or (b) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of Health Information that the Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA.
8. **Effect of Termination**

Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Entity, or created or received by Business Associate on behalf

of the Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.

In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon the Covered Entity's agreement that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

9. **Miscellaneous**

- a. **Relationship to Underlying Agreement(s) Provisions** In the event that a provision of this Agreement is contrary to a provision of an Underlying Agreement(s), the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of such Underlying Agreement(s), and shall be considered an amendment of and supplement to such Underlying Agreement(s).
- b. **Amendment** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191. No amendment, modification or alteration of the terms hereof shall be binding unless the same is in writing, dated concurrent or subsequent to the date hereof and duly executed by the parties hereto.
- c. **Survival** As provided in the Agreement, certain rights and obligations of the Business Associate survive the termination of this Agreement.
- d. **Interpretation** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule and Florida law.
- e. **Severability** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof.
- f. **Binding Effect** This Agreement shall be binding upon and inure to the benefit of the successors, assigns, heirs, executors and administrators of the parties.
- g. **Entire Agreement** This Agreement represents the entire Agreement between the parties and supersedes all prior oral and written communication and representations.

- h. Non-Waiver A failure of any party to enforce at any time, any term, provision or condition of this Agreement, or to exercise any right or option herein, shall in no way operate as a waiver thereof, nor shall any single or partial exercise preclude any other right or option herein. In no way whatsoever shall a waiver of any term, provision or condition of this Agreement be valid unless in writing, signed by the waiving party, and only to the extent set forth in such writing.
- i. Execution in Counterpart This Agreement will be executed in counterparts, the effect of which will be the same as if executed at the same time.

This Agreement shall be governed by and construed by the laws of the State of Florida and venue for any action arising out of or relating to this Agreement shall be in Pasco County, Florida.

IN WITNESS WHEREOF, the undersigned have executed and delivered this instrument this _____ day of _____, 2009.

[S E A L]

"COVERED ENTITY"
BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

BY: _____
PAULA S. O'NEIL
CLERK & COMPTROLLER

BY: _____
CHAIRMAN

[CORPORATE SEAL]

"BUSINESS ASSOCIATE"

BY: _____
Corporate Secretary

BY: _____
Corporate President

Witnessed: _____
