

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lana Beach, CA 90802-4664

SUBCONTRACT

34336

This SUBCONTRACT is made and entered, in duplicate, as of July 28, 2016 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on November 10, 2015, by and between PARENTS ANONYMOUS, INC., a California nonprofit corporation, with offices located at 250 West First Street, Suite 250, Claremont, California 91711 (hereafter "Subcontractor"), and the CITY OF LONG BEACH, a California municipal corporation (hereafter "Contractor" or "City").

WHEREAS, Contractor has been granted an award by the United States Department of Health and Human Services, Office of Family Assistance ("HHS") for the City's Life Coaching and the Fundamentals of Fatherhood Project ("Program"); and

WHEREAS, in order to fulfill its obligations to HHS under the grant award, Contractor desires to engage Subcontractor to meet the Program objectives of strengthening and sustaining stable economic and healthy environments for children and their families; and

WHEREAS, Subcontractor desires to perform such work in accordance with the terms and conditions of this Subcontract;

NOW, THEREFORE, Contractor and Subcontractor agree as follows:

1. HHS GRANT AWARD. Notwithstanding any other provision of this Subcontract, this contract is a Subcontract under the terms of the Notice of Award with HHS. (The award is subject to the requirements as set forth in 45 CFR Part 87. The grant is subject to the requirements as set forth in 45 CFR 75.). Each and all of the provisions of the Notice of Award and any amendments thereto shall extend to and be binding upon the parties to this Subcontract. All representations and warranties contained in this Subcontract shall inure to the benefit of HHS.

2. SERVICES. The Subcontractor shall provide services in accordance with HHS' Notice of Award and Exhibit "A" identifying the services and rates of

1 Subcontractor. Exhibit "A" is attached to this Subcontract and incorporated by reference.
2 Subcontractor shall comply with HHS' Notice of Award in performing its obligations under
3 this Subcontract unless the context clearly indicates otherwise. Subcontractor shall
4 request clarification from Contractor regarding whether or not specific portions of the Notice
5 of Award apply. A breach of the Notice of Award shall be a breach of this Subcontract.

6 3. TERM OF SUBCONTRACT. The term of this Subcontract shall
7 commence on September 30, 2015 and shall expire on September 29, 2016, unless
8 otherwise extended by Contractor at its sole discretion or terminated earlier pursuant to
9 any of the conditions for termination in the Notice of Award.

10 4. PAYMENT.

11 A. Contractor shall compensate Subcontractor a total maximum
12 contract sum not to exceed Forty Thousand Two Hundred Dollars (\$40,200) for the
13 term of this Subcontract to provide the services designated in Section 2 of this
14 Subcontract, unless otherwise amended by Contractor.

15 B. Contractor shall have no obligation to pay for any work
16 performed by Subcontractor except for those services which are expressly
17 authorized pursuant to this Subcontract and which are provided during the term of
18 this Subcontract.

19 C. Contractor shall disburse the funds payable hereunder in due
20 course of payments following receipt from Subcontractor of monthly billing
21 statements in a form approved by Contractor to be submitted on or before the 15th
22 day of the calendar month for services rendered during the preceding month, and
23 conditioned on the Contractor's receipt of the quarterly progress report from
24 Subcontractor.

25 D. Contractor shall have no obligation to pay Subcontractor until
26 and unless Contractor receives quarterly progress reports that summarizes
27 Subcontractor's performance under this Subcontract during the immediately
28 preceding progress period, and that describes Subcontractor's progress in providing

1 the services stated in Exhibit "A".

2 E. Contractor's obligation to pay Subcontractor arises only after
3 receipt of funds from HHS under the Notice of Award.

4 F. Subcontractor shall submit invoices on a monthly basis.
5 Subcontractor shall prepare and submit monthly invoices within fifteen (15) calendar
6 days after the end of the month in which services were provided. Attached to each
7 invoice shall be documentation to support the invoiced amounts. Failure to submit
8 a completed invoice with proper back-up documentation may result in late payment
9 of the invoice. Contractor reserves the right to refuse payment of invoices received
10 sixty (60) days after the services were provided.

11 G. Subcontractor shall maintain all records relating to the
12 performance of this Subcontract in accordance with generally accepted accounting
13 principles and in the manner prescribed by Contractor. Subcontractor's records
14 shall be current, complete and available for inspection and audit during its normal
15 business hours, during the term of this Subcontract and for a period of three (3)
16 years after termination as deemed necessary by the City Auditor, any other
17 representative of the City, and HHS or any duly authorized representative of HHS.
18 Subcontractor shall provide access to all documents and materials relating to
19 Contractor and to Subcontractor's operations, and Subcontractor shall provide any
20 information that the City Auditor, other City representatives, HHS, and HHS's
21 representatives require in order to monitor and evaluation Subcontractor's
22 performance. Subcontractor shall provide all reports, documents or information
23 requested by City or HHS within three (3) days after a written or oral request from a
24 City or HHS representative, unless a longer period of time is otherwise expressly
25 stated by said representative. Each month, Subcontractor shall submit performance
26 reports certified by one of Subcontractor's officers or its Executive Director
27 identifying the services performed.

28 ///

1 5. ANTI-DISCRIMINATION.

2 A. In the performance of this Subcontract, Subcontractor shall not
3 discriminate against any employee, applicant for employment or service, or
4 subcontractor because of race, color, religion, national origin, sex, sexual
5 orientation, AIDS, HIV status, age, disability or handicap. Subcontractor shall take
6 affirmative action to assure that applicants are employed or served, and that
7 employees and applicants are treated during employment or services without regard
8 to these categories. Such action shall include but not be limited to the following:
9 employment, upgrading, demotion or transfer; recruitment or recruitment
10 advertising; lay-off or termination; rates of pay or other forms of compensation; and
11 selection for training, including apprenticeship.

12 B. Subcontractor shall permit access by City or any other agency
13 of HHS, state or federal governments to Subcontractor's records of employment,
14 employment advertisements, application forms and other pertinent data and records
15 for the purpose of investigation to ascertain compliance with the fair employment
16 practices provisions of this Subcontract.

17 6. INDEPENDENT SUBCONTRACTOR.

18 A. In performing services hereunder, Subcontractor is and shall
19 act as an independent subcontractor and not as an employee, representative, or
20 agent of City. Subcontractor's obligations to and authority from the City are solely
21 as prescribed herein. Subcontractor expressly warrants that it will not, at any time,
22 hold itself out or represent that Subcontractor or any of its agents, volunteers,
23 subscribers, members, officers or employees are in any manner officials, employees
24 or agents of City. Subcontractor shall not have any authority to bind City for any
25 purpose.

26 B. Subcontractor acknowledges and agrees that a) City will not
27 withhold taxes of any kind from Subcontractor's compensation, b) City will not
28 secure workers' compensation or pay unemployment insurance to, for or on

1 Subcontractor's behalf, and c) City will not provide and Subcontractor and
2 Subcontractor's employees are not entitled to any of the usual and customary rights,
3 benefits or privileges of City employees.

4 7. NON-ASSIGNMENT. This Subcontract contemplates the personal
5 services of Subcontractor and Subcontractor's employees. Subcontractor shall not
6 delegate its duties or assign its rights hereunder, or any interest herein or any portion
7 hereof, without the prior written consent of Contractor which the Contractor may withhold
8 in its discretion. Any attempted assignment or delegation shall be void, and any assignee
9 or delegate shall acquire no right or interest by reason of such attempted assignment or
10 delegation.

11 8. THIRD PARTY BENEFICIARY.

12 A. Contractor and Subcontractor understand and agree that this
13 Subcontract is entered into for the benefit of HHS, and that HHS is hereby expressly
14 made a third party beneficiary of this Subcontract.

15 B. Notwithstanding any other provision of this Subcontract, HHS
16 does not intend for Subcontractor to acquire any rights as a third party beneficiary
17 of Notice of Award.

18 9. INDEMNIFICATION.

19 A. Subcontractor shall indemnify, protect and hold harmless City,
20 its Boards, Commissions, and their officials, employees and agents ("Indemnified
21 Parties"), from and against any and all liability, claims, demands, damage, loss,
22 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
23 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or
24 in connection with (1) Subcontractor's breach or failure to comply with any of its
25 obligations contained in this Agreement, or (2) negligent or willful acts, errors,
26 omissions or misrepresentations committed by Subcontractor, its officers,
27 employees, agents, subcontractors, or anyone under Subcontractor's control, in the
28 performance of work or services under this Agreement (collectively "Claims" or

1 individually "Claim").

2 B. In addition to Subcontractor's duty to indemnify, Subcontractor
3 shall have a separate and wholly independent duty to defend Indemnified Parties at
4 Subcontractor's expense by legal counsel approved by City, from and against all
5 Claims, and shall continue this defense until the Claims are resolved, whether by
6 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
7 breach, or the like on the part of Subcontractor shall be required for the duty to
8 defend to arise. City shall notify Subcontractor of any Claim, shall tender the
9 defense of the Claim to Subcontractor, and shall assist Subcontractor, as may be
10 reasonably requested, in the defense. .

11 10. INSURANCE.

12 A. Without limiting Subcontractor's indemnification of HHS, and
13 during the term of this Subcontract, Subcontractor shall provide and maintain at its
14 own expense the following programs of insurance against claims for injuries to
15 persons or damage to property that may arise from or in connection with the
16 performance of this Contract by Subcontractor, its agents, representatives,
17 employees, volunteers or subcontractors. Such programs and evidence of
18 insurance shall be satisfactory to HHS and the City, and shall be primary to, and not
19 contributing with, any other insurance maintained by HHS.

20 i. Commercial general liability insurance (equivalent in
21 scope to ISO form CG 00 01 11 85 or CG 00 01 1093) in an amount not less
22 than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars
23 (\$2,000,000) general aggregate. Such coverage shall include but not be
24 limited to broad form contractual liability, cross-liability, independent
25 contractors liability, and products and completed operations liability. The
26 City, its Boards and Commission, and their officials, employees and agents
27 shall be named as additional insureds by endorsement (on the City's
28 endorsement form or on an endorsement equivalent in scope to ISO form CG

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

20 10 11 85 or CG 20 26 11 85), and this insurance shall contain no special limitations on the scope of protection given to the City, its Boards and Commission, and their officials, employees and agents.

ii. Workers' Compensation insurance as required by the California Labor Code.

iii. Employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) per claim.

iv. Professional liability or errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000) per claim.

v. Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than Five Hundred Thousand Dollars (\$500,000) combined single limit per accident.

vi. Blanket Honesty Bond in an amount equal to at least fifty percent (50%) of the total amount to be disbursed to Subcontractor hereunder or Twenty-Five Thousand Dollars (\$25,000), whichever is less, to safeguard the proper handling of funds by employees, agents or representatives of Subcontractor who sign as the maker of checks or drafts or in any manner authorize the disbursement or expenditure of said funds.

If delivering services to minors, seniors, or persons with disabilities, Subcontractor's Commercial General Liability insurance shall not exclude coverage for abuse and molestation. If Subcontractor is unable to provide abuse and molestation coverage, it can request a waiver of this coverage from the City. The City's Risk Manager will consider waiving the requirement if Subcontractor can demonstrate to the satisfaction of the City's Risk Manager that Subcontractor has no exposure, that the coverage is unavailable, or that the coverage is unaffordable. If a request for a waiver is desired, Subcontractor must submit a signed document on Subcontractor's letterhead to the Director of the City's Department of Health and

1 Human Services, who will forward it to the City's Risk Manager, providing reasons
2 why the insurance coverage should be waived. Waivers will be considered on a
3 case by case basis.

4 B. Any self-insurance program, self-insured retention, or
5 deductible must be separately approved in writing by the City's Risk Manager or
6 his/her designee and shall protect the City, its Boards and Commission, and their
7 officials, employees and agents in the same manner and to the same extent as they
8 would have been protected had the policy or policies not contained retention or
9 deductible provisions. Each insurance policy shall be endorsed to state that
10 coverage shall not be reduced, non-renewed, or canceled except after thirty (30)
11 days prior written notice to the City, and shall be primary and not contributing to any
12 other insurance or self-insurance maintained by the City. Subcontractor shall notify
13 the City in writing within five (5) days after any insurance required herein has been
14 voided by the insurer or cancelled by the insured.

15 C. Subcontractor shall require that all contractors and
16 subcontractors that Subcontractor uses in the performance of services under this
17 Contract maintain insurance in compliance with this Section unless otherwise
18 agreed in writing by the City's Risk Manager or his/her designee.

19 D. Prior to the start of performance, Subcontractor shall deliver to
20 the City certificates of insurance and required endorsements for approval as to
21 sufficiency and form. The certificate and endorsements for each insurance policy
22 shall contain the original signature of a person authorized by that insurer to bind
23 coverage on its behalf. In addition, Subcontractor, shall, within thirty (30) days prior
24 to expiration of this insurance, furnish to the City certificates of insurance and
25 endorsements evidencing renewal of the insurance. The City reserves the right to
26 require complete certified copies of all policies of Subcontractor and Subcontractor's
27 contractors and subcontractors, at any time. Subcontractor shall make available to
28 the City's Risk Manager or his/her designee during normal business hours all books,

1 records and other information relating to the insurance coverage required herein.

2 E. Any modification or waiver of these insurance requirements
3 shall only be made with the approval of the City's Risk Manager or his/her designee.
4 Not more frequently than once a year, the City's Risk Manager or his/her designee
5 may require that Subcontractor, Subcontractor's contractors and subcontractors
6 change the amount, scope or types of coverages if, in his or her sole opinion, the
7 amount, scope, or types of coverages herein are not adequate.

8 F. The procuring or existence of insurance shall not be construed
9 or deemed as a limitation on liability relating to Subcontractor's performance or as
10 full performance of or compliance with the indemnification provisions of this Contract

11 11. HIPAA BUSINESS ASSOCIATE AGREEMENT. The Health
12 Insurance Portability and Accountability Act of 1996, as amended ("HIPAA") is applicable
13 to the services under this Subcontract, and Subcontractor shall execute and deliver City's
14 standard Business Associate Agreement as required by HIPAA.

15 12. MISCELLANEOUS.

16 A. The City Manager or designee is authorized to administer this
17 Subcontract and all related matters, and any decision of the City Manager or
18 designee in connection herewith shall be final.

19 B. Subcontractor shall have the right to terminate this Subcontract
20 at any time for any reason by giving thirty (30) days' prior notice of termination to
21 Contractor, and Contractor shall have the right to terminate all or any part of this
22 Subcontract at any time for any reason or no reason by giving five (5) days' prior
23 notice to Subcontractor. If either party terminates this Subcontract, all funds held
24 by Subcontractor under this Subcontract which have not been spent on the date of
25 termination shall be returned to Contractor.

26 C. This document constitutes the entire understanding of the
27 parties and supersedes all other agreements, oral or written, with respect to the
28 subject matter herein. This Subcontract shall not be amended, nor any provision or

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

breach hereof waived, except in writing by the parties which expressly refers to this Subcontract.

D. This Subcontract shall be governed by and construed pursuant to the laws of the State of California.

E. This Subcontract including all exhibits shall not be amended, nor any provision or breach hereof waived, unless in writing signed by the parties which expressly refers to this Subcontract.

F. In the event of any conflict or ambiguity between this Subcontract and an exhibit, the provisions of this Subcontract shall govern.

G. The acceptance of any service or payment of any money by Contractor shall not operate as a waiver of any provision of this Subcontract, or of any right to damages or indemnity stated herein. The waiver of any breach of this Subcontract shall not constitute a waiver of any other or subsequent breach of this Subcontract.

///
///
///
///
///
///
///
///
///
///
///
///
///
///
///
///
///
///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the parties hereto have caused this document to be duly executed with all formalities required by law as of the date first stated above.

PARENTS ANONYMOUS, INC., a California nonprofit corporation

By *[Signature]*, 2016

By *[Signature]*
Name *[Signature]*
Title *[Signature]*

_____, 2016

By _____
Name _____
Title _____

"Subcontractor"

CITY OF LONG BEACH, a municipal corporation

By *[Signature]*, 2016

By *[Signature]* EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER
City Manager
Assistant City Manager

"Contractor"

This Subcontract is approved as to form on 8-9, 2016.

CHARLES PARKIN, City Attorney

By *[Signature]*
Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

EXHIBIT A

2015- 2016 Scope of Work Life Coaching Fundamentals of Fatherhood Project
Parents Anonymous, Inc.

Project Partner Contact Information

Parents Anonymous, Inc.
250 West First Street, Suite 250
Claremont, CA 91711
(909) 575-4211
FAX (909) 621-0614

LCFFC Project Goals

Goal 1 Build program capacity and community awareness by establishing a networked fatherhood response in the City of Long Beach.
Goal 2 Strengthen and sustain stable economic and healthy environments for children by developing and enhancing 450 fathers' positive, involved, nurturing and authoritative parenting and co-parenting skills, as well as the job and career readiness and employment of these fathers
Goal 3 Conduct performance measure/ continuous quality assurance practices to assess and realign LCFFP project processes.

Parent Anonymous, Inc.:

Parents Anonymous® Inc., headquartered and founded in California in 1969, is the oldest organization in America dedicated to strengthening families by preventing and treating child abuse and neglect through evidence-based services. They have partnered with LBDHHS - CFY for nearly 15 years delivering weekly, evidence-based PA® Groups for Parents/Caregivers and their Children and Youth and provided Case Management Services through the Family Preservation Program. PA has a proven track record in developing and replicating innovative parent leadership models and strategies such as Parent Leadership Advisory Councils, Parent Leadership Teams, and the only national Parent Leadership Network. Over 45 years, PA have managed many federal, state, local and private foundation grants for various child abuse and neglect prevention and family strengthening efforts.

Parent Anonymous (PA), Inc. Staff Positions for LCFFC Project.

- Parent Group Facilitators
- Childcare development services

2015-2016 Planning and Implementation Objectives:

Obj. 1: Conduct Parent Anonymous Leadership Group Sessions:

Activity 1: Operate one weekly Parents Anonymous® Leadership Group for first time fathers who have completed specific elements of the LCFF Program with a complimentary Children & Youth Group for their children 0-17 to enhance protective factors; improve family functioning and well-being.

Activity 2: PA will have approximately 15-program participants in each session.

NOTE: Parent Leadership Group Session must begin by July 11, 2016.

Obj. 2: Outreach and Engagement

Activity 1: Collaborate with project partners on promotion of the Parents Anonymous® Leadership Group.

Obj 3: Attend Program Performance Meetings

Activity 1: Collaborate on Service Delivery Model

Activity 2: PA designated staff member must attend monthly program performance meetings beginning December 2015.

Obj 4: Staff Training and Project Meetings

Activity 1: PA staff will participate in all required program trainings (domestic/ intimate partner violence, consent form use, data collection, taping sessions for program fidelity, etc.)

Obj 5: Establish Fatherhood Advisory Board (FAB)

Activity 1: PA will help recruit fathers for the FAB along with project partners.

Activity 2: PA staff will support FAB quarterly meetings along with project partners.

Obj 6: Data Collection

Activity 1: Collect data as required by the Office of Family Assistance (grantor).

Activity 2: Provide Quality Assurance measures regarding Parents Anonymous® Leadership Group including attendance, demographic and related project outcome data

Obj 7: Monitoring and reporting

Activity 1: Provide quarterly reports on program activities.

Obj 8: Supplies and Materials

Activity 1: PA will provide Leadership Group Session materials including but not limited to handouts, sign-in sheets, workbooks, refreshments, and childcare development supplies.

Obj 9: Billing & Invoicing

Activity 1: PA will invoice on a monthly basis as required by LBDHHS.

Activity 2: PA will provide support documentation as required by LBDHHS.

**Parents Anonymous, Inc
Life Coaching and the Fundamentals of Fatherhood Project
Subcontractor Budget**

1. Agency Name:	Parents Anonymous, Inc
2. Agency Address:	250 West First Street, Suite 250, Claremont, CA 91711
3. Operational Period :	9/30/2015 to 9/29/2016

Item	FTE	Budget
PERSONNEL COST		
1. Supervisor	0.20	2,100
2. Facilitators (4)	0.80	8,400
3.		
4.		
5. Fringe Benefits		-
TOTAL PERSONNEL COST		10,500
OPERATING COST		
1. Program Materials and Supplies		2,606
2. Leadership Materials		2,500
3. Children and Youth Program Materials		2,500
4. Staff training		10,000
5. Computer, Printer, Toner		2,500
6. Telephone, Fax, Internet		3,600
7. Office supplies		2,339
TOTAL OPERATING COST		26,045
INDIRECT COST		
1. 10% of Total Direct Costs		3,655
		3,655
TOTAL BUDGET		40,200

*Personnel cost based on a 6 month period for year 1



CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

2525 GRAND AVENUE • LONG BEACH, CALIFORNIA 90815 • (562) 570-4000 • FAX: (562) 570-4049

Health Information In Compliance With the Health Insurance Portability And Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH Act)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made and entered as of August 1, 2016 by and between PARENTS ANONYMOUS INC, a Corporation, whose business address is 250 West First Street, Suite 250, Claremont, California 91711 (hereinafter referred to as "Business Associate"), and the CITY OF LONG BEACH, a municipal corporation (hereinafter referred to as "City" or "Covered Entity").

WHEREAS, the City, a municipal corporation under the laws of the State of California, is a single legal entity which has various departments, including a Department of Health and Human Services that provides a multitude of health care and related services, and other departments that may have access to and use individually identifiable health information, such as human resources, a parks, recreation and marine department, a technology department, a fire department with ambulance services, and a police department; and

WHEREAS, in the course of providing health care, related and other services, the City obtains and may share amongst the various City departments protected health information; and

WHEREAS, Business Associate performs particular duties, functions, activities, or services for, or on behalf of the City; and

WHEREAS, Business Associate receives, has access to or creates protected health information in order to perform such duties, functions, activities or services; and

WHEREAS, the City and Business Associate intend to protect the privacy and provide for the security of protected health information in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the "HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

NOW, THEREFORE, in consideration of the mutual terms covenants, and conditions in this Agreement, the parties agree as follows:

1. DEFINITIONS. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Regulations, including the Privacy Rule and the Security Rule codified in Title 45, Sections 160-164 of the Code of Federal Regulations, and under the HITECH Act.
2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.
 - A. Non-disclosure. Business Associate agrees to not use or disclose protected health information other than as permitted or required by the Agreement or as required by law.
 - B. Safeguards. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected health information. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Regulations.
 - C. Mitigation. Business Associate agrees to 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. Notice of Use or Disclosure, Security Incident or Breach. Business Associate agrees to notify the designated privacy official of the Covered Entity of any use or disclosure of protected health information by Business Associate not permitted by this Agreement, any security incident involving electronic protected health information, and any breach of unsecured protected health information without unreasonable delay, but in no case more than thirty (30) days following discovery of breach.
 1. Business Associate shall provide the following information in such notice to Covered Entity:
 - (a) The identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach;
 - (b) A description of the nature of the breach including the types of unsecured protected health information that were involved, the date of the breach and the date of discovery;
 - (c) A description of the type of unsecured protected health information acquired, accessed, used or disclosed in the breach (e.g., full name, social security number, date of birth, etc.);
 - (d) The identity of the person who made and who received

- (if known) the unauthorized acquisition, access, use or disclosure;
- (e) A description of what the Business Associate is doing to mitigate the damages and protect against future breaches; and
 - (f) Any other details necessary for Covered Entity to assess risk of harm to individual(s), including identification of each individual whose unsecured protected health information has been breached and steps such individuals should take to protect themselves.
2. Covered Entity shall be responsible for providing notification to individuals whose unsecured protected health information has been disclosed, as well as the Secretary and the media, as required by the HITECH Act.
 3. Business Associate agrees to establish procedures to investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to Covered Entity in the time and manner reasonably requested by Covered Entity.
 4. The parties agree that this section satisfies any notice requirements of Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but unsuccessful security incidents for which no additional notice to Covered Entity shall be required. For purposes of this Agreement, unsuccessful security incidents include activity such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of electronic public health information.
- E. Reporting of disclosures. Business Associate agrees to report to Covered Entity any use or disclosure of the protected health information not provided for by this Agreement of which it becomes aware.
- F. Business Associate's Agents. Business Associate agrees to ensure 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 Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

- G. Availability of Information to City. Business Associate agrees to provide prompt access to protected health information in a designated record set to Covered Entity or, as directed by Covered Entity, to an individual upon Covered Entity's request in order to meet the requirements under 45 CFR § 164.524. If Business Associate maintains an electronic health record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.
- H. Amendment of Protected Health Information. Business Associate agrees to promptly 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.
- I. Internal Practices. Business Associate agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by Business Associate on behalf of, covered entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of the Secretary determining the Business Associate's compliance with the Privacy Rule.
- J. Reporting of Disclosures. Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for the City to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with the Privacy Rule, including but not limited to 45 CFR § 164.528, and the HITECH Act.
- K. Availability of Information to Covered Entity. Business Associate agrees to promptly provide to Covered Entity or an individual information collected in accordance with Section 2(j) of this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with the Privacy Rule, including but not limited to 45 CFR § 164.528, and the HITECH Act.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

Except as otherwise limited in this Agreement, Business Associate may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule or the HITECH Act if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. The specific use and disclosure provisions are as follows:

- A. Except as otherwise limited in this Agreement, Business Associate may use protected health information for the proper management and administration of the Business Associate.
- B. Except as otherwise limited in this Agreement, Business Associate may disclose protected health information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- C. Except as otherwise limited in this Agreement, Business Associate may use protected health information to provide data aggregation services to covered entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).
- D. Business Associate may use protected health information to report violations of law to appropriate federal and state authorities, consistent with § 164.502(j)(1).

4. PROHIBITED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

- A. Business Associate shall not use or disclose protected health information for fundraising or marketing purposes.
- B. Business Associate shall not disclose protected health information to a health plan for payment or health care operations purposes if the individual has requested this special restriction and has paid out of pocket in full for the health care item or service to which the protected health information solely relates.
- C. Business Associate shall not directly or indirectly receive payment or remuneration in exchange for protected health information, except with the prior written consent of Covered Entity and as permitted by law, including HIPAA and the HITECH Act. This prohibition shall not effect payment by Covered Entity to Business Associate.

5. OBLIGATIONS OF COVERED ENTITY.

- A. Notification of Limitations in Notice of Privacy Practices. 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.
- B. Notification of Change or Revocation of Permission. Covered entity shall notify Business Associate of any changes in, or revocation of,

permission by individual to use or disclose protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.

- C. Notification of Restrictions. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of protected health information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may effect Business Associate's use or disclosure of protected health information.

- 6. PERMISSIBLE REQUESTS BY COVERED ENTITY. 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 Covered Entity, except that this restriction is not intended and shall not be construed to limit Business Associate's capacity to use or disclose protected health information for the proper management and administration of the Business Associate or to provide data aggregation services to Covered Entity as provided for and expressly permitted under Section 3 (a), (b), and (c) of this Agreement.

7. TERM AND TERMINATION.

- A. *Term.* The term of this Agreement shall be effective upon execution, and shall terminate when all of the protected health information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to 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 Section.
- B. *Termination for Cause.* Upon either party's knowledge of a material breach by the other party, the party with knowledge of the other party's breach shall either:
 - 1. Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party;
 - 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - 3. If neither termination nor cure is feasible, the violation shall be reported to the Secretary.
- C. *Effect of Termination.*

1. Except as provided in paragraph (2) of this Section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the protected health information.
 2. In the event that Business Associate determines that returning or destroying the protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and 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.
8. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS.
- Business Associate shall make itself and any subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under this Agreement with the Covered Entity, available to Covered Entity, at no cost to Covered Entity to testify as witnesses or otherwise, in the event of litigation or administrative proceedings commenced against Covered Entity, its directors, officers, or employees based on a claimed violation of HIPAA, the HIPAA Regulations, the HITECH Act, or other laws relating to security or privacy, except where Business Associate or its subcontractors, employees or agents are named as an adverse party.
9. MISCELLANEOUS.
- A. *References.* A reference in this Agreement to a section in the HIPAA Regulations or the HITECH Act means the section as in effect or as amended.
 - 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, the Security Rule, HIPAA, the HITECH Act and other privacy laws governing protected health information. Amendments must be in writing and signed by the parties to the Agreement.
 - C. *Survival.* The respective rights and obligations of Business Associate under Section 6(c) of this Agreement shall survive the termination of this Agreement.

- D. *Interpretation.* Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Regulations and the HITECH Act.
10. LAW. This Agreement shall be governed by and construed pursuant to federal law and the laws of the State of California (except those provisions of California law pertaining to conflicts of laws). Business Associate shall comply with all laws, ordinances, rules and regulations of all federal, state and local governmental authorities.
11. ENTIRE AGREEMENT. This Agreement, including Exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.
12. INDEMNITY.
- A. Business Associate shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents (“Indemnified Parties”), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Business Associate’s breach or failure to comply with any of its obligations contained in this Agreement, or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Business Associate, its officers, employees, agents, subcontractors, or anyone under Business Associate’s control, in the performance of work or services under this Agreement (collectively “Claims” or individually “Claim”).
- B. In addition to Business Associate’s duty to indemnify, Business Associate shall have a separate and wholly independent duty to defend Indemnified Parties at Business Associate’s expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Business Associate shall be required for the duty to defend to arise. City shall notify Business Associate of any Claim, shall tender the defense of the Claim to Business Associate, and shall assist Business Associate, as may be reasonably requested, in the defense. .
13. AMBIGUITY. In the event of any conflict or ambiguity in this Agreement, such ambiguity shall be resolved in favor of a meaning that complies and is consistent with HIPAA, HIPAA Regulations, the HITECH Act and California law.
14. COSTS. If there is any legal proceeding between the parties to enforce or interpret this Agreement or to protect or establish any rights or remedies

hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and court costs, including appeals.

15. NOTICES. Any notice or approval required hereunder by either party shall be in writing and personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid, addressed to Business Associate at the address first stated herein, and to the City at 333 West Ocean Boulevard, Long Beach, California 90802 Attention: Director, Health Department. Notice of change of address shall be given in the same manner as stated herein for other notices. Notice shall be deemed given on the date deposited in the mail or on the date personal delivery is made, whichever first occurs.
16. WAIVER. The acceptance of any services or the payment of any money by City shall not operate as a waiver of any provision of this Agreement, or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.
17. CONTINUATION. Termination or expiration of this Agreement shall not affect rights or liabilities of the parties which accrued pursuant to Sections 7,12 and 14 prior to termination or expiration of this Agreement, and shall not extinguish any warranties hereunder.
18. ADVERTISING. Business Associate shall not use the name of City, its officials or employees in any advertising or solicitation for business, nor as a reference, without the prior approval of the City Manager or designee.
19. THIRD PARTY BENEFICIARY. This Agreement is intended by the parties to benefit themselves only and is not in any way intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all of the formalities required by law as of the date first stated herein.

August 1, 2016

_____, 20____

8/11, 2016

Aug., 2016.

Paula Day, Inc.
(Name of Business Associate)

a Corporation
(corporation, partnership, individual)

By [Signature]

Title: Pres + CEO

By _____

Title: _____

CITY OF LONG BEACH, a municipal corporation

By [Signature]
City Manager or designee

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"City" Assistant City Manager

The foregoing Agreement is hereby approved as to form this 9th day of

CHARLES PARKIN, City Attorney

By [Signature]
Deputy