

**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
FIVE KEYS SCHOOLS AND PROGRAMS**

This Agreement is made this **15th day of December, 2022**, in THE CITY AND COUNTY OF SAN FRANCISCO (“City”), State of California, by and between **FIVE KEYS SCHOOLS AND PROGRAMS, 70 OAK GROVE ST, SANFRANCISCO CA 94107** (“Contractor”) and City.

Recitals

WHEREAS, the Department of Homelessness and Supportive Housing (“Department”) wishes to purchase Property Management from Contractor; and,

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

WHEREAS, Contractor was selected pursuant to Ordinance No. 61-19, which authorizes the Department to enter into contracts without adhering to the Administrative Code provisions regarding competitive bidding and other requirements for construction work, procurement, and personal services relating to the shelter crisis; and

WHEREAS, this Contract is deemed exempt from Chapter 14B of the San Francisco Administrative Code and there is no Local Business Entity (“LBE”) subcontracting participation requirement for this Agreement; and

WHEREAS, approval for the Agreement was obtained on August 15, 2022 from the Civil Service Commission under PSC number 43675 - 22/23 in the amount of \$52,000,000 for the period of 5 years; and

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions.

The following definitions apply to this Agreement:

- 1.1 "Agreement" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements specifically incorporated into this Agreement by reference as provided herein.
- 1.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through both its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing," and the Department of Homelessness and Supportive Housing (HSH).
- 1.3 "City Data" means that data as described in Article 13 of this Agreement which includes, without limitation, all data collected, used, maintained, processed, stored, or generated by or on behalf of the City in connection with this Agreement. City Data includes, without limitation, Confidential Information.
- 1.4 "CMD" means the Contract Monitoring Division of the City.
- 1.5 "Confidential Information" means confidential City information including, but not limited to, personally-identifiable information ("PII"), protected health information ("PHI"), or individual financial information (collectively, "Proprietary or Confidential Information") that is subject to local, State or Federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M).
- 1.6 "Contractor" or "Consultant" means Five Keys Schools and Programs, 70 Oak Grove St, San Francisco CA 94107.
- 1.7 "Deliverables" means Contractor's work product resulting from the Services provided by Contractor to City during the course of Contractor's performance of the Agreement, including without limitation, the work product described in the "Services to be Provided" attached as Appendix A, Services to be Provided.
- 1.8 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws that impose specific duties and obligations upon Contractor.
- 1.9 "Party" and "Parties" mean the City and Contractor either collectively or individually.
- 1.10 "Services" means the work performed by Contractor under this Agreement as specifically described in the "Services to be Provided" attached as Appendix A, Services to be

Provided, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

Article 2 Term of the Agreement.

- 2.1** The term of this Agreement shall commence on **December 15, 2022** and expire on **November 30, 2023**, unless earlier terminated as otherwise provided herein.
- 2.2** The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

Article 3 Financial Matters.

- 3.1 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.

- 3.2 Guaranteed Maximum Costs.** The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 Compensation.

- 3.3.1 Calculation of Charges.** Contractor shall provide an invoice to the City on a monthly basis for goods delivered and/or Services completed in the immediate preceding month, unless a different schedule is set out in Appendix C, Method of Payment. Compensation shall be made for goods and/or Services identified in the

invoice that the City, in its sole discretion, concludes has been satisfactorily performed. In no event shall the amount of this Agreement exceed **Seven Million Nine Hundred Thirty One Thousand Three Hundred Forty Two Dollars (\$7,931,342)**. The breakdown of charges associated with this Agreement appears in Appendix B, Budget, attached hereto and incorporated by reference as though fully set forth herein. A portion of payment may be withheld until conclusion of the Agreement if agreed to by both parties as retainage, described in Appendix C, Method of Payment. In no event shall City be liable for interest or late charges for any late payments. City will not honor minimum service order charges for any services covered by this Agreement.

- (a) Contractor understands that, of the Payment listed under 3.3.1 Calculation of Charges of this Agreement, **One Million Thirty Four Thousand Five Hundred Twenty Three Dollars (\$1,034,523)** is included as a contingency amount and is neither to be used in Budget(s) attached to this Agreement or available to Contractor without a modification to the Appendix B, Budget, which has been approved by the Department Homelessness and Supportive Housing. Contractor further understands that no payment for any portion of this contingency amount will be made unless and until a modification or revision has been fully approved and executed in accordance with applicable City and Department laws, regulations, policies/procedures and certification as to the availability of funds by Controller. Contractor agrees to fully comply with these laws, regulations, and policies/procedures.

- 3.3.2 Payment Limited to Satisfactory Services and Delivery of Goods.** Contractor is not entitled to any payments from City until City approves the goods and/or Services, delivered pursuant to this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory delivery of goods and/or Services even if the unsatisfactory character may not have been apparent or detected at the time such payment was made. Goods and/or Services delivered pursuant to this Agreement 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 at no cost to the City.
- 3.3.3 Withhold Payments.** If Contractor fails to provide goods and/or Services in accordance with Contractor's obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City's withholding of payments as provided herein.
- 3.3.4 Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number and specific invoice date. Payment shall be made by City as specified in Section 3.3.7 or in such alternate manner as the Parties have mutually agreed upon in writing. All invoices must show, if applicable, the PeopleSoft Purchase

Order ID Number, PeopleSoft Supplier Name and ID, Item numbers, complete description of goods delivered or Services performed, sales/use tax, contract payment terms and contract price. Invoices that do not include all required information or contain inaccurate information will not be processed for payment.

3.3.5 Reserved. (LBE Payment and Utilization Tracking System).

3.3.6 Getting paid by the City for goods and/or services.

- (a) The City and County of San Francisco utilizes the Paymode-X[®] service offered by Bank of America Merrill Lynch to pay City contractors. Contractor must sign up to receive electronic payments to be paid under this Agreement. To sign up for electronic payments, visit http://portal.paymode.com/city_countyofsanfrancisco.
- (b) At the option of the City, Contractor may be required to submit invoices directly in the City's financial and procurement system (PeopleSoft) via eSettlement. Refer to <https://sfcitypartner.sfgov.org/pages/training.aspx> for more information on eSettlement. For access to PeopleSoft eSettlement, submit a request through sfemployeeportalsupport@sfgov.org.

3.3.7 Grant Funded Contracts.

- (a) **Disallowance.** If Contractor requests or receives payment from City for Services, 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 between Contractor and City.
- (b) **Grant Terms.** The funding for this Agreement is provided in full or in part by a Federal or State grant to the City. As part of the terms of receiving the funds, the City is required to incorporate some of the terms into this Agreement.
- (c) Contractor shall insert each Grant Term into each lower tier subcontract. Contractor is responsible for compliance with the Grant Terms by any subcontractor, lower-tier subcontractor or service provider.

3.3.8 Payment Terms.

- (a) **Payment Due Date:** Unless City notifies the Contractor that a dispute exists, Payment shall be made within 30 calendar days, measured from (1) the delivery of goods and/or the rendering of services or (2) the date of

receipt of the invoice, whichever is later. Payment is deemed to be made on the date on which City has issued a check to Contractor or, if Contractor has agreed to electronic payment, the date on which City has posted electronic payment to Contractor.

- (b) **Reserved. (Payment Discount Terms).**
- (c) No additional charge shall accrue against City in the event City does not make payment within any time specified by Contractor.

3.4 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 Services. 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 fewer 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 as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.5 Submitting False Claims. The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (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.

3.6 Payment of Prevailing Wages.

3.6.1 Covered Services. Services to be performed by Contractor under this Agreement may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the Administrative Code or Section 21C [Miscellaneous Prevailing Wage Requirements] (collectively, "Covered Services"). The provisions of Section 6.22(e) and 21C of the Administrative

Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Contractor and its subcontractors.

- 3.6.2 **Wage Rates.** The latest prevailing wage rates for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations, as such prevailing wage rates may be changed during the term of this Agreement, are hereby incorporated as provisions of this Agreement. Copies of the prevailing wage rates as fixed and determined by the Board of Supervisors are available from the Office of Labor Standards and Enforcement ("OLSE") and on the Internet at <http://www.dir.ca.gov/DLSR/PWD> and <http://sfgov.org/olse/prevailing-wage>. Contractor agrees that it shall pay not less than the prevailing wage rates, as fixed and determined by the Board, to all workers employed by Contractor who perform Covered Services under this Agreement.
- 3.6.3 **Subcontract Requirements.** As required by Section 6.22(e)(5) of the Administrative Code, Contractor shall insert in every subcontract or other arrangement, which it may make for the performance of Covered Services under this Agreement, a provision that said subcontractor shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.
- 3.6.4 **Posted Notices.** As required by Section 1771.4 of the California Labor Code, Contractor shall post job site notices prescribed by the California Department of Industrial Relations ("DIR") at all job sites where services covered by Chapter 6.22 are to be performed.
- 3.6.5 **Payroll Records.** As required by Section 6.22(e)(6) of the Administrative Code and Section 1776 of the California Labor Code, Contractor shall keep or cause to be kept complete and accurate payroll records for all trade workers performing Covered Services. Such records shall include the name, address and social security number of each worker who provided Covered Services on the project, including apprentices, his or her classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract. All such records shall at all times be available for inspection of and examination by the City and its authorized representatives and the DIR.
- 3.6.6 **Certified Payrolls.** Certified payrolls shall be prepared pursuant to Administrative Code Section 6.22(e)(6) and California Labor Code Section 1776

for the period involved for all employees, including those of subcontractors, who performed labor in connection with Covered Services. Contractor and each subcontractor performing Covered Services shall submit certified payrolls to the City and to the DIR electronically. Contractor shall submit payrolls to the City via the reporting system selected by the City. The DIR will specify how to submit certified payrolls to it. The City will provide basic training in the use of the reporting system at a scheduled training session. Contractor and all subcontractors that will perform Covered Services must attend the training session. Contractor and applicable subcontractors shall comply with electronic certified payroll requirements (including training) at no additional cost to the City.

3.6.7 Compliance Monitoring. Covered Services to be performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the DIR and /or the OLSE. Contractor and any subcontractors performing Covered Services will cooperate fully with the DIR and/or the OLSE and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements, and agrees to take the specific steps and actions as required by Section 6.22(e)(7) of the Administrative Code. Steps and actions include but are not limited to requirements that: (i) Contractor will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on Public Works Contractor by the Charter and Chapter 6 of the San Francisco Administrative Code; ii) Contractor agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of Contractor, employee time sheets, inspection logs, payroll records and employee paychecks; (iii) Contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (iv) Contractor shall prominently post at each job-site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (v) that the Labor Standards Enforcement Officer may audit such records of Contractor as he or she reasonably deems necessary to determine compliance with the Prevailing Wage and other labor standards imposed by the Charter and this Chapter on Public Works Contractors. Failure to comply with these requirements may result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(g), as amended from time to time.

3.6.8 Remedies. Should Contractor, or any subcontractor who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Contract, subcontract or other arrangement for the Covered Services, the general prevailing rate of wages as herein specified, Contractor shall forfeit, and in the case of any subcontractor so failing or neglecting to pay said wage, Contractor and the subcontractor shall jointly and

severally forfeit, back wages due plus the penalties set forth in Administrative Code Section 6.22 (e) and/or California Labor Code Section 1775. The City, when certifying any payment which may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture.

Article 4 Services and Resources.

4.1 Services Contractor Agrees to Perform. Contractor agrees to perform the Services stated in Appendix A, Services to be Provided. Officers and employees of the City are not authorized to request, and the City is not required to reimburse Contractor for, Services beyond the Scope of Services listed in Appendix A, Services to be Provided unless Appendix A, Services to be Provided is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 Personnel.

4.2.1 Qualified Personnel. Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.2.2 Contractor Vaccination Policy.

- (a) Contractor acknowledges that it has read the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency ("Emergency Declaration"), dated February 25, 2020, and the Contractor Vaccination Policy for City Contractors issued by the City Administrator ("Contractor Vaccination Policy"), as those documents may be amended from time to time. A copy of the Contractor Vaccination Policy can be found at: <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>.
- (b) A Contract subject to the Emergency Declaration is an agreement between the City and any other entity or individual and any subcontract under such agreement, where Covered Employees of the Contractor or Subcontractor work in-person with City employees in connection with the work or services performed under the agreement at a City owned, leased, or controlled facility. Such agreements include, but are not limited to, professional services contracts, general services contracts, public works contracts, and grants. Contract includes such agreements currently in place or entered into during the term of the Emergency Declaration. Contract

does not include an agreement with a state or federal governmental entity or agreements that do not involve the City paying or receiving funds.

- (c) In accordance with the Contractor Vaccination Policy, Contractor agrees that:
 - (i) Where applicable, Contractor shall ensure it complies with the requirements of the Contractor Vaccination Policy pertaining to Covered Employees, as they are defined under the Emergency Declaration and the Contractor Vaccination Policy, and insure such Covered Employees are either fully vaccinated for COVID-19 or obtain from Contractor an exemption based on medical or religious grounds; and
 - (ii) If Contractor grants Covered Employees an exemption based on medical or religious grounds, Contractor will promptly notify City by completing and submitting the Covered Employees Granted Exemptions Form (“Exemptions Form”), which can be found at <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors> (navigate to “Exemptions” to download the form).

4.3 Subcontracting.

- 4.3.1 Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 “Additional Requirements Incorporated by Reference” of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

City's execution of this Agreement constitutes its approval of the subcontractors listed in Appendix B, Budget.

4.4 Independent Contractor; Payment of Employment Taxes and Other Expenses.

- 4.4.1 **Independent Contractor.** For the purposes of this Section 4.4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, 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, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. 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. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

- 4.4.2 **Payment of Employment 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 this Section 4.4 shall be solely limited to 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, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

- 4.5 Assignment.** The Services to be performed by Contractor are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Contractor, or, where Contractor is a joint venture, a joint venture partner, (collectively referred to as an “Assignment”) unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The City’s approval of any such Assignment is subject to Contractor demonstrating to City’s reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise, of performing each of Contractor’s obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Contractor or a sale or transfer of substantially all of the assets of Contractor shall be deemed an Assignment for purposes of this Agreement. Contractor shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.
- 4.6 Warranty.** Contractor warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

Article 5 Insurance and Indemnity.

5.1 Insurance.

- 5.1.1 Required Coverages.** 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:
- (a) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. Policy must include Abuse and Molestation coverage.
 - (b) 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.
 - (c) Workers’ Compensation, in statutory amounts, with Employers’ Liability Limits not less than \$1,000,000 each accident, injury, or illness.

- (d) Reserved. (Professional Liability Coverage).
- (e) Reserved. (Technology Errors and Omissions Coverage).
- (f) Reserved. (Cyber and Privacy Coverage).
- (g) Reserved. (Pollution Liability Insurance).

5.1.2 Additional Insured Endorsements.

- (a) The Commercial General Liability policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
- (b) The Commercial Automobile Liability Insurance policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
- (c) Reserved. (Auto Pollution Liability Insurance Additional Insured Endorsement).

5.1.3 Waiver of Subrogation Endorsements.

- (a) The Workers' Compensation policy(ies) 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.

5.1.4 Primary Insurance Endorsements.

- (a) The Commercial General Liability policy shall provide 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 the insurance applies separately to each insured against whom claim is made or suit is brought.
- (b) The Commercial Automobile Liability Insurance policy shall provide 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 the insurance applies separately to each insured against whom claim is made or suit is brought.
- (c) Reserved. (Pollution Liability Insurance Primary Insurance Endorsement).

5.1.5 Other Insurance Requirements.

- (a) Thirty (30) days' advance written notice shall be provided to the City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment for which no less than ten (10) days' notice shall be provided to City. Notices shall be sent to the City address set forth in Section 11.1 entitled "Notices to the Parties."
- (b) 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 Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.
- (c) 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.
- (d) 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.
- (e) Before commencing any Services, 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. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.
- (f) If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as Additional Insureds.

5.2 Indemnification. Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, State, or Federal common law, statute or regulation,

including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises 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, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or Agreement on Contractor, its subcontractors, or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

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 from any claim which 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 arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

Article 6 Liability of the Parties.

- 6.1 Liability of City.** CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," 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.
- 6.2 Liability for Use of Equipment.** City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or

any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

- 6.3 Liability for 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.

Article 7 Payment of Taxes.

- 7.1 Contractor to Pay All Taxes.** Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor agrees to promptly provide information requested by the City to verify Contractor's compliance with any state requirements for reporting sales and use tax paid by City under this Agreement.

- 7.2 Possessory Interest Taxes.** Contractor acknowledges that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

7.2.1 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.

7.2.2 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.

7.2.3 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.

7.2.4 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.

7.3 Withholding. Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

Article 8 Termination and Default.

8.1 Termination for Convenience.

8.1.1 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 written notice of termination. The notice shall specify the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, 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 may include any or all of the following, without limitation:

- (a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.
- (b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.
- (c) 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.
- (d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

- (e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.
- (f) 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.

8.1.3 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:

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

8.1.4 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 listed in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under 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 Section 8.1.3.

8.1.5 In arriving at the amount due to Contractor under this Section, City may deduct:
(i) all payments previously made by City for Services covered by Contractor's

final invoice; (ii) any claim which City may have against Contractor in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City’s estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

8.1.6 City’s payment obligation under this Section shall survive termination of this Agreement.

8.2 Termination for Default; Remedies.

8.2.1 Each of the following shall constitute an immediate event of default (“Event of Default”) under this Agreement:

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

3.5	Submitting False Claims.
4.5	Assignment.
Article 5	Insurance and Indemnity.
Article 7	Payment of Taxes.
10.10	Alcohol and Drug-Free Workplace.
10.13	Working with Minors.
11.10	Compliance with Laws.
Article 13	Data and Security.

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default is not cured within 10 days after written notice thereof from City to Contractor. If Contractor defaults a second time in the same manner as a prior default cured by Contractor, City may in its sole discretion immediately terminate the Agreement for default or grant an additional period not to exceed five days for Contractor to cure the default.

(c) Contractor (i) is generally not paying its debts as they become due; (ii) 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; (iii) makes an assignment for the benefit of its creditors; (iv) 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 (v) takes action for the purpose of any of the foregoing.

- (d) A court or government authority enters an order (i) 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, (ii) 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 (iii) ordering the dissolution, winding-up or liquidation of Contractor.

8.2.2 On and after any Event of Default, City 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, where applicable, 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: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City. This Section 8.2.2 shall survive termination of this Agreement.

8.2.3 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. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

8.3 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.

8.4 Rights and Duties upon Termination or Expiration.

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services.	9.2	Works for Hire.
3.3.7(a)	Grant Funded Contracts – Disallowance.	10.20	Duty to Collect and Record Client Sexual Orientation and Gender Identity Data.
3.4	Audit and Inspection of Records.	11.6	Dispute Resolution Procedure.
3.5	Submitting False Claims.	11.7	Agreement Made in California; Venue.
Article 5	Insurance and Indemnity.	11.8	Construction.
6.1	Liability of City.	11.9	Entire Agreement.
6.3	Liability for Incidental and Consequential Damages.	11.10	Compliance with Laws.
Article 7	Payment of Taxes.	11.11	Severability.
8.1.6	Payment Obligation.	Article 13	Data and Security.
9.1	Ownership of Results.		

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall 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.

Article 9 Rights In Deliverables.

9.1 Ownership of Results. Any interest of Contractor or its subcontractors, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors for the purposes of this Agreement, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

9.2 Works for Hire. If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the

property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 10 Additional Requirements Incorporated by Reference.

- 10.1 Laws Incorporated by Reference.** The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco_ca/.
- 10.2 Conflict of Interest.** By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.
- 10.3 Prohibition on Use of Public Funds for Political Activity.** In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.
- 10.4 Consideration of Salary History.** Contractor shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Contractor is required to comply with

all of the applicable provisions of 12K, irrespective of the listing of obligations in this Section.

10.5 Nondiscrimination Requirements.

10.5.1 Nondiscrimination in Contracts. Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

10.5.2 Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. 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 employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance.

Contractor shall comply with all applicable provisions of Chapter 14B ("LBE Ordinance"). Contractor is subject to the enforcement and penalty provisions in Chapter 14B.

10.7 Minimum Compensation Ordinance (MCO). If Administrative Code Chapter 12P applies to this contract, Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P, including a minimum hourly gross compensation, compensated time off, and uncompensated time off. Contractor is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at <http://sfgov.org/olse/mco>. Contractor is required to comply with all of the applicable provisions of 12P, irrespective of the listing of obligations in this Section. By signing and executing this Agreement, Contractor certifies that it complies with Chapter 12P.

10.8 Health Care Accountability Ordinance (HCAO). If Administrative Code Chapter 12Q applies to this contract, Contractor shall comply with the requirements of Chapter 12Q. 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. Information about and the text of the Chapter 12Q, as well as the Health Commission's minimum standards, is available on the web at <http://sfgov.org/olse/hcao>. Contractor is subject to the enforcement and penalty

provisions in Chapter 12Q. Any Subcontract entered into by Contractor shall require any subcontractor with 20 or more employees to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section.

10.9 First Source Hiring Program. Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

10.10 Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

Contractor agrees in the performance of this Agreement to maintain a drug-free workplace by notifying employees that unlawful drug use is prohibited and specifying what actions will be taken against employees for violations; establishing an on-going drug-free awareness program that includes employee notification and, as appropriate, rehabilitation. Contractor can comply with this requirement by implementing a drug-free workplace program that complies with the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. § 701) or California Drug-Free Workplace Act of 1990 Cal. Gov. Code, § 8350 et seq., if state funds involved.

10.11 Limitations on Contributions. By executing this Agreement, Contractor acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of 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, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a State agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. 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 10percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

10.12 Slavery Era Disclosure. Contractor shall comply with San Francisco Administrative Code Chapter 12Y, San Francisco Slavery Era Disclosure Ordinance, including but not limited to Contractor's affirmative duty to research and disclose evidence of Contractor, its parent or subsidiary entity, or its Predecessor Company's Participation in the Slave Trade or receipt of Profits from the Slave Trade. Contractor is subject to the enforcement and penalty provisions in Chapter 12Y.

10.13 Reserved. (Working with Minors).

10.14 Consideration of Criminal History in Hiring and Employment Decisions.

10.14.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.14.2 The requirements of Chapter 12T shall only apply to a Contractor's or subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with Federal or State law or with a requirement of a government agency implementing Federal or State law.

10.15 Public Access to Nonprofit Records and Meetings. If Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor must comply with the City's Public Access to Nonprofit Records and Meetings requirements, as set forth in Chapter 12L of the San Francisco Administrative Code, including the remedies provided therein.

10.16 Food Service Waste Reduction Requirements. Contractor shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

10.17 Distribution of Beverages and Water.

10.17.1 **Sugar-Sweetened Beverage Prohibition.** Contractor agrees that it shall not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

10.17.2 **Packaged Water Prohibition.** Contractor agrees that it shall not sell, provide, or otherwise distribute Packaged Water, as defined by San Francisco Environment Code Chapter 24 as part of its performance of this Agreement.

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

10.19 Reserved (Preservative Treated Wood Products).

10.20 Duty to Collect and Record Client Sexual Orientation and Gender Identity Data. Contractor shall comply with San Francisco Administrative Code Chapter 104 by seeking to collect and record information about clients' sexual orientation and gender identity, and reporting such data to the Department of Homelessness and Supportive Housing at each client intake/assessment in the Online Navigation and Entry (ONE) System, or as instructed by the Department. In seeking to collect information about clients' sexual orientation and gender identity, Contractor shall: (1) communicate to clients that the provision of sexual orientation and gender identity information is voluntary, and no direct services shall be denied to clients who decline to provide that information; (2) solicit gender identity and sexual orientation data using questions and approaches consistent with the Department of Public Health's Policies and Procedures entitled "Sexual Orientation Guidelines: Principles for Collecting, Coding, and Reporting Identity Data," reissued on September 2, 2014, and "Sex and Gender Guidelines: Principles for Collecting, Coding, and Reporting Identity Data," reissued on September 2, 2014, or any successor Policies and Procedures; and (3) advise clients that they will protect personally identifiable information regarding clients' sexual orientation and gender identity from unauthorized disclosure, to the extent permitted by law. The duty to collect information about gender identity and sexual orientation shall not apply to the extent such collection is incompatible with any professionally reasonable clinical judgment that is based on articulable facts of clinical significance. Further, Contractor shall protect personally identifiable information from unauthorized disclosure, to the extent permitted by law and as required by HIPAA, the California Medical Information Act, Article 1 of the

California Constitution, the California Health and Safety Code and regulations promulgated thereunder, the California Welfare and Institutions Code and regulations promulgated thereunder, and any other applicable provision of Federal or State law.

Article 11 General Provisions.

11.1 Notices to the Parties. Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or email, and shall be addressed as follows:

If to the Department or City: Department of Homelessness and Supportive Housing
Contracts Unit
440 Turk Street
San Francisco, CA 94102
hshcontracts@sfgov.org

If to Contractor: Five Keys Schools And Programs
70 Oak Grove Street
San Francisco, CA 94107
Attn: Steve Good
Email: steveg@fivekeys.org

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 Compliance with Americans with Disabilities Act. Contractor shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable Federal, State and local disability rights legislation.

11.3 Incorporation of Recitals. The matters recited above are hereby incorporated into and made part of this Agreement.

11.4 Sunshine Ordinance. Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under Federal, State or local law.

11.5 Modification of this Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and 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 percent (CMD Contract Modification Form).

11.6 Dispute Resolution Procedure.

11.6.1 Negotiation; Alternative Dispute Resolution. The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Contractor may submit to the Contracting Officer a written request for administrative review and documentation of Contractor's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the Parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

11.6.2 Government Code Claim Requirement. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

11.6.3 Health and Human Service Contract Dispute Resolution Procedure.

- (a) The City Nonprofit Contracting Task Force submitted its final report to the Board of Supervisors in June 2003. The report contains thirteen recommendations to streamline the City's contracting and monitoring process with health and human services nonprofits. These recommendations include: (1) consolidate contracts, (2) streamline contract approvals, (3) make timely payment, (4) create review/appellate process, (5) eliminate unnecessary requirements, (6) develop electronic processing, (7) create standardized and simplified forms, (8) establish accounting standards, (9) coordinate joint program monitoring, (10) develop standard monitoring protocols, (11) provide training for personnel, (12) conduct tiered assessments, and (13) fund cost of living increases. The report is available on the Task Force's website at

https://sfgov.org/ccsfgsa/sites/default/files/City%20Nonprofit%20Contracting%20Task%20Force/CNPCTF_BOS_RPT_06-26-03%281%29_3adc.PDF. The Board adopted the recommendations in February 2004. The Office of Contract Administration created a Review/Appellate Panel (“Panel”) to oversee implementation of the report recommendations in January 2005.

- (b) The Board of Supervisors strongly recommends that departments establish a Dispute Resolution Procedure to address issues that have not been resolved administratively by other departmental remedies. The Panel has adopted the following procedure for City departments that have professional service grants and contracts with nonprofit health and human service providers. The Panel recommends that departments adopt this procedure as written (modified if necessary to reflect each department’s structure and titles) and include it or make a reference to it in the contract. The Panel also recommends that departments distribute the finalized procedure to their nonprofit Contractors. Any questions or concerns about this Dispute Resolution Procedure should be addressed to purchasing@sfgov.org.

- (c) 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 contract between the City and County of San Francisco and nonprofit health and human services Contractors. Contractors 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, Contractors and departments should employ the following steps:
 - (i) Contractor will submit a written statement of the concern or dispute addressed to the Contract/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 Contract/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 Contractor or provide a written response to Contractor within 10 working days.

 - (ii) Should the dispute or concern remain unresolved after the completion of Step (i), Contractor may request review by the Division or Department Head who supervises the Contract/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 Contractor. 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.

- (iii) Should Steps (i) and (ii) above not result in a determination of mutual agreement, Contractor 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 Contractor. The Department will respond in writing within 10 working days.
- (d) In addition to the above process, Contractors have an additional forum available only for disputes that concern implementation of the thirteen policies and procedures recommended by the Nonprofit Contracting Task Force and adopted by the Board of Supervisors. These recommendations are designed to improve and streamline contracting, invoicing and monitoring procedures. For more information about the Task Force's recommendations, see the June 2003 report at https://sfgov.org/ccsfgsa/sites/default/files/City%20Nonprofit%20Contracting%20Task%20Force/CNPCTF_BOS_RPT_06-26-03%281%29_3adc.PDF.
- (e) The Review/Appellate Panel oversees the implementation of the Task Force report. The Panel is composed of both City and nonprofit representatives. The Panel invites Contractors to submit concerns about a department's implementation of the policies and procedures. Contractors can notify the Panel after Step (ii). However, the Panel will not review the request until all three steps are exhausted. This review is limited to a concern regarding a department's implementation of the policies and procedures in a manner which does not improve and streamline the contracting process. This review is not intended to resolve substantive disputes under the contract such as change orders, scope, term, etc. Contractor must submit the request in writing to purchasing@sfgov.org. This request shall describe both the nature of the concern and why the process to date is not satisfactory to Contractor. Once all steps are exhausted and upon receipt of the written request, the Panel will review and make recommendations regarding any necessary changes to the policies and procedures or to a department's administration of policies and procedures.

11.7 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.

- 11.8 Construction.** All paragraph captions are for reference only and shall not be considered in construing this Agreement.
- 11.9 Entire Agreement.** This contract sets forth the entire Agreement between the Parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, “Modification of this Agreement.”
- 11.10 Compliance with Laws.** Contractor shall keep itself fully informed of the City’s Charter, codes, ordinances and duly adopted rules 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.
- 11.11 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 (i) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (ii) 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.
- 11.12 Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.
- 11.13 Order of Precedence.** Contractor agrees to perform the services described below in accordance with the terms and conditions of this Agreement, implementing task orders. If the Appendices to this Agreement include any standard printed terms from Contractor, Contractor agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the City’s terms and Contractor's printed terms attached, the City’s terms shall take precedence, followed by the procurement issued by the department, Contractor’s proposal, and Contractor’s printed terms, respectively.
- 11.14 Notification of Legal Requests.** Contractor shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests (“Legal Requests”) related to all data given to Contractor by City in the performance of this Agreement (“City Data” or “Data”), or which in any way might reasonably require access to City’s Data, and in no event later than 24 hours after it receives the request. Contractor shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve City Data in accordance with the City’s instruction and requests, including,

without limitation, any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored.

Article 12 Department Specific Terms.

12.1. Appendices.

This Agreement and the Application Documents set forth the entire Agreement between the parties, and supersede all other oral or written provisions. If there is any conflict between the terms of this Agreement and the Application Documents, the terms of this Agreement shall govern. The following appendices are attached to and a part of this Agreement:

Appendix A, Services to be Provided

Appendix B, Budget

Appendix C, Method of Payment

Appendix D, City and County of San Francisco Business Associate Agreement

12.2. Services During a City-Declared Emergency. In case of an emergency as declared by the Mayor under Charter section 3.100, Contractor will make a good faith effort to continue to provide the services set forth in Appendix A, Services to be Provided. Any services provided beyond those listed in Appendix A, Services to be Provided must be approved by the Department.

Article 13 Data and Security.

13.1 Nondisclosure of Private, Proprietary or Confidential Information.

13.1.1 Protection of Private Information. If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

13.1.2 Confidential Information. In the performance of Services, Contractor may have access to, or collect on City's behalf, City's proprietary or Confidential Information, the disclosure of which to third parties may damage City. If City discloses proprietary or Confidential Information to Contractor, or Contractor collects such information on City's behalf, such information must be held by Contractor in confidence and used only in performing 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 or Confidential Information.

13.2 Reserved. (Payment Card Industry ("PCI") Requirements).

13.3 Business Associate Agreement. The parties acknowledge that City is a Covered Entity as defined in the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA") and is required to comply with the HIPAA Privacy Rule governing the access, use, disclosure, transmission, and storage of protected health information (PHI) and the Security Rule under the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act").

The parties acknowledge that CONTRACTOR will:

1. Do **at least one** or more of the following:
- (a) Create, receive, maintain, or transmit PHI for or on behalf of City/HSH (including storage of PHI, digital or hard copy, even if Contractor does not view the PHI or only does so on a random or infrequent basis); or
 - (b) Receive PHI, or access to PHI, from City/HSH or another Business Associate of City, as part of providing a service to or for City/HSH, including legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial; or
 - (c) Transmit PHI data for City/HSH and require access on a regular basis to such PHI. (Such as health information exchanges (HIEs), e-prescribing gateways, or electronic health record vendors).

FOR PURPOSES OF THIS AGREEMENT, CONTRACTOR IS A BUSINESS ASSOCIATE OF CITY/HSH, AS DEFINED UNDER HIPAA. CONTRACTOR MUST COMPLY WITH AND COMPLETE THE FOLLOWING ATTACHED DOCUMENT, INCORPORATED TO THIS AGREEMENT AS THOUGH FULLY SET FORTH HEREIN: Appendix D, City and County of San Francisco Business Associate Agreement (BAA) (03-17).

2. **NOT do any of the activities listed above in subsection 1.;**

Contractor is not a Business Associate of City/HSH. **Appendix D, City and County of San Francisco Business Associate Agreement (BAA)** is not required for the purpose of this Agreement.

13.4 Management of City Data and Confidential Information.

13.4.1 Use of City Data and Confidential Information. Contractor agrees to hold City's Confidential Information received from or collected on behalf of the City in strictest confidence. Contractor shall not use or disclose City's Data or Confidential Information except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City's Confidential Information outside the United States is subject to prior

written authorization by the City. Access to City's Confidential Information must be strictly controlled and limited to Contractor's staff assigned to this project on a need-to-know basis only. Contractor is provided a limited non-exclusive license to use the City Data or Confidential Information solely for performing its obligations under the Agreement and not for Contractor's own purposes or later use. Nothing herein shall be construed to confer any license or right to the City Data or Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data or Confidential Information by Contractor, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

13.4.2 Disposition of Confidential Information. Upon request of City or termination or expiration of this Agreement, and pursuant to any document retention period required by this Agreement, Contractor shall promptly, but in no event later than thirty (30) calendar days, return all Confidential Information given to or collected by Contractor on City's behalf, which includes all original media. Once Contractor has received written confirmation from City that Confidential Information has been successfully transferred to City, Contractor shall within ten (10) business days clear or purge all Confidential Information from its servers, any hosted environment Contractor has used in performance of this Agreement, including its subcontractors environment(s), work stations that were used to process the data or for production of the data, and any other work files stored by Contractor in whatever medium. Contractor shall provide City with written certification that such purge occurred within five (5) business days of the purge. Secure disposal shall be accomplished by "clearing," "purging" or "physical destruction," in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88 or most current industry standard.

13.5 Ownership of City Data. The Parties agree that as between them, all rights, including all intellectual property rights, in and to the City Data and any derivative works of the City Data is the exclusive property of the City.

Article 14 MacBride And Signature.

14.1 MacBride Principles - Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Contractor confirms that Contractor has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

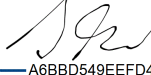
CITY

CONTRACTOR

Recommended by:


FIVE KEYS SCHOOLS AND ROGRAMS

DocuSigned by:

CAD7B781896B449
 Shireen McSpadden
 Executive Director
 Department of Homelessness and Supportive
 Housing


DocuSigned by:

A6BBD549EEFD413...
 Steve Good
 Executive Director
 City Supplier Number: 0000011181
 Unique Entity ID: MQ6YNKQJLK85

Approved as to Form:

David Chiu
City Attorney

By: 
F013CEBF5B1B482
 Virginia Dario Elizondo
 Deputy City Attorney

Approved:
Sailaja Kurella
Director of the Office of Contract Administration,
and Purchaser

By: 
9AEA44694D514E7
 Sailaja Kurella
 Taraneh Moayed

**Appendix A, Services to be Provided
by
Five Keys Schools and Programs
Ellis Semi-Congregate Shelter**

I. Purpose of Contract

The purpose of the contract is to provide operations, support services and property management in a semi-congregate shelter (SCS) site on a time-limited and as-needed basis to the served population.

II. Served Population

Semi-congregate Shelter Program participants (also referred to as “guests”) are adults, without custody of minor children, experiencing homelessness. SCS Program Participants have no fixed, regular, and adequate nighttime residence, are unsheltered and have a need for adequate emergency nighttime sleeping accommodations. Individuals are referred for placement from Shelter-In-Place (SIP) hotels by the Department of Homelessness and Supportive Housing (HSH) (and/or through another shelter placement process approved by HSH).

III. Referral and Prioritization

Contractor shall provide services to individuals who meet the Department of Homelessness and Supportive Housing (HSH) established eligibility requirements for the served population and are referred to the program by the City-approved referral systems and processes. HSH will prioritize individuals with Housing Referral Status for placement at this site.

IV. Description of Services

Contractor shall provide operations, services and property management to ensure the health and safety of participants and the security, cleanliness, and maintenance of the site(s), in accordance with the HSH [Temporary Shelter Operations Manual](#)¹ which may be revised from time to time, and which is incorporated herein and made part of this Agreement by reference.

Contractor shall adhere to the Shelter Standards of Care Legislation² unless otherwise directed by the City in cases of public health or other emergencies.

Contractor shall provide services to guests listed in Appendix B, Budget (“Client Counts” tab), unless City requires Contractor to serve fewer guests in order to maintain the health and safety of guests in accordance with City requirements, or in order to reduce site census to prepare for conversion from temporary shelter to permanent housing use.

A. Operations:

1. Reservations: Contractor shall accept and facilitate reservations, in accordance with the City-approved policies and procedures within the noted program hours of operation.

¹ HSH Providers Connect: <https://sfgov1.sharepoint.com/sites/HOM-Ext-Providers>

² Including, but not limited to Shelter Standards of Care, as applicable:

[http://library.amlegal.com/nxt/gateway.dll/California/administrative/chapter20socialservices?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$anc=JD_20.404](http://library.amlegal.com/nxt/gateway.dll/California/administrative/chapter20socialservices?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$anc=JD_20.404).

2. Accommodations: Contractor shall provide clean bedding according to the Shelter Standards of Care.
3. Meals: Contractor shall coordinate and facilitate ordering, receipt, and tracking meal use by guests.
4. Storage: Contractor shall provide space for secure and pest-free storage of guest belongings, as appropriate for the facility.
5. Safety and De-Escalation: Contractor shall ensure the general safety of the served population, staff, visitors, and property by providing staff trained in safety and de-escalation or through a security services provider during peak operational days and hours, as determined by Contractor and approved by HSH. Days and hours of coverage shall be on record with the HSH Program Manager. Safety and de-escalation shall include, but is not limited to:
 - i. Greeting the served population, staff, visitors, and conducting search of persons and property prior to entering sites for potentially dangerous items;
 - ii. Guests must turn in all weapons to safety and de-escalation personnel at intake. Firearms will be turned over immediately to the San Francisco Police Department. Other weapons will be logged and stored by safety and de-escalation personnel in a safe and secure lockbox, logged and returned to guests upon the end of their stay in the program;
 - iii. Utilization of a system by which possessions may be checked, logged and safely and securely stored, as directed;
 - iv. Regular patrol of the site and surrounding program area, to ensure compliance with HSH's Good Neighbor Policy as described in the Good Neighbor Policies section;
 - v. Utilization of a system with written documentation to ensure that the perimeter and other areas are checked on a scheduled and regular basis; and
 - vi. Assistance with conflict de-escalation and crisis management.
6. Guest Referral and Intake Services: Contractor shall use the City approved system and methods to provide daily updates to the guest roster and number of available units. Only individuals referred via the City approved referral protocols will be placed into an available unit at the site. Contractor shall intake, register and update the City approved database or guest tracking system throughout each individual guest's stay at the program. As appropriate, Contractor shall be responsible for assigning Guest rooms.
7. Wind Down: The program site at 685 Ellis Street is slated for eventual conversion to permanent supportive housing on a timeline that is yet to be determined. Contractor shall partner with HSH to plan for the wind down of shelter operations

in advance of conversion. Upon 60 days' notice from the City, Contractor shall gradually wind down the site census by ceasing new intakes and supporting guest transfers as required, and shall operate at skeleton staffing levels until program closure.

B. Shelter Support Services:

Contractor shall serve all shelter participants with a low barrier, harm reduction model, with limited rules, focused on specific participant actions rather than functional addictions or problems. Support Services shall include, but are not limited, to the following:

1. Intake: Contractor shall engage, inform, and assist guests to complete the program intake process to collect information needed to identify options and link guests to various services for which they may be eligible. The intake shall also include established consent forms that support exchange of participant information with program partners, including the data tracking partners for purposes of program analysis;
2. Contractor shall provide a program that is pet-friendly, as well as accommodating to companion, service and support animals;
3. Contractor shall provide a method to control access, track participants and manage/document participation by collaborating with services partners who are at the program site;
4. Contractor shall provide written notice or warning to participants related to any issue that may affect ongoing stay, including, but not limited to, violations of program rules and actions that are in violation of the rules agreement. All written notice or warnings shall be shared with support services staff;
5. Orientation: Contractor shall provide new guests information and program parameters, including rules, upon entry and weekly orientation group meetings;
6. Assessment and Individual Housing-focused Service Plan: Site guests who were part of the Shelter-In-Place (SIP) hotel system were previously matched to housing and are currently in the housing placement process. Contractor shall conduct a support services assessment to document participant needs. Contractor shall create housing-focused service plans based on intake and assessment information. Housing-focused service plans shall include issues identified by the participant and prioritize key issues, particularly those identified by HSH and the placement referral sources, which are the focus during the participant's stay;
7. Engagement: Contractor shall actively engage with participants to support their connection to needed services, progress on their individual housing-focused service plans and end participant homelessness. Contractor shall create a regular schedule of outreach to participants and shall provide services based on

participant services plans and goals. Contractor shall provide outreach to and offer onsite services and/or referrals to all participants who display indications of placement instability. This includes but is not limited to discontinuance from benefits, services, rule violations or warnings, and conflicts with staff or other shelter participants;

8. Case Management:

- a. Contractor shall provide ongoing meetings and counseling services with participants to establish goals, support individualized action and service plans, and track progress toward meeting the goals.
- b. Contractor shall offer individual and joint services to couples, as necessary and appropriate, and in accordance with confidentiality standards. Contractor shall use these interactions to present placement options that are individual and couple focused, as appropriate to participant situation and needs.
- c. Contractor shall partner with HSH staff and Coordinated Entry (CE) Housing Navigation staff to assist participants in Housing Referral Status Stays with immediately applying for and timely securing the required documents needed to become “document ready” for permanent housing application. This includes, but is not limited to, the acquisition of identification, income and homelessness verifications, and other required documents as needed. Contractor shall communicate with HSH staff and the Coordinated Entry Housing Navigation staff regularly about the status of documentation acquisition and upload acquired documents into the ONE System via the protocol developed by HSH. Contractor shall proactively engage the Coordinated Entry Housing Navigation staff in discussion and/or case conferencing when participants show signs of difficulty or lack of progress in acquiring necessary documentation.

9. Referrals and Coordination of Services: Contractor shall work with guests to encourage and support their application for and assessment regarding local benefits, including, but not limited to:

- a. Benefits Advocacy and Assistance: Contractor shall assist guests to obtain and/or maintain public benefits as appropriate (e.g. County Adult Assistance Program (CAAP), CalWorks, CalFresh, Social Security Income (SSI), Veterans Benefits). Benefit advocates and program representatives may be on site at times. In such cases, Contractor shall support guests to meet with these programs and keep scheduled appointments;
- b. Mental health, behavioral health and treatment services;
- c. Supportive programs to support an individual’s independence (e.g. In-Home Support Services); and
- d. Employment and job-related services (e.g. Human Services Agency (HSA), Department of Public Works (DPW) and nonprofits specializing in these services).

10. Support Groups, Social Events and Organized Activities: Contractor shall provide guests with opportunities to take part in organized gatherings for peer support, as appropriate. These functions may be provided by outside individuals or groups that the Contractor has approved, who understand and adhere to confidentiality and equal access for all guests. These events may be planned with or based on input from guests and shall be held onsite.
11. Wellness Checks: Contractor shall conduct Wellness Checks two times daily in accordance with HSH policy to assess the safety of all participants at the Site.
12. Reasonable Accommodations, transfers and other supports: Contractor shall provide guests reasonable accommodations, transfers, and other supports.
13. Exit planning:
 - a. Contractor shall provide exit planning including, but not limited to communication and coordination with outside service providers to support a participant's transition to a more permanent setting.
 - b. Contractor shall provide exit planning to participants preparing to leave the shelter for any number of reasons, including but not limited to participants moving into permanent supportive housing, participants about to be issued a Denial of Service (DOS), and participants who are talking about leaving the program.

C. Property Management:

Property Management services shall include, but are not limited to, the following:

1. Building Service Payments: Contractor shall set up and manage utility accounts and services related to the property, including but not limited to communications, alarms/security, fire alarm monitoring, garbage, water, and pest control. This may include elevator maintenance, as required.
2. Front Desk Coverage: Contractor shall provide front desk coverage 24 hours per day, seven days per week.
3. Room Inspections (see Section VIII): Contractor shall inspect Participant Rooms on a weekly basis to check for working smoke detectors, evidence of water damage, hoarding and cluttering of property, evidence of candles or other fire sources, and any other health or safety issues.

V. Location of Services

Contractor shall provide services at 685 Ellis Street, San Francisco, CA, 94109.

Contractor shall provide Property Management services 24 hours a day, seven days a week, either on-site or on-call. Contractor shall implement policies and procedures pertaining to emergency backup and will train staff accordingly.

VI. Service Requirements

- A. Program Support: Contractor shall provide programmatic support, including, but not limited to:
1. Hiring and supervision of on-site staff and any subcontractors;
 2. Onboarding and orienting on-site staff (e.g. Contractor staff, subcontractors, other service providers) to program documents, policies, and procedures; and
 3. Data entry and reporting.
- B. Contractor Staffing and Volunteers:
1. Contractor shall staff the site 24 hours per day/7 days per week.
 2. Contractor shall employ at least one staff member on each shift who has at least one year of experience in providing services to people experiencing homelessness, or comparable experience.
 3. Contractor shall employ at least one staff member on each shift who is identified as the American with Disabilities Act (ADA) Liaison and post the name of the staff on duty near the front desk.
 4. Contractor shall ensure that any volunteers welcomed into the site follow the same guidelines as required of staff as it relates to the roles or projects being handled by the volunteers.
- C. Translation and Interpretation Services: Contractor shall ensure that translation and interpreter services are available, as needed. Contractor shall address the needs of and provide services to guests and households who primarily speak language(s) other than English.
- D. Guest Record Keeping and Files:
1. Contractor shall maintain confidential guest files guests, active and previously active, and support service usage.
 2. Contractor shall maintain confidential files regarding complaints, grievances, warnings and exits/denials of service for shelter rule infractions including written notices, warnings, exit paperwork and related communications with guests.
 3. Contractor shall maintain appropriate documentation to validate the approval of the shelter extensions to shelter guests according to HSH policies.
 4. Contractor shall upload copies of participant documents and records that support securing housing (e.g. birth certificate, identification, social security card) into the ONE System.
 5. Contractor shall document outcomes related to every participant exit. Contractor shall collect data on the reason for exit, location upon exit, and other information related to exit tracking, and report this data to HSH upon request.

E. Meals and Food Safety:

Contractor shall meet the following meal-related requirements:

1. Offer two guest meals per day unless instructed otherwise by the City in an emergency (or in a public health emergency), and track usage by guest, as well as overall meal distribution;
2. Manage the means to heat or maintain refrigeration of food as appropriate for distribution; and
3. Contractor shall ensure that at least one staff person responsible for food handling and service has a valid Food Safety Certification.

F. Building Operations:

1. Contractor shall maintain clean, safe, and functional facilities in full compliance with requirements of the law and local standards^{Error! Bookmark not defined.}. Contractor shall ensure that facilities are well maintained, clean, and free of pests per the City Integrated Pest Management Code and Environmentally Preferable Purchasing Ordinance and provide pest control services as needed.
 - a. Contractor shall notify HSH immediately in the event of a Notice of Violation by the Department of Building Inspection (DBI), Department of Public Health (DPH), or another City agency.
2. Contractor shall respond to all facility related requests and complaints promptly and in a manner that ensures the safety of guests and Contractor staff. Contractor shall note in writing and post in a common area when a maintenance problem will be repaired and the status of repair (see Section H: Routine Building Maintenance)
3. Contractor shall promptly make repairs to the building and pay the City's prevailing wage rates when contracting for repair services.
4. Contractor shall maintain and create site logs, records of entry and exit, and manage key access for participants, partner agencies and on-site staff.
5. Contractor shall provide building security.
6. Laundry: Contractor shall ensure guest laundry service is available.
7. Regular removal of garbage/trash from designated trash areas and maintenance of these areas as clean and functional.
8. Cleaning and Janitorial Services:
 - a. Contractor shall develop, maintain, and document janitorial schedules per shift for the facility and its systems, as applicable, including, but not limited to cleaning floors; restrooms (e.g. floors, tile, showers, toilets, urinals, sinks);

laundry machines (e.g. dryer vents); elevators (e.g. buttons, floors, walls); kitchens (e.g. floors, sinks, counters, appliances); water fountains; and heating and air conditioning systems vents.

- b. Biohazard Cleaning: Contractor shall coordinate with cleaning vendor(s) to ensure that sites receive deep cleaning in the event of a death in a room or unit.
 - c. Guest Room Transition Cleaning: Contractor shall provide cleaning services upon guest room transition.
9. Personal Protective Equipment (PPE): Contractor shall be responsible for monitoring PPE utilization and maintaining supply of PPE.
 10. Storage: Contractor shall provide space for secure and pest-free storage of participant belongings, as appropriate for the site(s).

G. Guest Services:

1. Contractor shall post the shelter rules as required by S.F. Administrative Code Sec. 20.18-4(a).
2. Program Participant Agreement Enforcement, Written Notices and Exit Prevention:
 - a. Contractor shall provide written notice to participants regarding issues that may impact housing stability including, but not limited to, program violations or warnings in accordance with the Shelter Grievance Policy, S.F. Administrative Code Chapter 20, Article XVIII.
 - b. Contractor shall notify participants when the Participant Agreement ends.

H. Routine Building Maintenance: Contractor shall maintain the facility in sanitary, safe and continually usable condition for its intended purposes, post protocol and forms for participant requests for maintenance or repairs and respond to requests in a timely manner. Building maintenance is defined as routine, recurring, and usual work for the preservation, protection, and intended use of the facility, and shall also include the following services:

1. Developing a preventative maintenance schedule for review and approval by HSH;
2. Monitoring adherence to the approved schedule; and
3. Paying prevailing wages for Routine Building Maintenance work as required by City, and keep certified payroll records documenting such payments for submission as instructed by HSH.

I. Good Neighbor Policies:

Contractor shall maintain a good relationship with the neighborhood in which the shelter is located, including:

1. Contractor shall collaborate with HSH, SFPD, Department of Public Works (DPW), Department of Public Health (DPH), other relevant City agencies, and the neighborhood to ensure that neighborhood concerns about the facility are heard and addressed;
2. Contractor shall assign a director, manager, or representative to participate in and attend appropriate neighborhood and community meetings;
3. Contractor shall provide a means for neighbors to raise issues and concerns. Contractor shall provide consistent and timely responses;
4. Contractor management staff is available to respond to neighbors within 24 hours, if reasonable;
5. Contractor shall minimize the impact of guests entering, exiting, or waiting for services. The shelter will do this by limiting referrals, not allowing walk-ins, and having 24/7 access to the site for registered guests;
6. Contractor shall actively discourage and address excessive noise from program guests and others who may be just outside the program site;
7. Contractor shall actively discourage loitering in the area immediately surrounding the program. Coordinate with other service providers and City agencies, as necessary, to address this issue;
8. Contractor shall, in conjunction with the HSH and other City agencies, inform neighborhood businesses and residents of the services available at the shelter and how individuals are referred; and
9. Summon law enforcement, San Francisco Homeless Outreach Team (SFHOT), Healthy Streets Operations Center (HSOC), and/or Department of Public Works (DPW), as needed to address safety, cleanliness, and/or encampment issues on the block.

J. Feedback, Complaint and Follow-up Policies:

Contractor shall provide means for the served population to provide input into the program. Feedback methods shall include:

1. Shelter Community Meetings: Contractor shall conduct monthly community meetings where guests may discuss building/program concerns and program ideas. Contractor should set up the means to provide feedback at future community meetings or by other means;
2. Complaint Process: Contractor shall provide a written and posted complaint/concern process that includes various methods for guests to submit an issue (e.g. verbal to staff, written, email) and clear protocols about when and how the guest will get a response;
3. Contractor shall offer and promote a written quarterly survey that has been pre-approved by HSH to the served population to gather feedback, satisfaction and assess the effectiveness of services and systems within the program. Contractor shall offer assistance to the served population regarding completion of the survey in a confidential way if the written format presents any problem; and
4. Contractor shall respond to complaints from other City entities, such as the Mayor's Office on Disability and the Shelter Monitoring Committee, in

coordination with HSH and in accordance with the timelines required by the City entity.

K. Communications, Trainings and Meetings:

Contractor shall keep the City informed of program operations and comply with applicable City policies and requirements including, but not limited to:

1. Regular communication to the City and assigned Program Manager about the implementation of the program;
2. Media requests;
3. Data or documentation requests;
4. Attendance of meetings, as needed;
5. Attendance of trainings, as requested;
6. Contractor shall promote and support staff training and development, including but not limited to training on de-escalation and safety, participant engagement, professionalism, ethics, harm-reduction, trauma-informed care, cultural competency, health, overdose prevention and response, respect for participants and fellow staff, mental health and substance abuse issues, and trainings required under the Shelter Standards of Care (Section 16.22 of the Agreement). Contractor shall also provide training on the Shelter Training Manual;
7. Attendance at the Shelter Monitoring Committee meetings;
8. Adherence to the Shelter Grievance Policy, including the processes regarding denials of service³ unless Contractor is otherwise dictated by City emergency requirements;
9. Adherence to the City service/companion/support animal policy;
10. When applicable, as confirmed with HSH, adherence to the Tuberculosis (TB) Infection Control Guidelines for Homeless. This includes cooperation with the San Francisco TB Prevention and Control Program of the Department of Public Health (DPH); and
11. When applicable, adherence to all State and local COVID and public health safety mandates and guidelines.

L. Case Conferences: As needed and when the conference involves a current or former guest of the program, Contractor shall participate in individual case conferences and team coordination meetings with HSH-approved programs, as needed, to coordinate and collaborate regarding participants' progress.

M. Admission Policy: Contractor shall follow the HSH approved and provided admission policies for services. These shall be in writing and shared with the public upon request. Except to the extent that the services are to be rendered to a specific population as described in the programs listed herein, such policies will include a provision that guests are accepted for care without discrimination on the basis of race, color, creed, religion, sex, age, national origin, ancestry, sexual orientation, gender identification, disability, or HIV status.

³ HSH Shelter Grievance Policy: <http://hsh.sfgov.org/wp-content/uploads/2018/08/Shelter-Grievance-Policy-Final-8-25-16-4.pdf>.

N. Disaster and Emergency Response Plan: Contractor shall develop and maintain an Agency Disaster and Emergency Response Plan containing Site Specific Emergency Response Plan(s) for each service site per HSH requirements. The Agency Disaster and Emergency Response Plan shall address disaster coordination between and among service sites. The Plan shall include an emergency evacuation plan and protocol, as appropriate. Contractor shall update the site plan as needed and Contractor shall train all employees regarding the provisions of the plan for their sites.

O. Data Standards:

1. Contractor shall ensure compliance with the HMIS Participation Agreement, including but not limited to:
 - a. Entering all client data within three working days (unless specifically requested to do so sooner);
 - b. Ensuring accurate dates for client enrollment, client exit, and client move in (if appropriate); and
 - c. Running monthly data quality reports and correcting any errors.
2. Contractor shall conduct daily data entry into the San Francisco COVID-19 Response Placement System, a web-based care coordination software hosted by RTZ Systems, to track information including but not limited to, referrals, intakes and discharges, transfers between sites, accessibility attributes of sites and rooms/beds, and information related to room/bed status and site status. Other data reporting may also be required by the City. Contractor shall be responsible for complying with all privacy-related trainings and ensuring the safekeeping of potentially protected information in the system.
3. Contractor may be required to report certain measures or conduct interim reporting in CARBON, via secure email, or through uploads to a File Transfer Protocol (FTP) site. When required, Contractor shall submit the monthly, quarterly and/or annual metrics into either the HSH CARBON database, via secure email, or through uploads to an FTP site. The City will provide clear instructions to all Contractor regarding the correct mechanism for sharing data. Changes to data collection or reporting requirements shall be communicated to Contractor via written notice at least one month prior to expected implementation.
4. Any information shared between Contractor, the City, and other providers about the served population shall be communicated in a secure manner, with appropriate release of consent forms and in compliance with applicable privacy requirements. Contractor shall take all appropriate measure to protect and maintain the confidentiality of personally identifying information about participants, as well as the site name and address, and any other confidential information about the program or the City's emergency response.

- P. Record Keeping, Documentation, and Files: Contractor shall maintain Occupancy Logs; participant files, and other documentation in accordance with City requirements and instructions.
- Q. Harm Reduction: Contractor shall integrate harm reduction principles into service delivery and agency structure as well as follow [HSH Overdose Prevention Policy](#). Contractor staff who work directly with tenants will participate in annual trainings on harm reduction, overdose recognition and response.

VII. Wellness Checks

Wellness checks shall be performed at least twice a day for every guest. Ideally, guests work with providers to set the wellness check cadence that feels right to them, within these parameters.

Wellness checks shall be conducted in a way that is sensitive to the likelihood of a guest’s history of trauma and sense of violation or loss of dignity. All activities must be documented and specify a plan for following up on any identified facilities or supportive service needs.

VIII. Room Inspections

Room inspections involve staff entering the guest’s room specifically to assess the condition of the room and its furniture and fixtures, and to identify and resolve any concerns regarding safety or habitability.

Contractor must conduct room inspections for each guest at least once weekly and include documentation and follow-up on identified needs for repairs or other interventions.

IX. Emergency safety checks

Staff may enter a guest’s room when there is reason to believe a guest is at immediate and substantial risk due to a medical, psychiatric, or facilities-related emergency. Staff performing an Emergency Safety Check will announce themselves and state the purpose of their visit, wait a few minutes for a response, and unlock the door if the guest does not do so themselves.

X. Service Objectives

Contractor shall achieve the following services objectives:

- A. Contractor shall provide intake and program orientation to 100 percent of all initial guests and updates for returning guests in a new stay within 24 hours of arrival to the site.
- B. Contractor shall ensure that each unit, upon turnover, is clean and/or repaired within 14 days.
- C. For participants who are not active CAT A or CAT B Subsidy Program Participants, Contractor shall utilize intake and assessment information with partnering service

providers to identify options and create a housing-focused service plan for 95 percent of participants. Written service plans shall include clear goals and objectives and identified barriers. Service connections, progress, and follow up on these service plans will be documented in the participant's record.

- D. For participants who are not active CAT A or CAT B Subsidy Program Participants, Ninety percent of participants shall be offered referral for problem-solving and/or assessment via Adult Coordinated Entry within one week of placement.
- E. Contractor shall meet or exceed 95 percent data quality in Get Care (RTZ) as measured through data input into the RTZ System.
- F. Contractor shall conduct quarterly meal satisfaction surveys with at least 70 percent of participants using this survey: <https://forms.gle/qijPd2TAP9gc9jrP6>. Contractor shall complete the first survey within six weeks of beginning operations under this Agreement.
- G. Contractor shall submit all requested property maintenance and repair reports on a timely basis to HSH.

XI. Outcome Objectives

Contractor shall achieve the following outcome objectives:

- A. For participants who are not active CAT A or CAT B Subsidy Program Participants, 50 percent of guests referred will have received problem solving and/or CE assessment within 15 business days of move in.
- B. Eighty percent of Housing Referral Status participants will meet document readiness standards within six months of initial intake.
- C. One Hundred percent of all staff will have completed the required annual trainings.
- D. Seventy five percent of those completing the quarterly satisfaction survey will Strongly Agree or Agree that they are satisfied with the services on site.

XII. Reporting Requirements

Contractor shall input required data, such as when applicable, but not limited to the Online Navigation and Entry (ONE) system, CHANGES, RTZ and CARBON, as directed by the City.

- A. Census and Exits: Contractor shall maintain daily census information and shall notify the City of any unplanned participant exits within 24 hours in the format, method and frequency specified by the City.

- B. Evaluative Studies: Contractor shall participate, as requested by the City, in evaluative studies designed to show the effectiveness of Contractor's services. The City agrees that any final reports generated through the evaluation program shall be made available to Contractor or within 30 working days of receipt of any evaluation report and such response will become part of the official report.
- C. Contractor shall report to HSH Program Manager any unit that will be off-line due to turn over or damage for more than seven days.
- D. Contractor shall report vacancies to HSH in a timely fashion according to established procedures and process all participant referrals in the pre-established timeframe. When required by HSH, Contractor shall enter participant data in the ONE System.
- E. On a monthly basis, Contractor shall enter the required metrics, including any required templates to be uploaded, into the CARBON database by the 15th of the month following the month of service.
 - 1. Referencing the tasks as described in the Service and Outcome Objectives sections;
 - 2. The occupancy rate; and
 - 3. The number of new placements.
- F. On a quarterly basis, Contractor shall enter the required metrics, including any required templates to be uploaded, into the CARBON database by the 15th of the month following the end of each quarter:
 - 1. Average number of days to turn over units; and
 - 2. Report of activities, referencing the tasks as described in the Service Objectives and Outcome Objectives sections. This should include the Quarterly Satisfaction Survey data.
- G. On an annual basis, Contractor shall enter the required metrics, including any required templates to be uploaded, into the CARBON database by the 15th of the month following the end of each year:
 - 1. Summarizing the contract activities, referencing the tasks as described in the Service and Outcome Objectives sections. This report shall also include accomplishments and challenges encountered by the Contractor; and
 - 2. The number of program exits.
- H. Contractor shall submit Facility Inventory data to the Department of Homelessness and Supportive Housing during the last week of January. Data will include unit/bed inventory, point in time population count of residents, and general characteristic data of residents. Data is used for reporting mandated by the Federal Government under the US Department of Housing and Urban Development's Continuum of Care program.

- I. Contractor shall participate, as required by Department, with City, State and/or Federal government evaluative studies designed to show the effectiveness of Contractor's services. Contractor agrees to meet the requirements of and participate in the evaluation program and management information systems of the City. The City agrees that any final reports generated through the evaluation program shall be made available to Contractor within thirty working days of receipt of any evaluation report and any Contractor response will become part of the official report.
- J. Contractor shall adhere to the Department's [Critical Incident Report Policy](#) and report critical incidents to the Department using the Critical Incident Report [forms](#). Examples of critical incidents include death, fire, acts of violence, or any other incident which requires the involvement of emergency services. Contractor shall report Critical Incidents in accordance with City instructions and any published policies/procedures and use the City provided [forms](#).
- K. Contractor shall provide Ad Hoc reports as required by HSH and respond to requests by HSH in a timely manner.
- L. For assistance with reporting requirements or submission of reports, contact the assigned Contracts Analyst(s) and Program Manager(s).

XIII. Monitoring Activities

- A. Program Monitoring: Contractor is subject to program monitoring and/or audits, such as, but not limited to, the following: participant files, review of the Contractor's administrative records, staff training documentation, postings, program policies and procedures, Disaster and Emergency Response Plan and training, personnel and activity reports, proper accounting for funds and other operational and administrative activities, and back-up documentation for reporting progress towards meeting service and outcome objectives.
 - 1. Monitoring of program participation in the ONE system may include, but not be limited to, data quality reports from the ONE system, records of timeliness of data entry, and attendance records at required trainings and agency lead meetings.
- B. Fiscal Compliance and Contract Monitoring: Contractor is subject to fiscal monitoring, such as, but not limited to, the following: review of the Contractor's organizational budget, the general ledger, quarterly balance sheet, cost allocation procedures and plan, State and Federal tax forms, audited financial statement, fiscal policy manual, supporting documentation for selected invoices, cash receipts and disbursement journals. The compliance monitoring will include review of Personnel Manual, Emergency Operations Plan, Compliance with the Americans with Disabilities Act (ADA), subcontracts, and Memorandums of Understanding (MOUs), and the current board roster and selected board minutes for compliance with the Sunshine Ordinance.

DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING

APPENDIX B, BUDGET

Document Date	11/15/2022		
Contract Term	Begin Date	End Date	Duration (Years)
Current Term	12/15/2022	11/30/2023	1
Amended Term	12/15/2022	11/30/2023	1
Provider Name	Five Kyes Schools and Programs		
Program	Ellis Semi-Congregare Shelter		
F\$P Contract ID#	1000027534		
Action (select)	New Agreement		
Effective Date	12/15/2022		
Budget Names	HHAP 2		

	Current	New	
Term Budget	\$ -	\$ 6,896,819	15%
Contingency	\$ -	\$ 1,034,523	
Not-To-Exceed	\$ -	\$ 7,931,342	

Year 1	All Years
12/15/2022 - 11/30/2023	12/15/2022 - 11/30/2023

	New	New
Expenditures		
Salaries & Benefits	\$ 5,212,477	\$ 5,212,477
Operating Expense	\$ 757,800	\$ 757,800
Subtotal	\$ 5,970,277	\$ 5,970,277
Indirect Percentage	15.00%	
Indirect Cost (Line 22 X Line 23)	\$ 895,542	\$ 895,542
Other Expenses (Not subject to indirect %)	\$ 31,000	\$ 31,000
Capital Expenditure	\$ -	\$ -
Admin Cost (HUD Only)	\$ -	\$ -
Total Expenditures	\$ 6,896,819	\$ 6,896,819
HSH Revenues (select)		
Homeless Housing, Assistance and Prevention Program (HHAP) 2	\$ 6,896,819	\$ 6,896,819
	\$ -	\$ -
	\$ -	\$ -
Total HSH Revenues	\$ 6,896,819	\$ 6,896,819
Other Revenues (to offset Total Expenditures)		
	\$ -	\$ -
Total Other Revenues	\$ -	\$ -
Total HSH + Other Revenues	\$ 6,896,819	\$ 6,896,819
Rev-Exp (Budget Match Check)	\$ -	\$ -
Total Adjusted Salary FTE (All Budgets)	69.18	

Prepared by	Elyse Graham
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Template last modified	7/26/2022
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DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING
APPENDIX B, BUDGET

Document Date	11/7/2022			
Contract Term	Begin Date	End Date	Duration (Years)	
Current Term	12/15/2022	11/30/2023	1	
Amended Term	12/15/2022	11/30/2023	1	
Provider Name	Five Kyes Schools and Programs			
Program	Ellis Semi-Congregare Shelter			
F\$P Contract ID#	1000027534			
Action (select)	New Agreement			
Effective Date	12/15/2022			
Budget Name	HHAP 2			
	Current	New		
Term Budget	\$ -	\$ 6,896,819	15%	
Contingency	\$ -	\$ 1,034,523		
Not-To-Exceed		\$ 7,931,342		
			Year 1	All Years
			12/15/2022 - 11/30/2023	12/15/2022 - 11/30/2023
			New	New
Expenditures				
Salaries & Benefits	\$ 5,212,477	\$ 5,212,477		
Operating Expense	\$ 757,800	\$ 757,800		
Subtotal	\$ 5,970,277	\$ 5,970,277		
Indirect Percentage	15.00%			
Indirect Cost (Line 22 X Line 23)	\$ 895,542	\$ 895,542		
Other Expenses (Not subject to indirect %)	\$ 31,000	\$ 31,000		
Capital Expenditure	\$ -	\$ -		
Admin Cost (HUD Agreements Only)	\$ -	\$ -		
Total Expenditures	\$ 6,896,818.68	\$ 6,896,818.68		
HSH Revenues (select)				
Homeless Housing, Assistance and Prevention Program (HHAP) 2	\$ 6,896,819	\$ 6,896,819		
	\$ -	\$ -		
Total HSH Revenues	\$ 6,896,819.00	\$ 6,896,819.00		
Other Revenues (to offset Total Expenditures)				
	\$ -	\$ -		
Total Other Revenues	\$ -	\$ -		
Total HSH + Other Revenues	\$ 6,896,819.00	\$ 6,896,819.00		
Rev-Exp (Budget Match Check)	\$ -	\$ -		
Prepared by				
Phone				
Email				

Template last modified 7/26/2022

**DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING
SALARY & BENEFIT DETAIL**



Document Date	11/7/2022
Provider Name	Five Kyes Schools and Programs
Program	Ellis Semi-Congregate Shelter
FSP Contract ID#	1000027534
Budget Name	HHAP 2

POSITION TITLE	Year 1					All Years	
	Agency Totals		For HSH Funded Program		12/15/2022 - 11/30/2023	12/15/2022 - 11/30/2023	
	Annual Full Time Salary (for 1.00 FTE)	Position FTE	% FTE funded by this budget	Adjusted Budgeted FTE	New	New	
					Budgeted Salary	Budgeted Salary	
Co-Director Housing	\$ 130,000	1.00	17%	0.17	\$ 22,100	\$ 22,100	
Deputy Director Operations	\$ 105,000	1.00	17%	0.17	\$ 17,850	\$ 17,850	
Deputy Director Guest Services	\$ 93,730	1.00	17%	0.17	\$ 15,934	\$ 15,934	
Assistant Site Director	\$ 81,000	1.00	100%	1.00	\$ 81,000	\$ 81,000	
Admin Coordinator	\$ 75,000	1.00	30%	0.30	\$ 22,500	\$ 22,500	
Shift Supervisors	\$ 73,130	4.40	100%	4.40	\$ 321,772	\$ 321,772	
Guest Intake & Information Coordinator	\$ 57,824	1.00	100%	1.00	\$ 57,824	\$ 57,824	
Activities Coordinator	\$ 57,824	1.00	25%	0.25	\$ 14,456	\$ 14,456	
Hiring Specialist	\$ 84,000	1.00	25%	0.25	\$ 21,000	\$ 21,000	
Care Coordinator	\$ 66,160	4.50	100%	4.50	\$ 297,720	\$ 297,720	
Ambassadors (including Security)	\$ 48,029	50.40	100%	50.40	\$ 2,420,662	\$ 2,420,662	
HR Generalist	\$ 87,379	1.00	17%	0.17	\$ 14,854	\$ 14,854	
Data Tracking Specialist	\$ 65,000	0.20	100%	0.20	\$ 13,000	\$ 13,000	
Property Manager	\$ 74,196	1.00	100%	1.00	\$ 74,196	\$ 74,196	
Maintenance Staff	\$ 65,000	1.00	100%	1.00	\$ 65,000	\$ 65,000	
Housekeeping Staff	\$ 50,212	4.20	100%	4.20	\$ 210,890	\$ 210,890	
	TOTAL SALARIES				\$ 3,670,759	\$ 3,670,759	
			TOTAL FTE	69.18			
			FRINGE BENEFIT RATE		42.00%		
			EMPLOYEE FRINGE BENEFITS		\$ 1,541,719	\$ 1,541,719	
			TOTAL SALARIES & BENEFITS		\$ 5,212,477	\$ 5,212,477	

DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING



OPERATING DETAIL

Document Date	11/7/2022
Provider Name	Five Kyes Schools and Programs
Program	Ellis Semi-Congregate Shelter
FSP Contract ID#	1000027534
Budget Name	HHAP 2

	Year 1	All Years
	12/15/2022 - 11/30/2023	12/15/2022 - 11/30/2023
	New	New
	Budgeted Expense	Budgeted Expense
<u>Operating Expenses</u>		
Rental of Property	\$ -	\$ -
Utilities(Elec, Water, Gas, Phone, Scavenger)	\$ 185,000	\$ 185,000
Office Supplies, Postage	\$ 10,000	\$ 10,000
Building Maintenance Supplies and Repair	\$ 200,000	\$ 200,000
Printing and Reproduction	\$ -	\$ -
Insurance	\$ 15,000	\$ 15,000
Staff Training	\$ 20,000	\$ 20,000
Staff Travel-(Local & Out of Town)	\$ -	\$ -
Rental of Equipment	\$ -	\$ -
Cleaning/Janitorial Supplies	\$ 38,000	\$ 38,000
Cable/Internet	\$ 15,000	\$ 15,000
Fire Panel /Security Monitoring Contract	\$ 16,000	\$ 16,000
Guest Laundry	\$ 41,000	\$ 41,000
Guest Vouchers	\$ 6,000	\$ 6,000
Guest Supplies (hygiene, etc)	\$ 76,000	\$ 76,000
Staff Supplies, First Aid Kits/Medical Supplies/Uniform	\$ 37,000	\$ 37,000
Guest Transportation	\$ 1,800	\$ 1,800
Pest Control	\$ 85,000	\$ 85,000
Elevator Repair / Maintenance	\$ 12,000	\$ 12,000
<u>Consultants</u>		\$ -
<u>Subcontractors (First \$25k Only)</u>		\$ -
TOTAL OPERATING EXPENSES	\$ 757,800	\$ 757,800
<u>Other Expenses (not subject to indirect cost %)</u>		
One Time Start Up Costs	\$ 31,000	\$ 31,000
TOTAL OTHER EXPENSES	\$ 31,000	\$ 31,000
<u>Capital Expenses</u>		
TOTAL CAPITAL EXPENSES	\$ -	\$ -
HS# #3		7/26/2022

BUDGET NARRATIVE

Fiscal Year

Fiscal Term Start 12/15/2022 Fiscal Term End 11/30/2023

HHAP 2 FY22-23 - FY23-24 <- Select from the drop-down list the fiscal year in which the proposed budget changes will first become effective

Salaries & Benefits	Adjusted	Budgeted	Justification	Calculation	Employee Name
Co-Director Housing	0.17	\$ 22,100	Oversees 5 Keys housing sites	0.17 FTE at \$130,000 salary =	Brand Marshall
Deputy Director Operations	0.17	\$ 17,850	Assist and support Site Directors in data tracking, compliance, and reporting	0.17 FTE at \$105,000 salary =	Alysha Galindo
Deputy Director Guest Services	0.17	\$ 15,934	Ensures that all residents and treated with excellent customer services, and	0.17 FTE at \$93,730 salary =	Jamil Wilson
Assistant Site Director	1.00	\$ 81,000	Provides support in overseeing Site 34 operations	1 FTE at \$81,000	TBD
Admin Coordinator	0.30	\$ 22,500	Assist and organize management team in administrative tasks, compliance and	0.3 FTE at \$75,000 salary =	Maria Cornejo
Shift Supervisors	4.40	\$ 321,772	Oversight of shift activities and staffing, accountability, safety, emergency response,	4.4 FTE at \$73,130 salary =	TBD
Guest Intake & Information Coordinator	1.00	\$ 57,824	Oversees intake and processing of guests at site	1 FTE at \$57,824	TBD
Activities Coordinator	0.25	\$ 14,456	Engage and organize guests, plan activities and events, perform quality assurance	0.25 FTE at \$57,824 salary =	TBD
Hiring Specialist	0.25	\$ 21,000	Recruit, screen, interview, hire and onboard applicants for all sites	0.25 FTE at \$84,000 salary =	Jhnrathon Cross
Care Coordinator	4.50	\$ 297,720	Provides Care Coordination and exit planning, compliance, to ensure coordination	4 FTE at \$66,160 salary =	TBD
Ambassadors (including Security)	50.40	\$ 2,420,662	Ensure guest safety and comfort, de-escalate conflicts, provide access to food,	21 shifts * 10 ambassadors/5	TBD
HR Generalist	0.17	\$ 14,854	Provides work in HR compliance, employee escalations, and employee status	0.17 FTE at \$87,379 salary =	Christine Haverick
Data Tracking Specialist	0.20	\$ 13,000	Tracks data and information about guests and site operations	0.2 FTE at \$65,000 salary =	Starr Richard
Property Manager	1.00	\$ 74,196	Oversee all operational and maintenance functions at the site and serve as the	Number of weeks from July	TBD
Maintenance Staff	1.00	\$ 65,000	Provides maintenance to building fixtures and guest rooms	1 x 74,196	TBD
Housekeeping Staff	4.20	\$ 210,890	Clean facilities, empty trash, clear grounds, clean high touch areas, ensure facilities	1 x 65,000	TBD
TOTAL	69.18	\$ 3,670,759			
Employee Fringe Benefits		\$ 1,541,719	Includes FICA, SSUI, Workers Compensation and Medical calculated at XX% of		
Salaries & Benefits Total		\$ 5,212,477			

Operating Expenses	Budgeted Expense	Justification	Calculation
Rental of Property	\$ -		
Utilities(Elec, Water, Gas, Phone, Scavenger)	\$ 185,000	PGE 4k/mo, water 5k/mo.	
Office Supplies, Postage	\$ 10,000	Supplies necessary for administrative tasks, paper, binders, labels, clipboards,	
Building Maintenance Supplies and Repair	\$ 200,000	Building Maintenance supplies and repairs	
Printing and Reproduction	\$ -		
Insurance	\$ 15,000	Liability operating insurance	
Staff Training	\$ 20,000	Providing ongoing training to staff to improve performance and knowledge	
Staff Travel-Local & Out of Town)	\$ -		
Rental of Equipment	\$ -		
Cleaning/Janitorial Supplies	\$ 38,000	Chemicals, tools and equipment used to clean facilities	
Cable/Internet	\$ 15,000	Internet service	
Fire Panel /Security Monitoring Contract	\$ 16,000	Contract costs for fire prevention measures	
Guest Laundry	\$ 41,000	Guest laundry materials, processing, and transportation	
Guest Vouchers	\$ 6,000	Guest voucher	
Guest Supplies (hygiene, etc)	\$ 76,000	Clothing, medically necessary food, activities supplies, special events, trainings, pet	
Staff Supplies, First Aid Kits/Medical Supplies/Uniform	\$ 37,000	Uniforms, First Aid Kits, AEDs, badges and lanyards, Radios, food and coffee	
Guest Transportation	\$ 1,800	Guests attending medical and housing appointments	
Pest Control	\$ 85,000	Pest Control	
Elevator Repair / Maintenance	\$ 12,000	Elevator Maintenance contract and repair	
TOTAL OPERATING EXPENSES	\$ 757,800		
Indirect Cost	15.0%	\$ 895,542	

Other Expenses (not subject to indirect cost %)	Amount	Justification	Calculation
One Time Start Up Costs	\$ 31,000	Increased by 1k (30,000 to 31,000) for microwaves to warm up food for guests-	
TOTAL OTHER EXPENSES	\$ 31,000		

Appendix C, Method of Payment

- I. Actual Costs:** In accordance with Article 3 Financial Matters of the Agreement, payments shall be made for actual costs incurred and reported for each month within the budget term (e.g., Fiscal Year or Project Term). Under no circumstances shall payment exceed the amount set forth in Appendix B, Budget(s) of the Agreement.
- II. General Instructions for Invoice Submittal:** Contractor invoices shall include actual expenditures for eligible activities incurred during the month.
- A. Timelines: Contractor shall submit all invoices and any related required documentation in the format specified below, after costs have been incurred, and within 15 days after the month the service has occurred. All final invoices must be submitted 15 days after the close of the fiscal year or project period.

Billing Month/Date	Service Begin Date	Service End Date
August 15	July 1	July 31
September 15	August 1	August 31
October 15	September 1	September 30
November 15	October 1	October 31
December 15	November 1	November 30
January 15	December 1	December 31
February 15	January 1	January 31
March 15	February 1	February 28/29
April 15	March 1	March 31
May 15	April 1	April 30
June 15	May 1	May 31
July 15	June 1	June 30

B. Invoicing System:

1. Contractor shall submit invoices and all required supporting documentation demonstrating evidence of the expenditure through the Department of Homelessness and Supportive Housing (HSH)'s web-based Contracts Administration, Reporting, and Billing Online (CARBON) System at: <https://contracts.sfhsa.org>.
2. Contractor's Executive Director or Chief Financial Officer shall submit a letter of authorization designating specific users, including their names, emails and phone numbers, who will have access to CARBON to electronically submit and sign for invoices, submit program reports, and view other information that is in CARBON.

3. Contractor acknowledges that submittal of the invoice by Contractor's designated authorized personnel with proper login credentials constitutes Contractor's electronic signature and certification of the invoice.
4. Contractor's authorized personnel with CARBON login credentials shall not share or internally reassign logins.
5. Contractor's Executive Director or Chief Financial Officer shall immediately notify the assigned HSH Contract Manager, as listed in CARBON, via email or letter regarding any need for the restriction or termination of previously authorized CARBON users and include the name(s), email(s) and phone number(s) of those previously authorized CARBON users.
6. Contractor may invoice and submit related documentation in the format specified by HSH via paper or email only upon special, written approval from the HSH Contracts Manager.

C. Line Item Variance: There shall be no variance from the line item budget submitted, which adversely affects Contractor's ability to provide services specified in the Appendix A(s), Services to be Provided of the Agreement; however, Contractor may invoice up to 110 percent of an ongoing General Fund or Prop C line item, provided that total expenditures do not exceed the total budget amount, per the HSH Budget Revision Policy and Procedure: <http://hsh.sfgov.org/overview/provider-updates/>.

D. Spend Down

1. Contractor shall direct questions regarding spend down and funding source prioritization to the assigned HSH Contract and Program Managers, as listed in CARBON.
2. Generally, Contractor is expected to spend down ongoing funding proportionally to the fiscal year or project period. Contractor shall report unexpected delays and challenges to spending funds, as well as any lower than expected spending to the assigned Contract and Program Managers, as listed in CARBON prior to, or in conjunction with the invoicing period.
3. Failure to spend significant amounts of funding, especially non-General Fund dollars, may result in reductions to future allocations. HSH may set specific spend down targets and communicate those to Contractors.

E. Documentation and Record Keeping:

1. In accordance with Article 3 Financial Matters and the Appendix A(s), Services to be Provided of the Agreement, Contractor shall keep electronic or hard copy records and documentation of all HSH invoiced costs, including, but not limited to, payroll records; paid invoices; receipts; and payments made for a period not fewer than five

years after final payment under this Agreement, and shall provide to the City upon request.

- a. HSH reserves the right to modify the terms of this Appendix in cases where Contractor has demonstrated issues with spend down, accuracy, and timeliness of invoices.
 - b. In addition to the instructions below, HSH will request and review supporting documentation on the following occasions without modification to this Appendix:
 - 1) Program Monitoring;
 - 2) Fiscal and Compliance Monitoring;
 - 3) Year End Invoice Review;
 - 4) Monthly Invoice Review;
 - 5) As needed per HSH request; and/or
 - 6) As needed to fulfill audit and other monitoring requirements.
2. All documentation requested by and submitted to HSH must:
- a. Be easily searchable (e.g., PDF) or summarized;
 - b. Clearly match the Appendix B, Budget(s) line items and eligible activities;
 - c. Not include identifiable served population information (e.g., tenant, client, Protected Health Information (PHI), Personally Identifiable Information (PII)); and
 - d. Include only subcontracted costs that are reflected in the Appendix B, Budget(s). HSH will not pay for subcontractor costs that are not reflected in the Appendix B, Budget(s). All subcontractors must also be listed in the Permitted Subcontractors tab.
3. Contractor shall follow HSH instructions per funding source and ensure that all documentation clearly matches the approved Appendix B, Budget(s) line items and eligible activities.

Homeless Housing, Assistance and Prevention Program (HHAP)	
Type	Instructions and Examples of Documentation
Salaries & Benefits	<p>Contractor shall maintain and provide documentation for all approved payroll expenses paid to any personnel included in the Appendix B, Budget(s) covered by the Agreement and invoice period each time an invoice is submitted.</p> <p>Documentation shall include, but is not limited to, historical and current payroll information from a payroll service or a payroll ledger from Contractor’s accounting system and must include employee name, title, rate, and hours worked for each pay period.</p>
Operating	<p>Contractor shall maintain documentation for all approved Operating costs included in the Appendix B, Budget(s). Each time an invoice is submitted, Contractor shall upload documentation for all Subcontractor and Consultant costs,</p>

Homeless Housing, Assistance and Prevention Program (HHAP)	
Type	Instructions and Examples of Documentation
	<p>and documentation for any Operating line items that exceed \$10,000.</p> <p>Documentation may include, but is not limited to, receipts of purchases or paid invoices of recurring expenditures, such as lease payments; copies of current leases; subcontractor payments; equipment lease invoices; and utility payments.</p> <p>Contractor shall submit more detailed budgets to HSH for internal review/approval of the conversion/repairs and start-up costs line items prior to expending funds.</p>
Capital and/or One-Time Funding	<p>Contractor shall maintain and provide documentation for all approved Capital and/or One-Time Funding costs included in the Appendix B, Budget(s) each time an invoice is submitted.</p> <p>Documentation may include receipts of purchases or paid invoices of non-recurring expenditures, such as repairs or one-time purchases.</p>
Revenue	<p>Contractor shall maintain and provide documentation, as requested by HSH, for all revenues that offset the costs in the Appendix B, Budget(s) covered by the Agreement.</p>

III. Advances or Prepayments: Advances or prepayments are allowable on certified annual ongoing General Fund or Prop C amounts (i.e., authorized by executed Agreements) in order to meet non-profit Contractor cash flow needs in certain circumstances. Requests for advance payment will be granted by HSH on a case-by-case basis. Advances are not intended to be a regular automatic procedure.

A. Advance Requirements:

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

1. All Agreement compliance requirements must be currently met (e.g., reports submitted and approved; corrective actions resolved; business tax and insurance certificates in place; prompt and properly documented invoicing; appropriate spend down);
2. The final invoice from the preceding fiscal year must be received prior to advance distribution; and
3. Advances from the preceding fiscal year must be repaid, in full, prior to any additional advance distribution.

B. Advance Request Process:

1. Contractor shall submit a written request via email with a narrative justification that fully describes the unique circumstances to the assigned HSH Contract Manager, as listed in CARBON, for review and approval.
2. HSH, at its sole discretion, may make available to Contractor up to two months of the total ongoing annualized General Fund or Prop C budget amount, per the Appendix B, Budget(s) of this Agreement. Requests for greater than two months of the ongoing annualized budget amount may be considered on a case-by-case basis.

C. Advance Repayment Process:

1. If approved by HSH, the advanced sum will be deducted from the Contractor's monthly invoices at an equal rate each month that will enable repayment before the close of the fiscal year. For example, for a twelve-month grant the rate of repayment of the advance will be 1/10th per month from July to April. An alternative period of repayment may be calculated in order to ensure cash flow and repayment.
2. All advance repayments must be recovered within the fiscal year for which it was made.
3. In the case where advance repayments cannot be fully recovered by deducting from the Contractor's monthly invoices, Contractor shall be repay the outstanding balance via check in the amount verified by the assigned HSH Contract Manager, as listed in CARBON. Contractor shall make the repayment after the final invoice of the fiscal year has been approved to the address provided by the assigned HSH Contract Manager, as listed in CARBON.

IV. **Timely Submission of Reports and Compliance:** If a Contractor has outstanding items due to the City (e.g., Corrective Action Plans/report/document/data input), as specified in any written form from HSH (e.g., Letter of Correction, Corrective Action Plan, and/or Appendix A(s), Services to be Provided of the Agreement), Contractor shall submit and comply with such requirements prior to or in conjunction with invoices. Failure to submit required information or comply by specified deadlines may result in HSH withholding of payments.

Appendix D, City and County of San Francisco Business Associate Agreement

This Business Associate Agreement (“BAA”) supplements and is made a part of the contract by and between the City and County of San Francisco, the Covered Entity (“CE”), and Five Keys Schools and Programs (“Contractor”), the Business Associate (“BA”), dated December 15, 2022 (FSP Contract ID# 1000027534) (“Contract”). To the extent that the terms of the Contract are inconsistent with the terms of this BAA, the terms of this BAA shall control.

RECITALS

CE, by and through the Department of Homelessness and Supportive Housing (“HSH”), wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information (“PHI”) (defined below).

For purposes of the Contract And this BAA, CE requires Contractor, even if Contractor is also a covered entity under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), to comply with the terms and conditions of this BAA as a BA of CE.

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Agreement in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated there under by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws, including, but not limited to, California Civil Code §§ 56, et seq., California Health and Safety Code § 1280.15, California Civil Code §§ 1798, et seq., California Welfare & Institutions Code §§5328, et seq., and the regulations promulgated there under (the “California Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into an agreement containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(a) and (e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this BAA.

BA enters into agreements with CE that require the CE to disclose certain identifiable health information to BA. The parties desire to enter into this BAA to permit BA to have access to such information and comply with the BA requirements of HIPAA, the HITECH Act, and the corresponding Regulations.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

1. Definitions.

- A. Breach** means the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information, and shall have the meaning given to such term under the

HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402], as well as California Civil Code Sections 1798.29 and 1798.82.

- B. Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Part 164, Subpart D.
- C. Business Associate** is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information received from a covered entity, but other than in the capacity of a member of the workforce of such covered entity or arrangement, and shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- D. Covered Entity** means a health plan, a health care clearinghouse, or a health care provider who transmits any information in electronic form in connection with a transaction covered under HIPAA Regulations, and shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- E. Data Aggregation** means the combining of Protected Information by the BA with the Protected Information received by the BA in its capacity as a BA of another CE, to permit data analyses that relate to the health care operations of the respective covered entities, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- F. Designated Record Set** means a group of records maintained by or for a CE, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- G. Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to, 45 C.F.R. Section 160.103. For the purposes of this BAA, Electronic PHI includes all computerized data, as defined in California Civil Code Sections 1798.29 and 1798.82.
- H. Electronic Health Record** means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- I. Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- J. Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

- K. Protected Health Information or PHI** means any information, including electronic PHI, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Sections 160.103 and 164.501. For the purposes of this BAA, PHI includes all medical information and health insurance information as defined in California Civil Code Sections 56.05 and 1798.82.
- L. Protected Information** shall mean PHI provided by CE to BA or created, maintained, received or transmitted by BA on CE's behalf.
- M. Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system, and shall have the meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.
- N. Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- O. Unsecured PHI** means PHI that is not secured by a technology standard that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute, and shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

2. Obligations of Business Associate.

- A. User Training.** The BA shall provide, and shall ensure that BA subcontractors provide, training on PHI privacy and security, including HIPAA and HITECH and its regulations, to each employee or agent that will access, use or disclose Protected Information, upon hire and/or prior to accessing, using or disclosing Protected Information for the first time, and at least annually thereafter during the term of the Agreement. BA shall maintain, and shall ensure that BA subcontractors maintain, records indicating the name of each employee or agent and date on which the PHI privacy and security trainings were completed. BA shall retain, and ensure that BA subcontractors retain, such records for a period of seven years after the Agreement terminates and shall make all such records available to CE within 15 calendar days of a written request by CE.
- B. Permitted Uses.** BA may use, access, and/or disclose Protected Information only for the purpose of performing BA's obligations for, or on behalf of, the City and as permitted or required under the Agreement and BAA, or as required by law. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information as

necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE [45 C.F.R. Sections 164.502, 164.504(e)(2), and 164.504(e)(4)(i)].

C. Permitted Disclosures. BA shall disclose Protected Information only for the purpose of performing BA's obligations for, or on behalf of, the City and as permitted or required under the Agreement and BAA, or as required by law. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2 (n) of this BAA, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)]. BA may disclose PHI to a BA that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit Protected Information on its behalf, if the BA obtains satisfactory assurances, in accordance with 45 C.F.R. Section 164.504(e)(1), that the subcontractor will appropriately safeguard the information [45 C.F.R. Section 164.502(e)(1)(ii)].

D. Prohibited Uses and Disclosures. BA shall not use or disclose Protected Information other than as permitted or required by the Agreement and BAA, or as required by law. BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the Protected Information solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(1)(vi)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Agreement.

E. Appropriate Safeguards. BA shall take the appropriate security measures to protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of the CE, and shall prevent any use or disclosure of PHI other than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including, but not limited to, 45 C.F.R. Sections 164.306, 164.308, 164.310, 164.312, 164.314 164.316, and 164.504(e)(2)(ii)(B). BA shall comply with the policies and procedures and

documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316, and 42 U.S.C. Section 17931. BA is responsible for any civil penalties assessed due to an audit or investigation of BA, in accordance with 42 U.S.C. Section 17934(c).

- F. Business Associate's Subcontractors and Agents.** BA shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of BA, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph 2.f. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2) through (e)(5); 45 C.F.R. Section 164.308(b)]. BA shall mitigate the effects of any such violation.
- G. Accounting of Disclosures.** Within ten (10) calendar days of a request by CE for an accounting of disclosures of Protected Information or upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents and subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935 (c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents and subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure [45 C.F.R. 164.528(b)(2)]. If an individual or an individual's representative submits a request for an accounting directly to BA or its agents or subcontractors, BA shall forward the request to CE in writing within five (5) calendar days.
- H. Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within (5) days of request by CE to enable CE to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains Protected Information in electronic format, BA shall provide such information in electronic format as necessary to enable CE to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. 164.524.
- I. Amendment of Protected Information.** Within ten (10) days of a request by CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA and its agents and subcontractors shall make such Protected

Information available to CE for amendment and incorporate any such amendment or other documentation to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R Section 164.526. If an individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

- J. Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the “Secretary”) for purposes of determining BA’s compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BA shall provide CE a copy of any Protected Information and other documents and records that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- K. Minimum Necessary.** BA, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the intended purpose of such use, disclosure, or request. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)]. BA understands and agrees that the definition of “minimum necessary” is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary” to accomplish the intended purpose in accordance with HIPAA and HIPAA Regulations.
- L. Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- M. Notification of Breach.** BA shall notify CE within 5 calendar days of any breach of Protected Information; any use or disclosure of Protected Information not permitted by the BAA; any Security Incident (except as otherwise provided below) related to Protected Information, and any use or disclosure of data in violation of any applicable federal or state laws by BA or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BA to have been, accessed, acquired, used, or disclosed, as well as any other available information that CE is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited to, 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BA shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. [42 U.S.C. Section 17921; 42 U.S.C. Section 17932; 45 C.F.R. 164.410; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- N. Breach Pattern or Practice by Business Associate’s Subcontractors and Agents.** Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(iii), if the

BA knows of a pattern of activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent's obligations under the Agreement or this BAA, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the contractual arrangement with its subcontractor or agent, if feasible. BA shall provide written notice to CE of any pattern of activity or practice of a subcontractor or agent that BA believes constitutes a material breach or violation of the subcontractor or agent's obligations under the Contract or this BAA within five (5) calendar days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

3. Termination.

- A. Material Breach.** A breach by BA of any provision of this BAA, as determined by CE, shall constitute a material breach of the Agreement and this BAA and shall provide grounds for immediate termination of the Agreement and this BAA, any provision in the Agreement to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii).]
- B. Judicial or Administrative Proceedings.** CE may terminate the Agreement and this BAA, effective immediately, if (i) BA is named as defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- C. Effect of Termination.** Upon termination of the Agreement and this BAA for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA and its agents and subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections and satisfy the obligations of Section 2 of this BAA to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(2)(ii)(J)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.
- D. Civil and Criminal Penalties.** BA understands and agrees that it is subject to civil or criminal penalties applicable to BA for unauthorized use, access or disclosure or Protected Information in accordance with the HIPAA Regulations and the HITECH Act including, but not limited to, 42 U.S.C. 17934 (c).
- E. Disclaimer.** CE makes no warranty or representation that compliance by BA with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations or corresponding California law provisions will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

4. Amendment to Comply with Law.

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable state or federal laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the updated standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable state or federal laws. CE may terminate the Agreement upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Agreement or this BAA when requested by CE pursuant to this section or (ii) BA does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

5. Reimbursement for Fines or Penalties.

In the event that CE pays a fine to a state or federal regulatory agency, and/or is assessed civil penalties or damages through private rights of action, based on an impermissible use or disclosure of PHI by BA or its subcontractors or agents, then BA shall reimburse CE in the amount of such fine or penalties or damages within thirty (30) calendar days from City's written notice to BA of such fines, penalties or damages.