

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between The City of Philadelphia (the “City”), by and through its Office of Inspector General (“OIG”), and Elwyn. The City and Elwyn are collectively referred to as “the Parties.”

PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Elwyn is organized under the laws of Pennsylvania, with its headquarters located at 111 Elwyn Road, Elwyn, Pennsylvania. In fiscal years 2009 through 2016, Elwyn and the City, through its Water Department (contracts MPXX09000097, MPXX1000102, MPXX11000145, and MPXX12000101) and Revenue Department (contracts MPXX13000049, MPXX14000052, MPXX15000007, and MPXX16000068), entered into various agreements for Elwyn to convert Water Department bills into Braille and large-print bills for the City’s visually impaired customers. At the City’s request, Elwyn has continued to provide some such services during FY 2017 without a City contract. Such services, whether or not pursuant to contract, are referred to as “Translation Services.”

B. The OIG is an office that was created by the Mayor of Philadelphia to enhance the public confidence in the integrity of City government by investigating corruption, fraud, misconduct, waste, and mismanagement involving City departments, City-related agencies and those doing business with the City or City-related agencies.

C. Beginning in or about December 2015, the OIG investigated an allegation that City customers were not receiving translated Water Department bills. Using decoy customers and employing outreach initiatives, an OIG investigation confirmed that some City customers entitled to Translation Services were not receiving a translated bill. Furthermore, OIG investigation found that Elwyn submitted invoices to the City, which the City subsequently paid,

for Translation Services that were not provided. In this Agreement, the term "Covered Conduct" refers both to the failure to provide Translation Services and to the billing for Translation Services not provided.

D. The OIG believes that it has certain civil and administrative claims against Elwyn for engaging in the Covered Conduct.

E. Elwyn expressly denies that it breached any contract or engaged in any wrongful conduct in connection with the Covered Conduct. Elwyn has cooperated fully with the OIG's investigation.

F. This Agreement is made in compromise of disputed claims relating to the Covered Conduct. This Agreement is not an admission of facts or liability by Elwyn. This Agreement is not a concession by the City that its claims are not well founded. Neither this agreement, its execution, nor the performance of any obligation under it, including payment, nor the fact of any settlement, is intended to be, or shall be understood, as an admission of liability or wrongdoing, or other expression reflecting on the merits of the dispute by Elwyn.

G. To avoid delay, uncertainty, risk, inconvenience, and potential expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

TERMS AND CONDITIONS

NOW, THEREFORE, in reliance on the representations contained herein, and in consideration of the mutual promises, covenants, and obligations set forth in this Agreement, and for good and valuable consideration as stated herein, the Parties, intending to be legally bound, agree as follows:

1. Elwyn shall remit to the City the sum of \$38,400 (the "Elwyn Settlement Amount") by electronic funds transfer no later than ten (10) business days after this Agreement is fully executed by the Parties and delivered to counsel for Elwyn.

2. Elwyn hereby releases the City from any outstanding payments that the City would or might otherwise owe to Elwyn for or relating to any of the Translation Services (including Translation Services during the period from January 1, 2017 to the date of execution of this Agreement for which no invoices have been submitted).

3. To the extent not already completed, Elwyn shall implement the following enhancements to its corporate compliance program:

(a) No later than seventy-five (75) calendar days after this Agreement is fully executed by the Parties and delivered to counsel for Elwyn, Elwyn shall designate a lead business person to certify that all future documentation and invoices generated by Elwyn for Translation Services are correct.

(b) If any Translation Services are performed by a subcontractor, Elwyn will require the subcontractor to enable Elwyn to comply with all of Elwyn's obligations to the City that relate to the subcontract or the services and materials it provides; and the lead business person will explain Elwyn's obligations under the City contract and Elwyn's responsibility to certify all documentation and invoices it has created with the subcontractor.

(c) Within one hundred eighty (180) days after the last execution date listed below, Elwyn shall submit a written report to the OIG summarizing the status of its implementation of these requirements.

(d) Elwyn shall maintain these elements of its corporate compliance program for at least four (4) years after the last execution date listed below or, if earlier, at least one (1) year after it ceases to provide, or to seek to provide, Translation Services to the City.

4. In consideration of the obligations of Elwyn as outlined herein, and excepting only those obligations expressly stated in this Agreement, the City agrees to fully and finally release Elwyn and any and all of its subsidiary, affiliate or parent companies, subcontractors, and their past and present directors, officers, and employees from any and all claims (including attorney fees, costs, and expenses of every kind and however denominated) related to the Covered Conduct, and the OIG's investigation thereof, that the City has asserted or could assert now or in the future, against Elwyn, any and all of its subsidiary, affiliate or parent companies, subcontractors and their past and present directors, officers, and employees; except that the City does not release any claims or potential claims related to the obligation of any person to make tax filings or pay tax liabilities, whether or not related to the Covered Conduct. Moreover, except as federal or state law may otherwise require or tax law may permit, the City will not seek and shall refrain from instituting, directing, or maintaining any civil or administrative action, including any action seeking debarment from entering into contracts with the City, resulting from the Covered Conduct. The OIG agrees that if requested to do so in any debarment or similar proceeding brought by others, the OIG will confirm that Elwyn has at all times been fully cooperative with the City investigation.

5. Excepting only those obligations expressly stated in this Agreement, Elwyn agrees to fully and finally release the City and each of the City's past and present officials, directors, officers, employees, servants, and agents from any claims (including attorney fees, costs, and expenses of every kind and however denominated) related to the Covered Conduct

(including the investigation and resolution thereof), that Elwyn has asserted or could assert now or in the future against the City and each such official, director, officer, employee, servant, and agent; except that Elwyn and such persons do not release tax claims.

6. Notwithstanding the releases in Paragraphs 4 and 5 of this Agreement, or any other term of this Agreement, the City specifically reserves and does not release the right to pursue any claim, other than a claim by the City relating to past Covered Conduct, arising under the Translation Contracts or any other provision of law or contract.

7. Nothing in this Agreement shall be deemed to adversely affect, in any manner whatsoever, Elwyn's standing to do business with and within the City of Philadelphia.

8. Elwyn and the City each represent that they freely and voluntarily enter into this Agreement without any degree of duress or compulsion whatsoever.

9. Nothing herein precludes the OIG from conducting future investigations of past or future conduct of Elwyn or its subcontractors unrelated to the Covered Conduct; or investigations of any future Covered Conduct.

10. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to the principles of conflicts of laws. Each Party irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in Philadelphia, Pennsylvania, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein; and irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court.

11. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

12. This Agreement constitutes the complete agreement among the Parties with respect to the issues that the Agreement covers. This Agreement may not be amended except by express written consent of the Parties. Nothing in this Agreement shall be deemed to conflict with the terms of any other agreement between the City and Elwyn.

13. Each Party, and each individual executing this Agreement on behalf of a Party, represents and warrants that the individual is authorized by the Party to execute this Agreement in his or her official capacity.

14. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other person or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. This Agreement is binding upon the successors, transferees, heirs, and assigns of Elwyn.

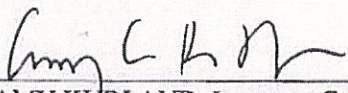
16. Elwyn consents to the City's disclosure to the public of the Agreement and of information about this Agreement, after it has been fully executed.

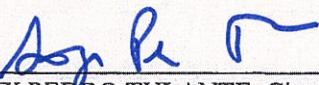
17. This Agreement is effective on the date of signature and delivery of the last signatory to the Agreement. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement, it being understood that the Parties need not sign the same counterpart. Facsimile signature(s) on

complete copies of the Agreement shall constitute acceptable, binding signature(s) for purposes of this Agreement.

(The remainder of this page has been left blank intentionally. Signature page follows.)

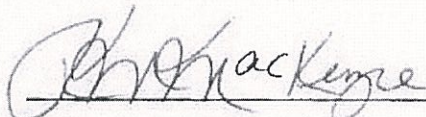
THE CITY OF PHILADELPHIA

By:  Dated: 7/20/17
AMY KURLAND, Inspector General

Approved:  Dated: 7/21/17
SOZI PEDRO TULANTE, City Solicitor
City of Philadelphia Law Department

ELWYN

By Its Duly Authorized Representative:

 Dated: 7/10/2017
Name: Regina M. MacKenzie, Esquire
Title: General Counsel