

## AGREEMENT FOR COLLECTION SERVICES

### UNIQUE MANAGEMENT SERVICES, INC.

THIS AGREEMENT FOR COLLECTION SERVICES is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation, ("City") and UNIQUE MANAGEMENT SERVICES, INC., a Kentucky corporation authorized to do business in California ("Contractor"), with reference to the following facts:

#### RECITALS

A. City through its Library Department operates the Main Library and seven (7) Branch Libraries within the City of Riverside, California.

B. The Library's collection consists of over 348,521 titles and 506,166 physical items. Approximately 309,762 borrowers are currently registered with the Library. Annual circulation is approximately 814,583 items per year. The Library has reciprocal borrowing agreements with most other California public libraries.

C. The Library has established fines and fees for delinquent material based on the type of material. The Library desires to retain the services of a collection agency for overdue customer accounts with balances of \$50.00 or more.

D. Contractor is a qualified collection agency with extensive library collection experience for collecting non-returned library materials, fines and fees, and is willing and able to render the requested services.

#### TERMS

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

1. DEFINITIONS. As used in this Agreement, the following words will have the meanings set forth below:

(a) "Contact" means a verbal or written response by the debtor to Contractor (as shown by Contractor's records).

(b) "Contract Administrator" means the Administrative Services Manager for the Library.

(c) "Contractor" means Unique Management Services, Inc.

(d) "Days" means calendar days.

(e) "Debtor" means the person(s) responsible for the return of the overdue Library materials and payment of any fines or fees due Library.

(f) "Initial Placement" means the initial assignment by Library to Contractor of a past due account of \$50.00 or more, with a correct address, for collection by Contractor and the sending of not less than two letters by Contractor to the Debtor, and a remaining balance letter if the Debtor had responded after the first or second letter but there is still a remaining balance.

(g) "Library" means the Riverside Public Library.

(h) "Recall" means City's notice to Contractor that an overdue or delinquent account previously referred to Contractor for collection services is to be returned by Contractor to City.

(i) "Secondary Placement" means all non responding accounts under the Initial Placement or accounts where the Debtor has moved and Library does not have a correct address.

2. SCOPE OF WORK. Contractor agrees to provide all labor, materials, equipment and supplies necessary for furnishing collection agency services for the recovery and return of overdue library materials owned by Library and the collection of fees and charges for such overdue material as referred to Contractor by City when the value of the materials and fees or charges are over \$50.00 in accordance with provisions of Contractor's Proposal regarding Initial Placement and Secondary Placement.

Contractor shall accept automated data transfer and payment information on the overdue accounts from the Library database in a format designed by Library's software vendor and shall provide an Acknowledgment Report on all such electronically submitted accounts. Contractor shall ensure the confidentiality, security and safety of all Library files and documents including computerized files and documents received from City and shall not release any such files or documents to any third party without the express written permission of the City. Should Contractor be legally required to disclose such files or documents, the Contractor shall give immediate notice to the City of such legal requirement and shall not then release such files or documents until the City has been afforded a reasonable amount of time to contest the disclosure, if the City chooses to so contest the disclosure.

Contractor shall maintain accurate records of any collection transactions received from City, including cash, money order, credit card and checks. All funds owed Library must be paid directly to City. In the event a Debtor sends funds directly to Contractor, these payments must be transmitted in full to City within one business day. All recovered Library materials must be returned to City within ten (10) days of recovery from Debtor.

Contractor shall provide skip-tracing services as may be necessary to locate Debtors for whom City does not have a correct or current address. On a monthly basis, Contractor shall provide any new addresses obtained by Contractor to the Library cross-referenced to the applicable patron account number.

When the Library provides patron date of birth and/or juvenile codes, Contractor shall send written demands to the parents of such patron under the age of eighteen years unless otherwise emancipated.

Contractor shall provide, on a monthly basis, a report to City's Contract Administrator that details for each Debtor the value of materials returned, money received, charges waived and balance due.

All work is to be performed by Contractor in accordance with the specifications and requirements as set forth in the Contractor's Proposal. The specific terms of this Agreement shall control and have precedence over any contradicting or inconsistent terms and conditions included in the aforementioned Proposal and shall be controlling in questions of interpretation.

3. COMPENSATION; METHOD OF PAYMENT. All payments will be made in accordance with the following terms and conditions:

(a) Contractor shall be paid Eight Dollars and Ninety-Five Cents (\$8.95) per account submitted by City to Contractor regardless of balance amount or the value of the Library's materials returned for processing through Contractor's Initial Placement and Secondary Placement services. Total compensation to Contractor shall not exceed \$10,000.00 (ten thousand dollars) per fiscal year (i.e., beginning on July 1 and ending on June 30 of the following year).

(b) Post judgment interest and court costs, if collected, will be retained by Contractor after court judgment is obtained by Contractor.

All payments will be made by City to Contractor in accordance with the usual accounting procedures of City within thirty (30) days after receipt by City's Contract Administrator of a monthly itemized invoice from Contractor as follows: For Initial Placement, the invoice shall be submitted by Contractor at the end of each month for accounts submitted that month; and for Secondary Placement, the invoice shall specify the account, amount and material collected and compensation to be paid.

Contractor **GUARANTEES** that City shall not pay Contractor more than the actual cash recovered during the prior quarter upon the condition that the accounts submitted contain the processing fee of not less than the Initial Placement fee charged and be no more than sixty (60) days past due at time of submission by City to Contractor. Within fifteen (15) days following the close of each quarter during the term of this Agreement, Contractor shall submit to City a Reconciliation Sheet as set forth in Contractor's Proposal describing any credits.

Contractor is not entitled to any compensation other than is expressly provided for in this Agreement.

4. TERM. This Agreement shall be effective as of the date of this Agreement first above written and shall remain in effect until June 30, 2023, unless earlier terminated as provided hereunder.

This Agreement may be renewed for additional one-year periods upon mutual agreement of the parties hereto; provided, however, this Agreement may not be renewed for more than four additional years.

5. CITY'S RIGHTS AND OBLIGATIONS.

(a) City does not guarantee Contractor either a certain number or a certain total dollar value of collection referrals. Also, City retains sole discretion in determining what delinquent accounts shall be referred to Contractor.

(b) City may, upon reasonable notice, recall any account City has referred to Contractor and upon the effective date of such recall Contractor shall cease all collection efforts with respect to such accounts. After Contractor has contact with a Debtor, such recall for that account from Contractor shall not be effective for a period of five (5) days following service of notice of recall. Such withdrawals shall be without any cost to City.

(c) Upon notification from the City that a Debtor has filed for bankruptcy protection under federal law, is involved in a receivership, has been made an assignment of the benefit of creditors, Contractor will immediately cease all collection efforts and treat the account as a recalled account. If the Contractor is notified by the Debtor, Contractor will notify City immediately of the change in status of the account. City shall incur no charge for withdrawal of any such assigned accounts.

(d) Other than is explicitly set forth in this Agreement, City shall not be obligated to provide Contractor with any monies, goods, or services.

6. TERMINATION. This Agreement may be terminated in whole or in part as follows:

(a) By mutual consent of the parties.

(b) For the convenience of City, provided that City notifies Contractor in writing of its intent to terminate under this paragraph at least thirty (30) days prior to the effective date of the termination.

(c) For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within fifteen (15) days after issuance of the notice.

7. CONTRACTOR'S OBLIGATIONS UPON EXPIRATION OR TERMINATION. Upon the expiration of the term of this Agreement or termination as above-provided prior to such expiration, Contractor shall, within ten (10) days after the date of such expiration or termination, return any accounts to City's Contractor Administrator, including any and all files related thereto, and any and all Library materials and monies owed Library.

8. INDEMNIFICATION. Except as to sole negligence, or willful misconduct of City, Contractor shall defend, indemnify and hold the City, its officers and employees, harmless from any and all loss, damage, claim for damage, liability, expense or cost, including attorney's fees, which arises out of or is in any way connected with the performance of work under this Agreement by Contractor or any of the Contractor's employees, agents or subcontractors and from all claims by Contractor's employees, subcontractors and agents for compensation for services rendered to Contractor in the performance of this agreement, notwithstanding that City may have benefited from their services. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Contractor or of Contractor's employees, subcontractors or agents.

The parties expressly agree that any payment, attorney's fee, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this Section, and that this Section shall survive the expiration or early termination of the Agreement.

9. INSURANCE

(a) *General Provisions.* Prior to the City's execution of this Agreement, Contractor shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

(b) *Limitations.* These minimum amounts of coverage shall not constitute any limitation or cap on Contractor's indemnification obligations under Section 8 hereof.

(c) *Ratings.* Any insurance policy or coverage provided by Contractor or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

(d) *Cancellation.* The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

(e) *Adequacy.* The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Contractor pursuant to this Agreement are

adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage as Contractor deems adequate, at Contractor's sole expense.

(f) *Workers' Compensation Insurance.* By executing this Agreement, Contractor certifies that Contractor is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Contractor shall carry the insurance or provide for self-insurance required by California law to protect said Contractor from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Contractor shall file with City either 1) a certificate of insurance showing that such insurance is in effect, or that Contractor is self-insured for such coverage, or 2) a certified statement that Contractor has no employees, and acknowledging that if Contractor does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

(g) *Commercial General Liability.* Prior to City's execution of this Agreement, Contractor shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance as required to insure Contractor against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Contractor. The City, and its officers, employees and agents, shall be named as additional insureds under the Contractor's insurance policies.

(g)(1) Contractor's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

(g)(2) Prior to City's execution of this Agreement, copies of insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include the City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

(g)(3) The insurance policy or policies shall also comply with the following provisions:

- a. The policy shall be endorsed to waive any right of subrogation against the City and its sub-consultants, employees, officers and agents for services performed under this Agreement.
- b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.

- c. The policy shall specify that the insurance provided by Contractor will be considered primary and not contributory to any other insurance available to the City and Endorsement No. CG 20010413 shall be provided to City.

(h) Subcontractors' Insurance. Contractor shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss, that may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers Compensation and, Commercial General Liability., Upon City's request, Contractor shall provide City with satisfactory evidence that Subcontractors have obtained insurance policies and coverages required by this section.

10. SUCCESSORS AND ASSIGNS. It is mutually understood and agreed that this Agreement shall be binding upon City and Contractor and their respective successors and assigns. Neither this Agreement or any part hereof nor any monies due or to become due hereunder may be assigned by Contractor without the prior written consent of the Contract Administrator.

11. NOTICES. Any written communication required or permitted to be given hereunder will be deemed received upon personal delivery or forty-eight (48) hours after deposit in any United States mail depository, first class postage prepaid, and addressed to the party for whom intended as follows:

City

Administrative Services Manager  
Riverside Public Library  
3581 Mission Inn Avenue  
Riverside, CA 92501

Contractor

Unique Management Services, Inc.  
119 East Maple Street  
Jeffersonville, IN 47130

Either party may at any time change said party's address for mailing upon written notice to the other.

12. NONDISCRIMINATION. During Contractor's performance of this Agreement, Contractor shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, gender expression, sex or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Contractor agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

13. INDEPENDENT CONTRACTOR. Contractor shall at all times during its performance of the services retain its status as independent contractor. Contractor's employees and agents shall under no circumstances be considered or held to be employees or agents of City, and City shall have no obligation to pay or withhold state or federal taxes or provide workers' compensation or unemployment insurance for or on behalf of them or Contractor.

14. PERMITS, LAWS, BUSINESS TAX AND OTHER TAXES.

(a) Contractor understands that the activity described herein constitutes doing business in the City of Riverside, and Contractor agrees that Contractor will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

(b) Contractor shall acquire and maintain in good standing all permits, licenses and other entitlement necessary to Contractor's performance under this Agreement.

(c) All action taken by Contractor under this Agreement shall comply with all applicable statutes including, but not limited to, the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.), and other federal, state and local ordinances, rules and regulations.

(d) Contractor shall pay all taxes pertaining to Contractor's performance under this Agreement.

15. WAIVER. Any waiver by either party of its rights under this Agreement, or with respect to any default or other matters under this Agreement, shall not be deemed waivers to any subsequent default or other matters in connection therewith. Any delay, short of the statutory period of limitation in asserting or enforcing any right, shall not be deemed a waiver of such right.

16. AMENDMENT. No amendment to this Agreement shall be valid or binding unless such amendment is in writing, duly dated and signed by both parties.

17. VENUE. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

18. SEVERABILITY. Each provision, term, condition, covenant and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, in this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement and the remainder of the Agreement shall continue in full force and effect

19. AUTHORITY. The individuals executing this Agreement and the instruments referenced herein on behalf of Contractor each represent and warrant that they have the legal power, right, capacity and actual authority to bind Contractor to the terms and conditions hereof and thereof.


20. ENTIRE AGREEMENT. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed on the day and year first above written.


CITY OF RIVERSIDE,  
a California charter city  
and municipal corporation

UNIQUE MANAGEMENT SERVICES,  
INC., a Kentucky corporation authorized to do  
business in California

By: \_\_\_\_\_  
City Manager

By:   
Printed Name: NICOLE ATKINS  
Its: president & CEO

ATTEST:

By:   
Printed Name: CHARLES L. GARY  
Its: Secretary/Treasurer


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

\*CERTIFIED AS TO FUNDS AVAILABILITY:

By:   
Finance Director

\* Not required if approved by Council action.

APPROVED AS TO FORM:

By:   
Elliot H. Min  
Deputy City Attorney