

City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685

Agreement between the City and County of San Francisco and

Guardsmark, LLC

This Agreement is made this **first** day of **February**, 2014, in the City and County of San Francisco, State of California, by and between: **Guardsmark, LLC**, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the San Francisco Human Services Agency ("Department") wishes to contract for the provision of security services for all departmental facilities;

WHEREAS, a Request for Proposal ("RFP") was issued on **August 2, 2013** and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number **2006-08/09** on **March 5, 2009** and annual proposition J approval from the Controller's Office,

Now, THEREFORE, the parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other

agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from **February 1, 2014 to January 31, 2018.**

3. Effective Date of Agreement. This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. Services Contractor Agrees to Perform. The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," attached hereto and incorporated by reference as though fully set forth herein.

5. Compensation. Compensation shall be made in monthly payments on or before the **last** day of each month for work, as set forth in Section 4 of this Agreement, that the **Executive Director**, in his or her sole discretion, concludes has been performed as of the **first** day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Nineteen Million, Seven Hundred Eighty Five Thousand, Three Hundred Ninety Two Dollars (\$19,785,392)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by **Human Services Agency** as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

6. Guaranteed Maximum Costs. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. Payment; Invoice Format. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique invoice number. All amounts paid by City to Contractor shall be subject to audit by City. Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web [http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1). A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Disallowance. Disallowance: If Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement. By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Contractor acknowledges that this certification of eligibility to receive federal funds is a material terms of the Agreement. Single Audit Requirements: Contractors that expend \$300,000 or more in a year from any and all Federal awards shall have a single audit conducted in accordance with OMB Circular A-133. Contractors that expend less than \$300,000 a year in Federal awards are exempt from the single audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal Agency, pass-through entity and General Accounting Office.

10. Taxes. There are no sales or use tax requirements imposed at the time of execution of this agreement. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor. However, should sales or use taxes be imposed during the term of this agreement, the contractor may adjust the billing rates to include these taxes in the amounts invoiced to the City. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information

required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

(3) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (See, e.g., Rev & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(4) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

11. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. Independent Contractor. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City

does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

- 1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- 2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- 3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

- 1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees with respect to Contractor's services hereunder, but excluding coverage for the acts or omissions of any Additional Insured.
- 2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

e. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

16. Indemnification. Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, to the extent such loss, damage, injury, liability or claim is the result of the (i) a negligence act or omission, or (ii) willful misconduct of Contractor, or the breach by Contractor of this Agreement. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating such claims against the City, any negligent, reckless, or willful act or omission of the Contractor and subconsultant to the Contractor, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"), subject to the provisions set forth herein.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City to the extent any claim actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

a. Limitations

(1) No insurance policy covering the Contractor's performance under this Agreement shall operate to limit the Contractor's liability under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such liability.

(2) The Contractor assumes no liability whatsoever for the sole negligence or willful misconduct of any Indemnitee or the contractors of any Indemnitee.

(3) The Contractor's indemnification obligations of claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the extent of the Contractor's negligence or other breach of duty.

b. Copyright Infringement

Contractor shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in then performance of Contractor's services under this Agreement.

17. Incidental and Consequential Damages. Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

18. Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Liquidated Damages: Left Blank by the agreement of the parties.

20. Default; Remedies. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

- 8. Submitting false claims
- 10. Taxes
- 15. Insurance
- 24. Proprietary or confidential information of City

- 30. Assignment
- 37. Drug-free workplace policy,
- 53. Compliance with laws
- 55. Supervision of minors
- 57. Protection of private information

(2) Contractor or City fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

(3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

(4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

On and after any Event of Default, the non-defaulting party shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor 30 day written notice of termination. The notice shall specify the date on which termination shall become effective.

b. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

- (1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.
- (2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- (3) Terminating all existing orders and subcontracts.
- (4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- (5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- (6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.
- (7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

c. If during the term of this Agreement, final changes to state, federal or local law mandate that Contractor increase the compensation (wages and wage driven costs and benefits) paid to the employees providing service under this Agreement, and this increased compensation mandate causes the total cost of services, as reflected in Appendix B, to increase by two and seven tenths percent (2.7%) or more overall, Contractor may give City written notice of the circumstances and a request for renegotiation. The parties agree that as soon as practicable after this notice and request is received the parties shall meet and attempt to negotiate necessary revisions to this Agreement to address these issues. If within 30 days of receipt by City of the foregoing notice, mutually acceptable revisions to this Agreement addressing the referenced changes to state, federal or local law are not agreed, Contractor shall have the option to terminate this Agreement by giving City written notice of termination of not less than an additional 60 days. The notice shall specify the date on which termination shall become effective.

d. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

- (1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.
- (2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(3) The reasonable cost to Contractor of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(4) A deduction for the cost of materials to be retained by Contractor, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

d. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

22. Rights and Duties upon Termination or Expiration. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

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| 8. Submitting false claims | 24. Proprietary or confidential information of City |
| 9. Disallowance | 26. Ownership of Results |
| 10. Taxes | 27. Works for Hire |
| 11. Payment does not imply acceptance of work | 28. Audit and Inspection of Records |
| 13. Responsibility for equipment | 48. Modification of Agreement. |
| 14. Independent Contractor; Payment of Taxes and Other Expenses | 49. Administrative Remedy for Agreement Interpretation. |
| 15. Insurance | 50. Agreement Made in California; Venue |
| 16. Indemnification | 51. Construction |
| 17. Incidental and Consequential Damages | 52. Entire Agreement |
| 18. Liability of City | 56. Severability |
| | 57. Protection of private information |

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

23. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: Office of Contracts Management, G000
Human Services Agency
P.O. Box 7988
San Francisco, CA 94120-7988
david.curto@sfgov.org
Fax: (415) 557-5679

To Contractor: **Guardsmark, LLC**

22 South Second Street
Memphis, TN 38103
Attn: General Counsel
Fax: (901) 522-7911

With a copy to:

350 Sansome Street, Suite 520
San Francisco, CA 94104
Attn: Manager in Charge
Fax: (925) 736-6615

Any notice of default must be sent by registered mail.

26. Ownership of Results. Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed

under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire: Left blank by agreement of the parties.

28. Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

29. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

32. Earned Income Credit (EIC) Forms. Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Local Business Enterprise Utilization; Liquidated Damages: Left blank by agreement of the parties.

34. Nondiscrimination; Penalties

- a) **Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.
- b) **Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.
- c) **Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.
- d) **Condition to Contract.** As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly 'Human Rights Commission').
- e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person

executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

36. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

38. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

39. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

Division 21-100 Nondiscrimination in State and Federally Assisted Programs require that Contractors administer their program(s) in a nondiscriminatory manner and in compliance with civil rights obligations and to accommodate non-English-speaking or limited-English-proficient individuals and individuals with disabilities or impairments. At a minimum, contractors must provide the following:

- Procedures for informing clients of their civil rights;
- Policies and procedures for handling complaints filed with or against a Contractor;
- Policies and procedures that ensure Contractor’s accommodate individuals with hearing impairments, visual impairments and other disabilities;
- Policies and procedures that ensure that Contractors provide appropriate language services, including a breakdown of bilingual/interpreter staff and a description of how written information is communicated to non-English speaking clients; and
- Policies and procedures for ensuring that Contractor staff are adequately trained in the requirements of Division 21 (http://www.dss.cahwnet.gov/ord/CDSSManual_240.htm).

40. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records: Left blank by agreement of the parties.

42. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

j. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

k. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

l. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

m. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

n. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

o. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

p. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

q. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

r. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

44. Requiring Health Benefits for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

45. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Agreement. As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or

property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. Hiring Decisions. Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. Exceptions. Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. Liquidated Damages. Contractor agrees:

(1) To be liable to the City for liquidated damages as provided in this section;

(2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

(3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

B. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

(7) That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. Subcontracts. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

46. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor

may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

49. Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

50. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

51. Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

52. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement".

53. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

54. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

55. Supervision of Minors: Left blank by the agreement of the parties.

56. Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

57. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information." which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with

the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

58. Not Used.

59. Food Service Waste Reduction Requirements. Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision

60. Slavery Era Disclosure: Left blank by the agreement of the parties.

61. Cooperative Drafting: Left blank by the agreement of the parties.

62. Dispute Resolution Procedure. The following Dispute Resolution Procedure provides a process to resolve any disputes or concerns relating to the administration of an awarded professional services grant or grant between the City and County of San Francisco and nonprofit health and human services grantees. Grantees and City staff should first attempt to come to resolution informally through discussion and negotiation with the designated contact person in the department. If informal discussion has failed to resolve the problem, grantees and departments should employ the following steps:

Step 1 The grantee will submit a written statement of the concern or dispute addressed to the Grant/Program Manager who oversees the agreement in question. The writing should describe the nature of the concern or dispute, i.e., program, reporting, monitoring, budget, compliance or other concern. The Grant/Program Manager will investigate the concern with the appropriate department staff that are involved with the nonprofit agency's program, and will either convene a meeting with the grantee or provide a written response to the grantee within 10 working days.

Step 2 Should the dispute or concern remain unresolved after the completion of Step 1, the grantee may request review by the Division or Department Head who supervises the Grant/Program Manager. This request shall be in writing and should describe why the concern is still unresolved and propose a solution that is satisfactory to the grantee. The Division or Department Head will consult with other Department and City staff as appropriate, and will provide a written determination of the resolution to the dispute or concern within 10 working days.

Step 3 Should Steps 1 and 2 above not result in a determination of mutual agreement, the grantee may forward the dispute to the Executive Director of the Department or their designee. This dispute shall be in writing and describe both the nature of the dispute or concern and why the steps taken to date are not satisfactory to the grantee. The Department will respond in writing within 10 working days.

In addition to the above process, grantees have an additional forum available only for disputes that concern implementation of the thirteen policies and procedures recommended by the Nonprofit Granting Task Force and adopted by the Board of Supervisors. These recommendations are designed to improve and streamline granting, invoicing and monitoring procedures. For more information about the Task Force's recommendations, see the June 2003 report at http://www.sfgov.org/site/npgrantingtf_index.asp?id=1270.

Appendix A – Scope of Services to be Provided by Contractor

Guardsmark GP

February 1, 2014 to January 31, 2018

I. Purpose

The goal of the contract is to provide security services for all departmental facilities listed on Appendix D. This includes: providing assistance and information; maintaining order; deterring intrusion, disputes, violence, theft and vandalism; and responding to emergencies. The Human Services Agency should be adequately staffed with guards and supervisors to provide a safe working environment for all employees of the Department and safe areas for clients and the general public that are served throughout all department locations. HSA sees great potential in the creative use of technology enhanced equipment and personnel to provide more cost-efficient and effective security.

Mission Partnership Statement®

The specific duties of Contractor personnel and the manner in which they will be carried out shall be mutually developed by City and Contractor and set forth in writing in the Mission Partnership Statement® document applicable to the Department's facilities. This Agreement, together with the Mission Partnership Statement® document, shall be the exclusive agreement with respect to the duties of Contractor and Contractor personnel at each designated site. In the case of any conflict or inconsistency between the Mission Partnership Statement® document and this Agreement with respect to standards of performance, limitations of liability or indemnities, this Agreement shall be governing and control.

II. Definitions

CCSF	City & County of San Francisco
CLO	Contractor Liaison Officer
Contractor	Guardsmark GP
HSA, also Department	Human Services Agency
DLO	Departmental Liaison Officer
OCM Mission Partnership Statement A.K.A Posting Orders	Office of Contract Management, DHS Copyright protected document listing detailed deployment/posting orders for each site final version due 90 days post contract start date

III. Specification of Contractor Requirements

Contractor's License

The Contractor shall submit proof of possession of current license under the State of California Bureau of Consumer Affairs. In addition, Contractor must adhere to the California Business and Professions Code as outlined by State license requirements. The Contractor's license must continuously be in full force and effect for duration of contract. Failure to maintain this requirement shall be considered a material breach of contract and grounds for default.

IV. Specification of Contractor Services and Responsibilities

A. Adequate Security Coverage through Personnel and Technology.

Contractor shall adequately staff all designated facilities of The San Francisco Human Services Agency with guards and supervisors. Adequate staffing will provide a safe working environment for all employees of the Department and safe waiting areas for clients and the general public accessing services at department locations.

B. Building Location Profiles.

Prior to Contractor commencing work under this agreement the Department will provide to Contractor, Building Location Profiles of the nineteen (19) HSA sponsored sites that require security services and update the profiles as needed. These profiles will include the square footage, floors, hours, occupants, number of employees & clients, equipment, and traffic patterns and other comments, regarding each of the buildings. (See building profiles Appendix D)

C. Acknowledgement of Authority of Department Liaison Officer.

The Department has designated Department Liaison Officer (DLO) who shall act on behalf of HSA. In addition, the Department will provide the Contractor with contact phone numbers for 24 hours per day, 7 days a week emergency contact. The HSA staff (duty engineer or DLO) assigned to this duty will have the authority to handle emergency situations.

D. Holidays

Regular scheduled security guard services will not generally be required on the City holidays listed below except at the following facilities that operate 365 days per year: Guards not scheduled to work on Holidays shall receive holiday pay in accordance with the Minimum Compensation Ordinance.

1. Next Door Shelter 1001 Polk Street
2. MSC South Shelter 525 Fifth Street
3. Sanctuary Shelter 235 8th Street
4. 2115 Jennings Street

5. 260 Golden Gate Avenue

The City holidays are as follows:

• New Years Day	• Columbus/Indigenous Peoples Day
• Martin Luther King Jr. Day	• Veterans Day
• Presidents Day	• Thanksgiving Day
• Memorial Day	• Day After Thanksgiving Day
• Independence Day	• Christmas Day
• Labor Day	

E. Annual Evaluation and Site Survey.

The Contractor shall conduct an annual evaluation and security site survey of each HSA location listed in Appendix D. The Contractor shall report the results of this annual evaluation and make recommendations to enhance the overall building security at each location. Within the first 90 days of the effective date of this Agreement, the Contractor shall submit an efficiency plan that reviews the existing deployment plan for each site and propose methods to reduce costs through enhanced technology or improved staffing patterns.

F. Emergency and Disaster Preparations.

The Contractor shall work with the department to prepare a comprehensive disaster and emergency response plan both City and Contractor personnel responsibilities. This plan will be in draft form within 160 days of commencement of contracted services.

G. Responsibilities of Contractor

Contractor agrees that the services to be performed by it herein, including the locations and areas for which services are to be required, the hours that such services are to be maintained and the number of trained, equipped and qualified Security Guards to be furnished by the Contractor hereunder shall be subject to the approval of the DLO.

Contractor as Employer

All Security Guards will be employees of the Contractor. The Contractor shall be responsible for the hiring, training, equipping, supervising, directing and discharging of the Security Guards. The Contractor shall be responsible for the payment of all Federal, State, and local taxes holiday and overtime wages. Wages and benefits shall be adequate to provide a stable, well-trained and professional security workforce and adhere to all local regulations, including the Minimum Compensation Ordinance and the Health Care Accountability Ordinance.

Contractor shall require all guards reporting for Departmental duty to have current guard cards as issued by the State Department of Consumer Affairs (see Business and

Professions code section 7583.11) in their possession. Contractor shall provide to the Department a photocopy of current guard cards for all guards assigned to DHS facilities. Photocopies of valid guard cards for new employees shall be provided prior to their start date at DHS sites. Photocopies of guard card renewals or proof of payment for the renewals shall be provided to the Department upon receipt by Contractor. If the Contractor has obtained any criminal history data as part of a background check for any of the security guards assigned to DHS, copies shall be provided to DHS.

Removal and Replacement at Department's Discretion

The DLO may verbally request and confirm in writing that Contractor remove any Security Guard from its premises at any time, for any reason whatsoever, and Contractor shall provide immediate replacement.

Contractor shall not assign Persons with the following backgrounds as Security Guards for this contract:

- Felony or serious misdemeanor convictions(s) during the last five years.
- Persons presently on probation or parole.

H. Security Guard Roles and Responsibilities

- Provide assistance and information; maintain order; deter intrusion, disputes, theft and vandalism; respond to emergencies; and intervene in hostile confrontations.
- Proactively prevent incidents/offenses before they may occur
- Observe and report incidents/offenses during and after they have occurred

I. Uniform and Equipment Requirements

Security Guards are to be uniformed, unarmed and equipped as required herein. Contractor shall, at no additional cost to City, supply all necessary uniforms and equipment including but not limited to the following:

- All personnel assigned to this contract, including the supervisors, shall be uniformed and are required to wear a badge and nametag at all times. The Human Services Agency reserves the right to require the wearing of one of two different styles of uniforms from Contractor's standard uniform inventory.
- Uniform shall consist of one dress uniform with blazer and one utility uniform (no jumpsuits). Prior to commencement of services under this Agreement, the Human Services Agency must approve all uniforms. Any changes in the uniform style or color will be at no cost to the City.
- The Contractor is responsible for assuring that guards' uniforms are clean and maintained in a serviceable manner.
- Contractor shall provide to the City: 1.) Two-way security radios or cell phones with earphones to each guard (including one with a battery charger for the DLO) 2.) Automobiles or other motor vehicles as required 3.) All other equipment necessary to the successful execution of the services required under this Agreement. 4.) Verifiable time records shall be kept electronically and manually for each employee assigned to provide service under this Agreement. All such records will be made available for audit and re-audit for the entire term of the contract and for three years after the period of the contract.

J. The following are general procedures that shall be delineated specifically in the Mission Partnership Statement/Posting Orders for each site covered under this contract.

1. Entrance Control: Contractor shall operate and enforce a system of personnel identification and a package inspection and movement procedure (path of travel). This shall include screening people entering specified HSA facilities for weapons by use of HSA-provided metal detectors or wands. Contractor shall monitor video surveillance equipment as detailed in posting orders for each site.

2. Patrol: Contractor shall make security, fire and safety patrols as defined in the Mission Statement/Posting Orders. Contractor shall assure a mixture of guards of each gender to adequately patrol and search restrooms as needed.

3. Rules and Regulations: Contractor shall comply with all Department rules and regulations and policies for the operation of each site. These rules, regulations and policies will be detailed in the mission Partnership statement/Posting orders for each site.

4. Lost and Found: Contractor shall manage procedures for lost and found articles as a part of entrance control procedures for each applicable site.

5. Unauthorized Access: Contractor shall discover and report persons attempting to gain unauthorized access to the property

6. Reports and Records: Contractor shall prepare and submit required reports on accidents, fires, bomb threats, unusual incidents, unlawful acts and facility related concerns. Such reports shall be kept and transmitted electronically and must be legible.

7. Emergencies: Contractor shall respond to emergency situations as required by established procedures Contractor shall assist in the evacuation of buildings under direction of Department of Human Services Management

8. Safety: Contractor shall observe and report safety hazards as required by established procedures in the daily incident reports.

9. 24 Hour Emergency Response to Include Disaster Response

Contractor shall provide twenty-four (24) hour emergency response services and establish a chain of command to ensure adequate emergency response in accordance with the protocols mutually established with the Department and documented in the Mission Partnership Statement/Posting Orders. When facility alarms are activated in any of the Department buildings, the response protocol is for the alarm company to notify Security Contractor first, security shall immediately notify the DLO or designee if it is determined that it is not a false alarm. The Contractor shall have procedures in

place for response, investigation and if necessary, notification of the San Francisco Police Department.

12. Serving DHS communities

Contractor shall provide culturally competent staff where possible and shall have procedures to communicate with non- or limited-English speaking clients (particularly Spanish, Vietnamese, and Chinese and Russian-speaking clients). Bilingual DHS staff is available at most building locations during hours of duty for assistance to the Contractor's staff with communications to non or limited English speaking clients.

13. Authorization of Overtime

All prescheduled use of overtime shall be approved in writing in advance of the overtime to be worked by the DLO. When directed by the DLO to provide additional security or redeploy security staff services with less than 24 hour notice to the contractor, the contractor may charge the approved overtime rate listed in Appendix B of this Agreement. After the first 24 hour period, the Contractor shall use its best efforts to provide the additional services at the straight time rate thus minimizing the overtime expense to HSA. Overtime may be required in special circumstances as needed and authorized verbally or through other media (text-email-verbal) from the DLO or his representative. Documentation of this overtime shall be in the incident report submitted the next day following such an event requiring overtime or special services.

14. Timesheets

Contractor will enforce proper segregation of duties in the approval of timesheets. Contractor must ensure the timekeeping process contains adequate checks and balances. Use of electronic time keeping systems shall be implemented within 90 days of the contract start dates as proposed in RFP #555. All time records will be subject to auditing processes by the City.

K. Training

Contractor shall, at no cost to the City, adequately train all employees assigned to provide service under this Agreement. Training shall include but may not be limited to the following:

Audio/visual training and testing on:

- Powers of arrest and right to restrain;
- Fire protection and how to react in the event of fire and proper use of fire extinguishing equipment.
- Occupational hazards to maintain safety for employees;
- Proper report writing;
- Safe patrolling;
- Universal precautions for preventing infectious disease
- CPR certification by the AHA

The Contractor shall provide sufficient training to ensure that all Security Officers and other assigned staff are physically able and competent to perform all duties required under this contract.

The Contractor, at no cost to the City, shall provide a minimum of eight hours training to introduce basic security subjects as they relate to DHS security and safety prior to assignment. Requirements must include:

Property Protection	Access Control
Safety	Public Relations
Patrol Techniques	Client Relations
Fire Prevention & Control	Reports
Communications	Grooming
Standards of Conduct	Uniform Appearance
CPR certification by the ARC	

The pre-assignment training shall cover preparation of reporting forms such as Daily Activity Logs, Daily Activity Reports and Incidents Reports. It shall also cover the Contractors benefits, personal policies, conditions of employment, and rules and regulations. All assigned Security Guards shall have the ability to speak, read, write, understand and properly use documents written in English.

In addition the Contractor shall, at no cost to the City, provide training and appropriate certifications as follows:

1. CPR and First Aid

All guards must be American Heart Association CPR and First Aid certified by an outside agency within three months of assignment to HSA facilities. Certificates must be maintained and kept current for guards with over three months at HSA sites. The Contractor shall provide copies of First Aid and CPR certificates to HSA.

2. Core Course for Supervisors

The Contractor shall provide a minimum of eight hours in supervision and management of courses to new supervisors within three months of their assignment.

3. Record of Training Attendance

The Contractor shall keep a record of training attendance up to date and available for review at any time by HSA. The Contractor shall provide training reports to HAS on a quarterly basis including courses offered, security guards in attendance, and any applicable ratings.

The core training blocks provided by the Contractor may be waived for qualified employees if the Contractor can provide sufficient documentation that employees

have comparable experience in lieu of training (e.g. former peace officers). This determination shall be made at the discretion of the Department.

The Contractor shall require each Security Officer to satisfactorily complete a series of examinations covering all training subjects. Time spent in satisfying these training requirements shall not be billed under this contract.

L. Electronic Time Accounting System

Contractor will maintain an electronic time accounting system that can be reconciled to a specific Security Officer's time accounting by site and day of coverage provided.

V. **Contract Oversight**

- A. The Guardsmark Director of Security, is the program administrator and responsible for daily operations and the overall performance of the contract.
- B. The DHS Director of Contracts and Facilities or their designees are responsible for overseeing the program and evaluating contract design and performance.
- C. The Department will designate a Department Liaison Officer (DLO), on call 24 hours per day, seven (7) days per week, who shall have authority, in addition to Contractor's supervisory staff, over all of the Contractor's employees assigned to work on this contract, as needed.
- D. The Contractor shall assign a member of their management staff as Contractor Liaison Officer (CLO) to the Department of Human Services at no additional cost to the City. The CLO will be on call 24 hours per day, seven (7) days per week and shall have the authority to hire, fire, replace, or reassign Contractor's employees, upon discussion with Department Liaison Officer, and without prior approval of higher authority. The Contract Liaison Officer must first be approved by the Human Services Agency prior to assignment.
- E. Department and Contractor staff will meet on a regular basis (at least monthly) to plan training sessions and review the progress and performance of the program.

VII. **Reporting Requirements**

- A. Copies of all reports listed below must be submitted separately to each of the following via e-mail and/or regular mail:
 - 1. Director of Contracts
David Curto, G000 (David.Curto@sfgov.org)
 - 2. Facilities Manager
Don Fraser (Don.Fraser@sfgov.org)
 - 3. The mailing address is:
City and County of San Francisco
Department of Human Services
P.O. Box 7988

B. Incidence Reports

1. Written incident reports are required in each instance that:
 - Guard makes any physical contact with a member or members of the public, City staff or other guards.
 - Guard makes a citizen's arrest.
 - Guard is required to intervene between any two or more persons including other guards.
 - Guard witnesses or is told about any crime or suspected crime.
 - Guard witnesses or is told about any incident in which there is a potential injury whether or not medical attention is immediately required
 - Guard witnesses or is told about loss or damage to public or private property.
 - Guard discovers after hours any unlocked doors or any activated alarms, false or otherwise.
 - Guard discovers any evidence of an area being used and/or occupied by vagrants or loiterers.
 - Guard witnesses or is told about any other incident or unusual circumstance occurs that should be brought to Department's attention
 - Guard is requested by DHS Support Services Director or DHS Investigations Director to make any report.
 - Guard observes any safety or hazardous condition at any DHS site.
2. Copies of all written incident reports are to be submitted by 9:00 A.M. of the next ordinary working day to HSA Department Liaison Officer, L000 electronically as proposed in response to RFP #555 or as mutually agreed to by the DLO at address above.
3. Contractor will immediately notify the Department Liaison Officer verbally or text whenever a serious incident occurs including those involving injury to DHS employees and/or clients, and/or significant property damage.

C. Quarterly Training Reports

1. At the commencement of the contract and quarterly thereafter, or when a significant change in personnel occurs, Contractor shall ensure that security guards are receiving training required.
2. The Contractor must provide the Director of Contracts and Facilities with a copy of their lesson plan, dates, times, and location of each block of instruction. Resume for each instructor of the above must be submitted at least seven days prior to the commencement of training.

D. Annual Report

Two copies of annual report shall be submitted separately by Contractor to HSA staff referenced above before December 31 of each year of contract term. The annual report is to include:

1. Evaluation of the effectiveness of Contractor's services to date in meeting goals and objectives, as outlined in contract.

2. Summary of methods for security improvements originally planned and actually implemented by means of equipment, staffing or other creative mechanisms.
3. Summary of unusual incidents reported and trend analysis in past 12 calendar months.
4. Recommendations for additional new security improvements, including a cost analysis for potential departmental implementation. The Contractor shall provide an annual evaluation and security site survey of each HSA location referenced in this contract. The Contractor shall make recommendations to enhance the overall building security at each location.
5. Results of annual customer (HSA staff and clients) survey and representative sampling of responses.
6. Issues of concern that should be brought to Department's attention and other recommendations.

E. Other Reports as required and mutually agreed to.

**Appendix B –Rate Schedule
February 1, 2014 - January 31, 2018**

YEAR 1

Term: February 1, 2014 – January 31, 2015

Estimated Hours: 160,000 Hours

Straight Time Billing Rate: \$30.20 x 157,600 estimated hours = \$4,759,520

Overtime/Holiday Billing Rate: \$45.30 x 2,400 estimated hours = \$108,720

Total Not to Exceed Amount: \$4,868,240

OPTION YEAR 2

Term: February 1, 2015 – January 31, 2016

Estimated Hours: 160,000 Hours

Straight Time Billing Rate: \$30.55 x 157,600 estimated hours = \$4,814,680

Overtime/Holiday Billing Rate: \$45.56 x 2,400 estimated hours = \$109,344

Total Not to Exceed Amount: \$4,924,024

OPTION YEAR 3

Term: February 1, 2016 – January 31, 2017

Estimated Hours: 160,000 Hours

Straight Time Billing Rate: \$30.85 x 157,600 estimated hours = \$4,861,960

Overtime/Holiday Billing Rate: \$46.01 x 2,400 estimated hours = \$110,424

Total Not to Exceed Amount: \$4,972,384

OPTION YEAR 4

Term: February 1, 2017 – January 31, 2018

Estimated Hours: 160,000 Hours

Straight Time Billing Rate: \$31.15 x 157,600 estimated hours = \$4,909,240

Overtime/Holiday Billing Rate: \$46.46 x 2,400 estimated hours = \$111,504

Total Not to Exceed Amount: \$5,020,744

Total Not to Exceed Amount

February 1, 2014 – January 31, 2018: \$19,785,392

BILLING RATE BREAKDOWN

Note: Bill rate breakdown based on average pay rate of \$16.00.

Security Officer Pay Rate: \$ 16.00

PAYROLL TAXES:

FICA/Medicare: \$1.22

Unemployment - Federal (FUTA): 0.13

Unemployment - State (SUTA): \$1.15

Workers Compensation: \$1.00

SF City Tax: 0.24

BENEFITS:

Health Care Insurance: \$2.40

Life Insurance: 0.22

Vacation: 0.44

Sick Leave: 0.13

401(k) Retirement Plan: 0.23

Tuition Assistance: 0.04

Uniforms: 0.40

Training: 0.71

*Human Services Agency will pay Guardsmark for regular shifts that fall on holidays

OTHER:

Selection/Screening: 0.79

Management & Supervision: 0.77

General Liability Insurance: 0.57

OVERHEAD:

Branch Overhead: \$1.28

General & Administrative: 0.63

Corporate/Regional Services: 0.70

Nextel Radio/Phones: 0.35

Profit: 0.80

Straight Time Bill Rate: \$ 30.20

Appendix C – Method of Payment

- I. In accordance with Section 5 of the Contract Agreement, payments shall be made for straight time hours expended, overtime rates and holiday rates reported for each month. See Appendix B for contract billing rate schedule.
- II. Contractor will submit all bills, invoices and related documentation in the format specified by SFHSA within 15 days after the month of service to SFHSA's web-based Contracts Administration, Reporting, and Billing Online (CARBON) System at: <https://contracts.sfhsa.org>
- III. Contractor may submit bills, invoices and related documentation in the format specified by SFHSA via paper or email only upon special permission by their assigned Contract Manager. Contractor must sign up to receive payments electronically via Automated Clearing House (ACH). Remittance information will be provided through Paymode-X. Additional information and sign up is available at: <http://www.sfgov.org/ach>
- IV. The Executive Director or CFO must submit a letter of authorization designating specific users who will have access to CARBON to electronically submit and sign for invoices, budget revision requests, program reports, and view other information that is in CARBON.
 - A. Submittal of the invoice by designated authorized personnel with proper login credentials constitutes an electronic signature and certification of the invoice.
 - B. Authorized personnel with CARBON login credentials shall not share or internally reassign logins.
 - C. Contractor shall notify SFHSA Contract Manager immediately regarding any need for the restriction or termination of a previously authorized CARBON login.
- V. Invoices shall be in the format specified by SFHSA.
 - A. The invoice supplied shall include the total dollar amount claimed for each invoicing period by site location and guards worked. A summary sheet of each month's invoices shall be submitted with the invoices for that period.
 - B. The invoice will detail by site the name and number of hours charged for each security officer during the invoice period.
 - C. CFO or other authorized signer must sign certification on each page of the invoice.
 - D. With written approval from HSA Program/Contracts Manager, Contractor may adjust items within the existing billing rate of the contract in accordance with HSA's Office of Contract Management Policy for Budget Revisions.
 - E. Supporting Documentation, except as discussed below, should not be submitted with the invoice. However, Contractor must keep and make available as requested such supporting documentation for all expenditures for which reimbursement is requested for all costs so claimed. Documentation shall include, but not be limited to, printout from the General Ledger of expenses and payroll records. All charges incurred shall be due and payable only after services have been rendered, except as stated otherwise.

G. Holiday Pay

City shall pay Contractor holiday rates of one and one-half (1.5) times the above rates per hour for the first eight (8) hours worked on each of the following holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, and two (2) times the above rates per hour for all hours in excess of eight (8) actually worked by an individual employee. The Human Services Agency will pay Guardsmark for regular shifts that fall on holidays.

H. Authorization of Overtime

All use of overtime shall be approved in writing in advance of the overtime to be worked by the DLO. When directed by the DLO to provide additional security or redeploy security staff services with less than 24 hour notice to the contractor, the contractor may charge the approved overtime rate listed on page 3 of this document. After the first 24 hour period, the Contractor shall use its best efforts to provide the additional services at the straight time rate thus minimizing the overtime expense to DHS. Overtime shall be billed at a rate of 1.5 times the straight time rate. (See rate schedule)

- VI. Following SFHSA verification of submitted Invoice with required documentation of incurred expenses via CARBON, SFHSA will authorize payment within 10 business days after receipt of the invoice.
- VII. Following SFHSA verification that claimed services are authorized and delivered satisfactorily, SFHSA will authorize payment within 10 days after receipt of the invoice and all billing information set forth above. See rate chart below.
- VIII. Within 60 days after the end of the contract period, Contractor shall submit a final report reflecting actual expenditures, which will be supported by the Contractor's accounting records. If a refund is due SFHSA, it will be submitted with the final report.
- IX. Advances or prepayments are allowable in order to meet the Contractor cash flow needs in certain unique circumstances. The Agency, at its sole discretion, shall make available to the Contractor upon written request an advance amount not to exceed two (2) months or 1/6th of the total annualized contract award, or as mutually agreed upon. The advanced sum shall be deducted from the Contractor's monthly invoices at an equal rate each month that will enable repayment by the tenth month of the fiscal year. For a twelve-month contract the rate of repayment of the advance will be 1/10th per month from July to April. Requests for advance payment will be contracted on a case-by-case basis and are not intended to be a regular "automatic" procedure. Approval will be a consensus of Program and Contract Staff.

Once the grant is certified, the Grantee, prior to distribution of any advanced payment, must fulfill the following conditions:

1. All contractual compliance requirements must be current, i.e., reports submitted and approved, corrective actions resolved, business tax and insurance certificates in place, prompt and fully documented billings.

2. The Grantee shall submit a written request with a narrative justification that fully describes the unique circumstances to the Program Manager and Contract Manager for review and approval.
3. Final invoice from the preceding fiscal year must be received prior to advance distribution.

X. Timely Submission of Reports - Failure to submit required reports by specified deadlines may result in withholding of contract payments.

Appendix D
HSA
Locations for Security Services
Locations subject to change during contract period

1. 170 Otis Street
2. 160 South Van Ness Ave
3. 617 Mission Street (DCS)
4. 1235 Mission Street
5. 1640/1650 Mission Street
6. 3119/3120/3125 Mission Street
7. 1440 Harrison
8. 1800 Oakdale
9. 3801 Third Street
10. 1001 Polk Street
11. 525 Fifth Street
12. 235 Eighth Street
13. 2111 Jennings Ave
14. 1315 Evans Ave (DCS)
15. San Francisco General Hospital Potrero Ave (CPC)
16. 260 Golden Gate Ave
17. 1099 Sunnydale (DPII)
18. 39 Jones Street
19. 100 Whitney Young Circle



FORM 3: HRC NON-DISCRIMINATION AFFIDAVIT

1. I will ensure that my firm complies fully with the provisions of Chapter 14B of the San Francisco Administrative Code and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
2. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the Human Rights Commission shall be payable to the City and County of San Francisco upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any contract with the City and County of San Francisco.
3. I declare and swear under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

Signature of Owner/Authorized Representative: Gareth C. Leviton
Owner/Authorized Representative (Print) Gareth C. Leviton
Name of Firm (Print) GUARDSMARK, GP
Title and Position Vice President
Address, City, ZIP 22 South Second St., Memphis 38103
Federal Employer Identification Number (FEIN): 62-1043970
Date: 4/8/14

APPROVED
FOR
BY [Signature]

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
DONNA LEVITT, MANAGER



Health Care Accountability Ordinance (HCAO) Declaration

What the Ordinance Requires. The Health Care Accountability Ordinance (HCAO), which became effective July 1, 2001, requires Contractors that provide services to the City or enter into certain leases with the City, and certain Subcontractors, Subtenants and parties providing services to Tenants and Subtenants on City property, to provide health plan benefits to Covered Employees, or make payments to the City for use by the Department of Public Health (DPH), or, under limited circumstances, make payments directly to Employees.

The HCAO applies only to Contractors with at least \$25,000 (\$50,000 for non-profit organizations) in cumulative annual business with a City department(s) and have more than 20 Employees (50 Employees for non-profit organizations) including Employees of any parent or subsidiaries.

The City may require Contractors to submit reports on the number of Employees affected by the HCAO.

Effect on City Contracting. For contracts and amendments signed on or after July 1, 2001, the HCAO requires the following:

- Each contract must include terms ensuring that the Contractor will agree to abide by the HCAO and either to provide its employees with health plan benefits meeting the Minimum Standards set forth by the Director of Health or to make the payments required by the HCAO;
- All City Contractors must agree to comply with the requirements of the HCAO unless the Contracting Department has obtained an approved exemption or waiver under the HCAO from the Office of Labor Standards (OLSE).
- Contractors must require any Subcontractors subject to the HCAO to comply with the HCAO:

The Purpose of This Declaration. By submitting this declaration, you are providing assurances to the City that, beginning with the first City contract or amendment you receive after July 1, 2001 and until further notice, you will either provide the health plan benefits meeting the Minimum Standards to your covered employees or make the payments required by the HCAO, and will ensure that your Subcontractors also abide by these requirements. **If you cannot provide this assurance, do not return this form.**

To obtain more information regarding the HCAO, Visit our website, which includes links to the complete text of the HCAO, at www.sfgov.org/olse/hcao; send an e-mail to HCAO@sfgov.org; or call (415) 554-4791.

Where to Send this Form. Mail: Vendor File Support, City Hall, Room 484, San Francisco CA 94102. Fax: (415) 554-6261 Email: vendor.file.support@sfgov.org

Declaration

In order to be a certified vendor with the City and County of San Francisco, the company named below will either provide, if applicable, health benefits specified in the HCAO to our covered employees or make the payments required by the HCAO, and will ensure that our subcontractors that are subject to the HCAO also comply with these requirements, until further notice. The company named below will provide such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Gareth C. Leviton
Signature

4/8/14
Date

Gareth C. Leviton
Print Name

City Vendor Number (if known)

GUARDSMARK, GP
Company Name

APPROVED
FOR
BY

(901) 522-6000
Phone

62-1043970
Federal Employer ID #

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
 DONNA LEVITT, MANAGER



Minimum Compensation Ordinance (MCO) Declaration

What the Ordinance does. The Minimum Compensation Ordinance (MCO) became effective October 8, 2000, and was later amended by the Board of Supervisors, with an effective date for the amendments of October 14, 2007. The MCO requires City contractors and subcontractors to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated (12 days per year or cash equivalent) and uncompensated time off (10 days per year). The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements.

The MCO applies only if you have at least \$25,000 in cumulative annual business with a City department or departments and have more than 5 employees, including employees of any parent, subsidiaries and subcontractors.

The City may require contractors to submit reports on the number of employees affected by the MCO.

Effect on City contracting. For contracts and amendments signed on or after October 8, 2000 the MCO will have the following effect:

- In each contract, the contractor will agree to abide by the MCO and to provide its employees the minimum benefits the MCO requires, and to require its subcontractors subject to MCO to do the same.
- If a contractor does not agree to provide the MCO's minimum benefits, the City will award a contract to that contractor only if the contractor has received an approved exemption or waiver under MCO from the Office of Labor Standards Enforcement (OLSE) through the contracting Department. The contract will not contain the agreement to abide by the MCO if there is an exemption or waiver on file.

What this form does. If you can assure the City now that, beginning with the first City contract or amendment you receive after October 8, 2000 and until further notice, you will provide the minimum benefit levels specified in the MCO to your covered employees, and will ensure that your subcontractors also subject to the MCO do the same, this will help the City's contracting process.

If you cannot make this assurance now, please do not return this form.

For more information, (1) see our Website, including the complete text of the ordinance: www.sfgov.org/olse, (2) e-mail us at: MCO@sfgov.org, (3) Phone us at (415) 554-6292.

Where to Send this Form. Mail: Vendor File Support, City Hall, Room 484, San Francisco CA 94102. Fax: (415) 554-6261
Email: vendor.file.support@sfgov.org

Declaration

In order to be a certified vendor with the City and County of San Francisco, this company will provide, if applicable, the minimum benefit levels specified in the MCO to our Covered Employees, and will ensure that our subcontractors also subject to the MCO do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Gareth C. Leviton
 Signature

4/8/14
 Date

Gareth C. Leviton
 Print Name

City Vendor Number (if known)

GUARDSMARK, GP
 Company Name

(901) 522-6000
 Phone

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 Federal Employer ID #

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