

Form <b>CHAR016A</b>  Article 7-A of the Executive Law	<b>Professional Fund Raiser/Fund Raising Counsel Contract Certification</b> New York State Department of Law (Office of the Attorney General) Charities Bureau The Capitol Albany, NY 12224 <a href="http://www.CharitiesNYS.com">http://www.CharitiesNYS.com</a>	<b>Open to Public Inspection</b>  <b>(including attachments)</b>
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**Part A - Identification of Contracting Professional Fund Raiser(s)/Fund Raising Counsel (PFR/FRC)**

1. Name of Contracting Professional Fund Raiser(s)/Fund Raising Counsel	2. NYS PFR/FRC ID#
	____ - ____ - ____
	____ - ____ - ____

**Part B - Identification of Contracting Charitable Organization(s)**

1. Name of Contracting Charitable Organization(s)	2. NYS CHARITY ID#
	____ - ____ - ____
	____ - ____ - ____

**Part C - Contract Date and Period**

1. Date of Contract	2. Contract Period
____ / ____ / ____	Start Date: ____ / ____ / ____
	End Date: ____ / ____ / ____

**Part D - Certification - Authorized Representative of PFR/FRC Signature Required**

I, an authorized representative of the above named Professional Fund Raiser/Fund Raising Counsel, certify under penalties for perjury, that the above referenced and attached contract, including any accompanying exhibits, addenda and attachments, is a true and correct copy of the original contract executed by the parties.

PFR/FRC Representative

Signature
Printed Name
Title
Date

**Part E - Attachments**

Check the boxes for the documents that are attached.

Contract (Required) (**DO NOT** disclose any Federal ID numbers or Social Security numbers in the contract.)

CHAR016B (Must be completed if the contract does not already include statements required by §174-a of NYS Executive Law.)

<b>FOR OFFICE USE ONLY</b>	DATE RECEIVED	CONTRACT FILING ID#	PFR/FRC ID#	CHARITY ID#
	DATE SIGNED	BEGINNING DATE	END DATE	CHAR037 DUE DATE
	DATE FILED	TERMS		

**Part A - Identification of Contracting Professional Fund Raiser(s)/Fund Raising Counsel (PFR/FRC)**

1. Name of Contracting Professional Fund Raiser(s)/Fund Raising Counsel	2. NYS PFR/FRC ID#
	____ - ____ - ____
	____ - ____ - ____

**Part B - Identification of Contracting Charitable Organization(s)**

1. Name of Contracting Charitable Organization(s)	2. NYS CHARITY ID#
	____ - ____ - ____
	____ - ____ - ____

**Part C - Execution Date of Corresponding Contract**

1. Date Signed by PFR/FRC:      ____ / ____ / ____	2. Date Signed by Charity:      ____ / ____ / ____
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**Part D - Contract Addendum**

The parties agree that the provisions of this addendum shall be made part of and incorporated in the contract as if fully set forth in the contract itself. The parties further agree that the following terms and conditions shall supercede and control any provisions in the contract that are contrary to or inconsistent with the terms of this addendum. Therefore, the parties further agree as follows:

(1) **Charity's right to cancel this contract:** It is understood by the parties that the charity has the right under New York State law to cancel this contract and that the charity is not required to give any reason for the cancellation. By law, the parties to this contract cannot waive or modify this right by any pre-existing agreement or by any subsequent agreement between the parties. Therefore, the charity may cancel this contract without cost, penalty or liability if the charity notifies the PFR/FRC in writing as provided below.

(2) **Period during which contract may be cancelled:** If the PFR/FRC is registered with the New York State Attorney General's Charities Bureau, the charity may cancel this contract at any time up to and including the fifteenth day after this contract was filed by the PFR/FRC with the Attorney General's Charities Bureau, regardless of the execution date of the contract. If, however, the PFR is not registered with the Attorney General's Charities Bureau at the time this contract is signed, the charity may cancel this contract at any time after it is signed.

(3) **Procedure for cancelling this contract:** To cancel this contract the charity must give written notice of cancellation to the PFR/FRC. This notice may be in the form of a letter stating that the charity does not intend to be bound by the contract. The notice of cancellation may be hand-delivered or mailed to the PFR/FRC. If mailed, it must be sent to the PFR/FRC at the address below. The charity must also mail a copy of the notice of cancellation to the Attorney General's Charities Bureau at the address above.

(4) **When the cancellation is effective:** If the notice of cancellation is hand-delivered, the cancellation is effective as soon as it is delivered to the PFR/FRC. If the notice of cancellation is mailed, the cancellation is effective as soon as the notice is deposited, properly addressed and postage pre-paid, in a mailbox.

**Part E - Contract Addendum Authorization**

In witness of their acceptance of the provisions contained in this Addendum to Contract with Charitable Organization, an authorized representative of the PFR/FRC and an authorized representative of the Charitable Organizations have signed this Contract Addendum on the dates set forth below.

1. Professional Fund Raiser or Fund Raising Counsel				
PFR/FRC Representative				
Signature	Printed Name	Title	Date	
Mailing Address				
Number and Street	City or Town	State or Country	ZIP + 4	
2. Charitable Organization				
Charity Representative				
Signature	Printed Name	Title	Date	



## **Instructions for Form CHAR016A (Contract Certification) and Form CHAR016B (Addendum to Contract with Charitable Organization) and Summary of Contract Filing Requirements for Professional Fund Raisers and Fund Raising Counsel**

Article 7-A of the Executive Law & NYCRR Title 13, Chapter V, Parts 90 - 99  
<http://www.CharitiesNYS.com>

**Important Notice:** These Instructions and Summary are intended to provide assistance in completing Form CHAR016A and Form CHAR016B. Also included is information on many of the contract filing requirements for Professional Fund Raisers and Fund Raising Counsel. For additional information on registration and filing requirements pursuant to the Executive Law, registrants and potential registrants are encouraged to familiarize themselves with §171-a through §177 of Article 7-A of the Executive Law and NYCRR Title 13, Chapter V, Parts 90 - 99.

### **I. General Instructions in Completing Form CHAR016A**

**A.** A Professional Fund Raiser (PFR) or Fund Raising Counsel (FRC) must file with the Attorney General's Charities Bureau, within ten days of its execution, a copy of each contract the PFR or FRC enters into with any charitable organization required to be registered under NYS Executive Law §172. At the time of filing, the PFR or FRC must certify, under penalties for perjury, that the contract being filed is a true and correct copy of the original executed contract. Form CHAR016A may be used by a PFR or FRC when submitting a contract. A PFR or FRC is not required to use Form CHAR016A as long as its certification is substantially similar to CHAR016A.

**B.** Type or print in ink the responses to **all** items on page 1 Parts A, B, C and E of Form CHAR016A.

**C.** In all instances "PFR/FRC Representative" or an "authorized representative of the Professional Fund Raiser/Fund Raising Counsel shall mean an owner, partner, director, officer, manager or key employee of the contracting PFR/FRC.

### **II. PFR/FRC Certification**

An authorized representative of the Professional Fund Raiser/Fund Raising Counsel must certify, under penalties for perjury, that the attached contract, including any accompanying exhibits, addenda and attachments, is a true and correct copy of the original contract executed by the parties. The signature on Form CHAR016A, Part D must be accompanied by the signatory's printed name, title and the date signed.

### **III. General Instructions in Completing Form CHAR016B**

**A.** A Professional Fund Raiser (PFR) or Fund Raising Counsel (FRC) is required to insure that its contract complies with NYS Executive Law §174-a. Form CHAR016B may be used by a PFR or FRC when a contract required to be filed with the Attorney General's Charities Bureau by the PFR or FRC does not already conform to §174-a. The provisions of Form CHAR016B shall be accepted as complying with §174-a. A PFR or FRC is not required to use Form CHAR016B. The Attorney General's Charities Bureau encourages professional fund raisers and fund raising counsel to execute contracts that initially comply with §174-a.

**B.** Type or print in ink the responses to **all** items on page 1 Parts A, B and C of Form CHAR016B.

**C.** In all instances "PFR/FRC Representative" or an "authorized representative of the PFR/FRC" shall mean an owner, partner, director, officer, manager or key employee of the contracting PFR/FRC.

**D.** In all instances "Charity Representative" or an "authorized representative of the Charitable Organization" shall mean an officer, director or key employee of the contracting charity.

**E.** An authorized representative of the Professional Fund Raiser/Fund Raising Counsel and an authorized representative of the Charitable Organization must sign Form CHAR016B. The signatures on Form CHAR016B, Part E must be accompanied by each signatory's printed name, title and the date signed.

### **IV. Mailing Instructions**

All contract documents should be mailed to the following address:

New York State Department of Law (Office of the Attorney General)  
Charities Bureau  
The Capitol  
Albany, NY 12224

### **V. Additional Charities Bureau Contact Information**

Telephone: (518) 486-9797  
E-mail: [Charities.Fundraising@ag.ny.gov](mailto:Charities.Fundraising@ag.ny.gov)

### **VI. Contracts - See §§172-d, 173-a, 174, 174-a, Executive Law**

- No person shall enter into any contract or agreement with or otherwise employ or engage a Professional Fund Raiser (PFR) or Fund Raising Counsel (FRC) required to be registered under NYS Executive Law unless such PFR/FRC has provided to such person a statement, signed under penalties for perjury, that it is registered with the Attorney General's Charities Bureau and in compliance with all filing requirements of the Executive Law.
- No person shall enter into any contract or agreement, employment or engagement to raise funds or conduct any fund raising activities for any charitable organization required to be registered under NYS Executive Law §172 unless such charitable organization is registered with the Attorney General's Charities Bureau and in compliance with all filing requirements of the Executive Law.
- No person shall act as a PFR/FRC before that PFR/FRC has a written contract with the charitable organization, or other person benefitting from the services. A PFR/FRC must file with the Attorney General's Charities Bureau, within 10 days of its execution, a copy of each contract entered into between the PFR/FRC and any charitable organization required to be registered under NYS Executive Law §172. At the time of the filing, the PFR/FRC must certify, under penalties for perjury, that the contract being filed is a true and correct copy of the original executed contract. For additional information, please refer to Form **CHAR016A**.
- Whenever a charitable organization contracts with a PFR/FRC, the organization has the right to cancel the contract without cost, penalty, or liability for a period of 15 days following the date on which the contract is filed by the PFR/FRC with the Attorney General's Charities Bureau, regardless of the execution date of the contract. In order to cancel during this period, the organization must mail or hand deliver a notice of cancellation to the PFR/FRC and send a copy to the Attorney General's Charities Bureau. Such notice is sufficient if it indicates that the charitable organization does not intend to be bound by the contract. For additional information, please refer to Form **CHAR016B**.
- The failure of a PFR/FRC to discontinue solicitation or any other fund raising activity upon receipt of a notice of cancellation in accordance with the provisions of Article 7-A of the Executive Law within fifteen days of the cancellation of the contract shall be deemed to be a continuing fraud upon the people of New York State.
- Every contract between a charitable organization and a PFR/FRC must contain:
  - the names, addresses and NYS Attorney General's Charities Bureau identification numbers of all parties to the contract;
  - a specific beginning and ending date for the contract;
  - a clear narrative description of the services to be performed by the PFR/FRC;
  - a clear statement of the financial arrangement between the charitable organization and the PFR/FRC;
  - signatures and dates of signature of all parties to the contract; and
  - a statement of the charitable organization's statutory right to cancel the contract; the period during which the contract may be canceled; the address to which the notice of cancellation must be sent and the address of the Attorney General's Charities Bureau to which a duplicate must be sent.
- Every contract between a PFR and a charitable organization shall contain, or shall be deemed to contain, a provision that within 5 days of receipt by the PFR or other person, the gross revenue received from a solicitation conducted by that PFR shall be deposited in a bank account under the exclusive control of the charitable organization.
- No contract filing should include Federal ID numbers or Social Security numbers of the PFR/FRC or the charitable organization or any representative of the PFR/FRC or charitable organization.
- No person shall act as a sub-contractor on behalf of another PFR prior to obtaining a written contract with such PFR and written consent from the charitable organization on whose behalf fund raising activities are to be conducted pursuant to such contract. A sub-contractor must file with the Attorney General's Charities Bureau, within 10 days of execution, a copy of such written consent attached to a copy of the contract between the subcontractor and the other PFR.
- No services shall be performed pursuant to any contract required to be filed by a PFR/FRC if, within fifteen days of filing, the Attorney General's Charities Bureau notifies the PFR/FRC and the charitable organization of any deficiencies in the contract and/or in the registration or filings of the PFR/FRC or the charitable organization.
- No services shall be performed under a contract required to be filed by a PFR until the PFR shall have received an acknowledgement from the Attorney General's Charities Bureau or such contract shall have been on file with the Attorney General's Charities Bureau for at least fifteen days, whichever is shorter.

**VII. Closing Statements - See §173-a, Executive Law**

Within 90 days after the termination of a contract, the PFR must file a closing statement, Form **CHAR037**, signed under penalties for perjury by all parties to the contract. If the contract term is longer than one year, an interim statement, Form **CHAR037**, signed under penalties for perjury by all parties to the contract, must be filed within 15 months of the execution of the contract and annually thereafter. For additional information, please refer to Form **CHAR0037**.

**VIII. Solicitation Disclosures - See §174-b, Executive Law**

- Any solicitation by any means made by or on behalf of a registered charitable organization that is required to file financial reports and that has actually filed all such reports must include a statement that upon request, a person may obtain from the charitable organization or from the Attorney General's Charities Bureau, a copy of the last financial report filed by the charitable organization with the Attorney General's Charities Bureau. Such statement must specify the address of the charitable organization and the address of the Attorney General's Charities Bureau (State of New York, Department of Law, Charities Bureau, 120 Broadway, New York, NY 10271) to which such request should be addressed. In instances where the charitable organization required to be registered has not been previously required to file an annual report with the Attorney General's Charities Bureau, the solicitation must state the date when such report will be filed.
- Any solicitation by any means by a PFR or PS on behalf of a charitable organization required to be registered with the Attorney General's Charities Bureau shall clearly and unambiguously disclose:
  - the name of the PFR as on file with the Attorney General's Charities Bureau and that the solicitation is being conducted by a PFR
  - the name of the individual PS as on file with the Attorney General's Charities Bureau and that the PS is receiving compensation for conducting the solicitation.

**IX. Books and Records - See §173, Executive Law**

- A PFR/FRC must maintain accurate and current books and records of all activities conducted under any contract with a charitable organization or other person benefitting from the services for a minimum of three years from the expiration date of such contract. Such books and records must be available for inspection, examination and/or audit by charitable organization and/or the Attorney General or any authorized representative at the address of the PFR/FRC.
- Within seven days of a request from a charitable organization with which it has contracted, a PFR/FRC must provide copies of all related records to that charitable organization.

**X. Charitable Organizations - See §§171-a, Executive Law**

Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such or law enforcement support organization as defined below.

**XI. Law Enforcement Support Organization - See §§171-a, Executive Law**

Any organization, association, union or conference of or purporting to be of current or former law enforcement officers, including, without limitation, peace officers and police officers as defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, sheriffs, deputy sheriffs, detectives, investigators or constables or any auxiliary or affiliate of such an organization, association, union or conference composed of one or more such organizations.

**XII. Person - See §§171-a, Executive Law**

Any individual, organization, group, association, partnership, corporation, or any combination of them.

**XIII. Contribution - See §§171-a, Executive Law**

The promise or grant of any money or property of any kind or value, whether or not in combination with the sale of goods, services, entertainment or any other thing of value, including a grant or other financial assistance from any agency of government, except payments by members of any organization for membership, for services or other benefit, other than the right to vote for directors or trustees, elect officers, or hold offices.

**XIV. Solicit - See §§171-a, Executive Law**

To directly or indirectly make a request for a contribution, whether express or implied through any medium. A "solicitation" shall be deemed to have taken place whether or not a contribution is made. For purposes of this article, a "solicitation" or a "solicitation of contributions" includes any advertising which represents that the purchase or use of goods, services, entertainment or any other thing of value will benefit a charitable organization. Provided, however, that the printing and the mailing of a written solicitation for funds or any other thing of value to benefit a charitable organization shall not alone constitute soliciting on the part of persons who printed and mailed such solicitation if such persons do not otherwise solicit, receive or have access to contributions.