

File No. 140308

Committee Item No. 8

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date April 16, 2014

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date April 11, 2014

Completed by: _____ Date _____

1 [Contract Approval - Electronic Monitoring and Case Management Services - Leaders in
2 Community Alternatives, Inc. - Not to Exceed \$2,000,000]

3 **Resolution authorizing the Sheriff's Department to enter into a contract with Leaders in**
4 **Community Alternatives, Inc., (LCA), in an amount not to exceed \$2,000,000 for a term**
5 **not to exceed five years, with an original term from May 1, 2014, to April 30, 2017, with**
6 **two one-year options to extend, to administer a home detention program with**
7 **electronic monitoring and case management, which includes the rules and regulations**
8 **of the program and the requirement that LCA maintain current liability insurance.**

9
10 WHEREAS, The Sheriff's Department, held competitive bid process RFP SHF2014-01
11 Electronic Monitoring and Case Management Services and awarded a contract to provide
12 electronic monitoring of and case management services for inmates for \$2,000,000 and an
13 original term of 3 years from May 1, 2014, to April 30, 2017, with two one-year options to
14 extend the term; and

15 WHEREAS, the Civil Service Commission approved Professional Services Contract
16 48796-13/14 on March 3, 2014; and

17 WHEREAS, California Penal Code, Sections 1203.016 and 1203.018 authorize the
18 Sheriff to expand the use of home detention with electronic monitoring for sentenced and
19 unsentenced inmates to reduce jail operating expenditures; and

20 WHEREAS, California Penal Code, Sections 1203.016 and 1203.018 authorize the
21 Sheriff to administer a home detention program with electronic monitoring pursuant to written
22 contracts with private entities, subject to the requirement that the Board of Supervisors
23 annually review and approve the rules and regulations of the program and the requirement
24 that such contract include a provision requiring that the contractor demonstrate evidence of
25

1 financial responsibility that may include a current liability insurance policy in amounts and
2 under conditions sufficient to fully indemnify the City and County of San Francisco for
3 reasonably foreseeable public liability, including legal defense costs, that may arise from, or
4 be proximately caused by, acts or omissions of the contractor; and

5 WHEREAS, The Sheriff's Department has prepared this proposed Agreement to enter
6 into contract with LCA to administer a home detention program with electronic monitoring,
7 which includes in the scope of work the rules and regulations of the program and which
8 includes a provision requiring that the contractor demonstrate evidence of financial
9 responsibility by maintaining a current liability insurance policy in amounts and under
10 conditions sufficient to fully indemnify the City and County of San Francisco for reasonably
11 foreseeable public liability, including legal defense costs, that may arise from, or be
12 proximately caused by, acts or omissions of the contractor, which is on file with the Clerk of
13 the Board of Supervisors in File No. 140308, and which is hereby declared to be a part of
14 this resolution as if set forth fully herein; now, therefore, be it

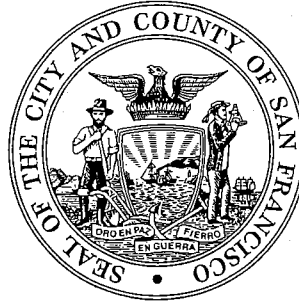
15 RESOLVED, That the Board of Supervisors authorizes the Sheriff's Department to
16 execute the Agreement with LCA in an amount not-to-exceed \$2,000,000 and for an original
17 term from May 1, 2014, to April 30, 2017; and, be it

18 FURTHER RESOLVED, the Sheriff will submit annually the rules and regulations of the
19 home detention and electronic monitoring program for review and approval by the Board of
20 Supervisors; and, be it

21 FURTHER RESOLVED, The Sheriff will perform an annual review of the evidence of
22 financial responsibility, which for this Agreement shall be the certificate of insurance required
23 by the Agreement, to ensure compliance with requirements set by the Board of Supervisors
24 and for adjustment of the financial responsibility requirements if warranted by caseload
25 changes or other factors.

City and County of San Francisco

OFFICE OF THE SHERIFF



Ross Mirkarimi
SHERIFF

(415) 554-7225

March 24, 2014
Reference: 2014-053

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original and four copies of a proposed resolution for approval by the Board of Supervisors.

The resolution authorizes the Sheriff's Department to enter into a contract agreement between the City and County of San Francisco and Leaders in Community Alternatives, Inc., in the amount of \$2,000,000 over a five year period to provide electronic monitoring services and case management program for inmates who qualify for home detention as an alternative to incarceration.

The following is a list of accompanying documents:

- Proposed Resolution
- Agreements with Leaders in Community Alternatives, Inc.

Please contact Bree Mawhorter at (415) 554-4316 if you require more information. Thank you.

Sincerely,


ROSS MIRKARIMI
Sheriff

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BOARD OF SUPERVISORS
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**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
Leaders in Community Alternatives, Inc.**

This Agreement is made this **First day of May, 2014**, in the City and County of San Francisco, State of California, by and between: **Leaders in Community Alternatives, Inc.**, 1035 Market Street, San Francisco, CA 94103, hereinafter referred to as "Contractor" or "LCA" and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the San Francisco Sheriff's Department ("SFSD") ("SFSD") wishes to contract for electronic monitoring services and case management programming; and,

WHEREAS, a Request for Proposal ("RFP") was issued on October 16, 2013, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

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

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number 48796-13/14 on March 3, 2014;

Now, THEREFORE, the parties agree as follows:

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

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

2. Term of the Agreement. Subject to Section 1, the term of this Agreement shall be from **May 1, 2014 to April 30, 2017**. In addition, the City shall have two options to extend the term,

for a period of one year each, by mutual agreement in writing. The maximum contract period shall not be more than five (5) years.

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

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

5. Compensation. Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement, that the Sheriff, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Two Million Dollars (\$2,000,000)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Sheriff's Department as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall City be liable for interest or late charges for any late payments.

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

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

8. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at [http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1). A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or

approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Left Blank by agreement of the parties (Disallowance).

10. Taxes

a. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.

b. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

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

2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

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

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

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

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

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

14. Independent Contractor; Payment of Taxes and Other Expenses

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

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

greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

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

- 1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- 2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- 3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- ➔ 4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

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

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

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

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

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

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense

costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

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

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

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

j. The City in its sole discretion may annually review and adjust the insurance amounts and coverage set forth in this paragraph.

16. Indemnification. Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, 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 in effect on or validly retroactive to the date of this Agreement, 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 in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

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

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

19. Liquidated Damages.

By entering into this Agreement, Contractor agrees that in the event LCA fails to timely deliver the Services, as provided under Section 4 herein, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the greater of the sum of:

- (a) \$154 per day per participant approved by SFSD for the Electronic Monitoring and Case Management program for each participant that is unable to participate in either or both due to LCA's failure to meet its obligations under this Agreement for a total amount not to exceed \$10,000 per day;
- OR
- (b) All costs associated with the SFSD's assumption of LCA's obligations under this Agreement in the event that LCA cannot timely fulfill those obligations, for a total amount not to exceed \$10,000 per day, including, but not limited to:
 - 1. Vehicle use and gas as associated with Field Check
 - 2. Overtime pay costs for Deputy Sheriff

City may deduct a sum representing the liquidated damages from any money due to Contractor after the contractor is notified, subject to the opportunity to cure set forth below. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to deliver to City within the time fixed or such extensions of time permitted in writing by the City.

Liquidated damages will be suspended during a force majeure event. A force majeure event is defined as Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service.

Contractor is responsible to use reasonable commercial effort to collect client fees. In the event Contractor does not collect the required participant's program fees, as stated in Appendix A, the City, upon advance notice to Contractor, may deduct a sum representing the liquidated damages from any money due to Contractor from the monthly billing, and such deductions shall not be considered a penalty, but rather agreed liquidated damages sustained by City because of Contractor's failure to collect the fees, as required by the contract. If Contractor is unable to collect fees due to a change in circumstances of a participant, Contractor shall refer the case to the SFSD for a determination of a full or partial waiver within 24 hours of client's refusal to pay. As long as Contractor submits a timely incident report detailing clients' change in circumstances or willfully refusing to pay within 24 hours, there will be no deduction of those uncollected fees from Contractor's monthly billing.

Opportunity to Cure. If Contractor breaches any provision of this Agreement, City will give notice; with confirm receipt, to Contractor's 24/7 monitoring staff by phone, fax or email detailing Contractor violations. If such violation is not corrected to the reasonable satisfaction of City within two (2) hours after the notice of violation, or within such a reasonable time as may be required to cure the violation (provided the acts to cure the violation are commenced within two (2) hours and thereafter diligently pursued to completion), the City may, without further notice, declare Contract or to be in breach of this Agreement. Upon City's declaration of Contractor's breach, City may collect liquidated damages and may pursue any remedy available under local, state, or federal law, including those specifically provided for in this section.

20. Default; Remedies

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

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

- | | |
|---|---------------------------------------|
| 8. Submitting False Claims; Monetary Penalties. | 37. Drug-free workplace policy |
| 10. Taxes | 53. Compliance with laws |
| 15. Insurance | 55. Supervision of minors |
| 24. Proprietary or confidential information of City | 57. Protection of private information |
| 30. Assignment | |

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

3) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a

custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

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

b. 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, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

a. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause, including but not limited to the failure to maintain insurance in the amounts and coverages set forth in paragraph 15 of this agreement. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

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

- 1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.
- 2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- 3) Terminating all existing orders and subcontracts.
- 4) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall

have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

5) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

6) Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

7) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

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

1) The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

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

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

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

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

amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

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

22. Rights and Duties upon Termination or Expiration

This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement:

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

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

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

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

such information as a reasonably prudent contractor would use to protect its own proprietary data.

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

To City: **Bree Mawhorter, Chief Financial Officer**
San Francisco Sheriff's Department
1 Dr. Carlton B. Goodlett Place, Room 456
San Francisco, CA 94103
bree.mawhorter@sfgov.org
Fax# 415 554-7050

To Contractor: **Linda Connelly, President, CEO**
Leaders in Community Alternatives, Inc.
1035 Market Street, Room 550
San Francisco, CA 94103
lconnelly@LCAservices.com
Fax# 415 546-1932

Any notice of default must be sent by registered mail.

26. Ownership of Results. Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire. If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, 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 are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

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

whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

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

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

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

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

33. Local Business Enterprise Utilization; Liquidated Damages

a. **The LBE Ordinance.** Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to

comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance

1) If Contractor willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of the City's Contracts Monitoring Division or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

34. Nondiscrimination; Penalties

a. **Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. **Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. **Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. **Condition to Contract.** As a condition to this Agreement, Contractor shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly ‘Human Rights Commission’).

e. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

35. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.

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

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

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

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

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

41. Public Access to Meetings and Records. If the 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 shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

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

chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

43. Requiring Minimum Compensation for Covered Employees

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

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

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

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

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

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

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under

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

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

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

44. Requiring Health Benefits for Covered Employees

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

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

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

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

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of

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

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

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

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

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

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

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

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

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

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

45. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference.

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

therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Agreement.

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

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

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

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

4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these

requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

6) Set the term of the requirements.

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

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

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

c. **Hiring Decisions**

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

d. **Exceptions**

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

e. **Liquidated Damages.**

Contractor agrees:

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

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

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

does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

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

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

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

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

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

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

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

f. **Subcontracts.**

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

46. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees

to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

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

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

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

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

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

53. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such

local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

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

55. Left blank by agreement of the parties. (Supervision of Minors)

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

57. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

58. Not Used.

59. Food Service Waste Reduction Requirements. Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

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

61. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, 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.

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

CITY

Recommended by:



Ross Mirkarimi
Sheriff

Approved as to Form:

Dennis J. Herrera
City Attorney

By:



Jana Clark
Deputy City Attorney

Approved:

Jaci Fong
Director of the Office of Contract
Administration, and
Purchaser

Appendices

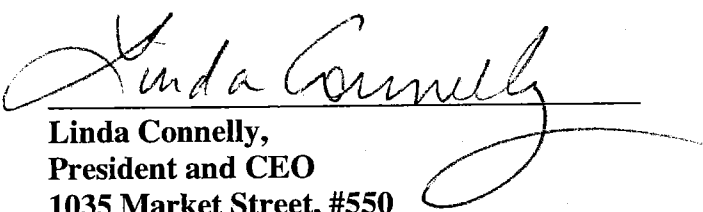
- A: Services to be provided by Contractor
- B: Calculation of Charges

CONTRACTOR

Leaders in Community Alternatives, Inc.

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.



Linda Connelly,
President and CEO
1035 Market Street, #550
San Francisco, CA 94103

City vendor number: 25546

Appendix A Services to be provided by Contractor

Description of Services

Contractor will provide electronic home detention monitoring and case management services for inmates who qualify for home detention as an alternative to incarceration. Services include adjunct case management to monitor inmate's outpatient participation in substance abuse or mental health programs and urinalysis to monitor sobriety.

Case Management Requirements

As per California Penal Code section 1203.018, LCA will "operate in compliance with any available standards and all state and county laws applicable to the operation of electronic monitoring programs and the supervision of offenders in an electronic monitoring program."

As per California Penal Code section 1203.016, LCA will "operate in compliance with any available standards promulgated by state correctional agencies and bodies, including the Corrections Standards Authority, and all statutory provisions and mandates, state and county, as appropriate and applicable to the operation of home detention programs and the supervision of sentenced offenders in a home detention program."

a. Referrals

- All referrals to the Electronic Monitoring and Case Management Program will be made by the San Francisco Sheriff's Department, the Courts, or the detainee's attorney. The SFSD will screen all referrals and determine which detainees can be safely supervised via electronic monitoring. The SFSD may allow out-of-county participants to be monitored, provided they meet the SFSD criteria and SFUSD approves their participation. All San Francisco County Adult offenders shall be approved and placed on the SFSD Electronic Monitoring program authorized by and subject to the terms and conditions of this contract only. LCA may only place individuals referred by the Sheriff's Department or Adult Probation on Electronic Monitoring.
- LCA will accept all referrals from SFSD.

b. Orientation and Equipment Installations

- The SFSD will notify the Contractor regarding a detainee's impending participation in the City's Electronic Monitoring (EM) program.
- Contractor will install, orient, and activate the EM equipment on the same day SFSD schedules installation. This will occur at the SFSD's facilities at 70 Oak Grove, or at an alternate SFSD pre-determined location. As part of this process, Contractor will provide participants with a program schedule for the first seven (7) days of their Electronic Monitoring during the EM equipment installation.

- Following installation, the Contractor will confirm that the EM equipment is activated and operational on the Omnilink or equivalent system, and will email SFSD immediately following the successful installation and initial download of the bracelet.
- The Contractor will ensure that all EM equipment is activated and operational the same day it is installed.

c. **Initial Assessment and Case File**

- Contractor will complete an initial assessment of each participant, which will identify list and schedule of approved activities and locations and most appropriate equipment and equipment settings, prior to equipment installation. Pending SFSD provision of Compass, the Department's Electronic Needs Assessment software, and associated training, SFSD will reimburse the Contractor for additional labor cost required to perform Compass Assessment. Contractor will propose 24/7 schedules for each participant corresponding to the requirements of the SFSD program and their needs assessment, as defined and measured by Compass Electronic Needs Assessment software, and in line with evidence-based practices. This includes recommendations for education, vocational support, and other pro-social activities. The proposed schedules must be approved by SFSD in advance of their start date. All out of range activities must be approved in advance ONLY by SFSD sworn supervisors). Contractor will have face to face meetings with participants two times per month and will verify documentation of work, school, and any approved community activities bi-weekly.
- Based on the initial assessment, defined above, the Contractor will provide to SFSD an Electronic Monitoring Participant Assessment File that will form the basis for the Participant Case File, once the client is accepted into the program. Collectively, these documents will be referred to as the "Participant File."

The Participant Assessment File will contain, at minimum, the following:

1. Program Application
2. List and schedule of approved activities
3. Verification of employment and/or proof of education class enrollment and school schedule, as appropriate
4. List of all verified sources of income
5. Program goals to include treatment plans with specified benchmark participation
6. All special needs
7. Approved payment plan and payment schedule. A document verifying that the participant is aware of and will comply with all SFSD rules and policies
8. Result of initial drug test performed by LCA within the first week of enrollment.)

Once the participant is enrolled, the following information will be added to the file:

1. Ongoing program participation activities
2. Ongoing employment and/or job search activities
3. Restriction imposed, such as exclusion zones, curfews, travel restrictions, as approved by SFSD
4. Participant schedule
5. All related addresses (home, work, etc.) and contact phone numbers (cell, home, work, etc.)
6. Program violations and sanctions imposed, as identified by SFSD

Upon completion, the following information will be added to the file:

1. Close out notes
2. Award of completion if applicable
3. Termination reason
4. Eligibility for re-enrollment
5. Return of equipment in working order is required for successful completion

In addition, as part of ongoing data management,

- Contractor will utilize a database as the basis of an electronic case file management system used to case manage each participant in the program, beginning with enrollment, throughout the program, and until release and will keep an updated hard copy (paper copy) on file. The database shall allow electronic access and storage of the initial assessment and all documents described above.
- Contractor will give SFSD direct access to the Case Management Database and Omnilink Database including all case notes.
 - Contractor will note all updates to participants' schedules and contact information in the electronic master list within 24 hours of the schedule or contact information change.
 - Contractor using Workflow Management Software to manage work flow related to client's activity, including alerts and incidents, with access available upon demand by SFSD sworn staff. Contractor will review to determine any deviations from the approved schedule, equipment problems or tamper attempts
 - Contractor will provide all files as determined by SFSD upon request

d. Client Monitoring

- Contractor will provide a minimum of one staff onsite at SFSD office Monday through Friday for eight (8) hours per day to perform equipment installations and removals, meet

with program participants, troubleshoot equipment problems and provide program assistance to SFSD. SFSD will provide two workstations at 70 Oak Grove for Contractor.

- Local Contractor management will be available 24/7, 365 days a year, to monitor all electronic monitoring participants and to handle any issues or discuss any concerns.
- Contractor will provide a full time Site Manager to supervise Contractor employees and coordinate efforts with SFSD employees. The Site Manager may supervise up to 10 participants when the participant numbers are below 70. The Site Manager will provide technical expertise during violation hearings and enforcement actions, attend monthly staff meetings, and liaison between SFSD and The District Attorney, the Public Defender, the Courts, the Adult Probation Department, and other criminal justice agencies. The Contractor is required to communicate with these entities in order to ensure efficient implementation of the program.
- The Site Manager will be dedicated solely to supervising Contractor employees, and not manage any clients, when the program exceeds 70 participants
- The Site Manager will provide continuous training for all SFSD Community Programs Staff and Contractor staff on all participant tracking software and electronic monitoring devices.
- The Site Manager will be the point of communication between the Contractor and the SFSD for billing purposes, and will collect payments and resolve any discrepancies that may occur.
 - The Site Manager will work at an SFSD site, such as 70 Oak Grove or an SFSD-approved designated site.
 - The Contractor will provide Case Manager(s) at a ratio one (1) Case Manager to every thirty-five (35) clients enrolled in electronic monitoring, and will provide the following case management services for each participant:
 - **Office Meetings:** Case Manager will meet with each program participant at an SFSD site, such as 70 Oak Grove or an SFSD-approved site at the minimum of two times per month. At the meetings the Case Manager will review and verify the participant's activities during the previous period and will inspect the electronic monitoring equipment and verify it is operational and securely attached to the participant. The Contractor will submit a complete report of all office meetings by the deadline specified, if requested by the SFSD or the Courts.
 - **Employment/School Verification:** Every 30 days Contractor will collect a copy of the program participant's latest paycheck stub to confirm their employment status, and will be submitted to the participant's case file. Contractor will collect a copy of the program participant's most recent school registration form, class schedule, and upon completion of the school term, will collect a copy of their report card, and will submit this information to the participant's case file.
 - **Employment Search:** For unemployed participants, the case manager will assist the participant in developing tangible strategies to obtain suitable employment. Referrals will be made to employment agencies and other community resources in an effort to ensure the participant's success in the community. The Case Manager will require participants to participate in a scheduled job search plan and to submit verifying documentation.

- **Urinalysis and Drug and Alcohol Screening:** Contractor will collect a urine sample or saliva swab drug test from each participant at least once every 30 days, or at the direction of the SFSD, and will test the sample for marijuana, heroin, amphetamine, PCP and cocaine via a Substance Abuse Screening Device, such as Redi-Cup. Urinalysis devices will be supplied by SFSD at no cost to the Contractor. Both timing and methodology of test are at the discretion of SFSD. SFSD will provide male and female staff, as required; to perform Urinalysis test. The SFSD does not anticipate any policy changes that would change the current standard. Contractor will test blood alcohol content at least once every 30 days via portable Alcohol Screening Device (PAS) or Breathalyzer, as determined by SFSD. All urine samples, saliva swab tests, and blood alcohol tests will be administered at no cost to SFSD. If the participant wishes to appeal the results of a SFSD or Contractor administered test, the Contractor will collect from the participant the cost of any urinalysis and swab kits where the results are sent to an outside lab for testing for the purpose of appeal. The Contractor will collect the fee for lab verification from participants and will net the fee collection from the amount invoiced to the SFSD. Participants are required to pay for lab verifications prior to the samples being sent to the lab. If the participant is unable to pay, the SFSD reserves the right to waive the fee and will pay for the cost of the lab test. All tests will be sent to the laboratory identified by the SFSD. The Contractor will bill the cost of the lab tests directly to the SFSD. Contractor will record all test results in the participant's case file and provide all test results to SFSD immediately in writing or within seven (7) days if a more conclusive analysis is needed, but no later than the next business day after the test results are obtained.
- **24-Hour Monitoring -** The Contractor will monitor all EM participants 24 hours a day, seven (7) days a week, as described below. One time per week, the Contractor will provide SFSD with an electronic master list of all individuals participating in the EM program. The list will contain participant name, participant violations, case manager name and contact information. The Contractor will notify SFSD via BOTH email and by phone, as soon as possible but no later than one hour after a potential Absent Without Official Leave (AWOL), defined as four (4) hours without communication from the electronic monitoring devices or verbal communication from the participant, an alarm goes off due to tampering, a dead battery, a cut bracelet and/or potential blood alcohol level. All alerts will be investigated and confirmed by Contractor staff with verbal status report to SFSD within 24 hours following resolution of the incident and written status report to SFSD by the next business day.

 - LCA will constantly review electronic monitoring devices to determine any deviations from the approved schedule, equipment problems or tamper attempts. LCA supervisory staff will also review all daily alerts to ensure they have been cleared and managed. In order to keep SFSD apprised of potential violations, LCA will provide an electronic written report **of all incidents the next business day** while an alert is being investigated. An electronic written incident report detailing the event, investigation, and results, including corroborating documentation and client statements, will be available within 24 hours following resolution of the incident.

- Contractor will utilize Omnilink's latest state-of-the-art GPS equipment, with twenty-four hour technical support provided by Omnilink. Staff will monitor all participant activity 24/7. The Contractor will have a 24/7 technical support center that can be accessed by the SFSD 24 hours a day, seven (7) days a week, 365 days a year to provide a safety net of technical support during exigent circumstances.
- LCA will provide SFSD two iPads which will have cellular internet access to provide real time access for GPS monitoring. LCA will disable all non-work related applications prior to distribution of iPad to SFSD. Additionally, Contractor will activate a special web portal specific to SFSD that will allow access to the complete GPS, continuous and mobile alcohol monitoring, and electronic case files with the touch of a button and one password. This will ensure easy access and a comprehensive 24/7 monitoring solution.
- **Meetings and Access** - The Contractor will participate in meetings with the SFSD Community Programs Staff and Command staff as required. Contractor will provide a minimum of one staff onsite at SFSD office Monday through Friday for eight (8) hours per day, a schedule determined by SFSD, to meet with SFSD supervisor for daily case conference.
- **Training** – The Contractor will provide continuous ongoing comprehensive training for all SFSD Supervisory and Community Programs staff in the use of equipment and monitoring techniques. Training will be provided at no cost. Contractor will provide online training modules that can be accessed anytime. Contractor will provide complimentary registration for SFSD staff to attend manufacturer user conferences, for public agencies using EM equipment, including but not limited to two day training events located in San Francisco.
- **Reports** - The Contractor will submit written reports, as requested, and in the format determined by the SFSD Community Programs staff. On a monthly basis, the Contractor will report, in MS Excel or Comma Delimited format, a list of people who participated in electronic monitoring 12-months prior to the reporting date and participant's status.

e. **General Requirements**

- **Invoicing** – Contractor will submit invoices in the format required by SFSD for the previous month's service, by the 15th day of the current month, and must contain all necessary documentation to verify validity. Invoices must state, but may not be limited to the following:
 - Client's Name

- Individual services provided with the corresponding charge per service
- Number of days client participated, per service
- Client's name, services, and amount collected from participants in which credit amount is applied against invoiced amount

- **Program Fees.** The Contractor will collect program fees from participants and report fee collection to the SFSD when the Contractor submits the monthly invoice. The Contractor will net all collected program fees from the amount billed to the SFSD. The SFSD will pay for all program costs defined in the contract, at the rates defined in the contract, less the amount of fees collected by the Contractor. The SFSD will determine the program fees and may determine, at the sole discretion of the SFSD, the clients' ability to pay and may reduce the program fee proportionate to the clients' ability to pay.

- **Contractor and Contractor Employee Requirements -** All Contractor employees working in the jail will maintain current jail clearance (the Contractor is responsible for all clearance costs) and must attend a two hour Jail Clearance Orientation Training administered by SFSD at no cost to the Contractor. Such costs do not include travel or lodging associated with attending any training. Contractors working in the field may wear bullet resistant vests provided by the Contractor at no cost to the SFSD. Industry standard bulletproof vests are estimated to cost \$700-\$900 each.

- **Lost Units** – Contractor will incorporate inventory shrinkage due to lost or damaged devices into total contract pricing. There will be no cost to SFSD for any lost or damaged devices. Participants who lose, damage or steal equipment will be violated from the program by SFSD and will be barred from participating in SFSD programs until participant reimburse Contractor for the equipment. Participants who fail to surrender and/or lose equipment will be violated from the program and will be barred from participating in SFSD programs until participant reimburse Contractor for the equipment.

f. **Contractors Electronic Devices GPS (Active, Passive, Optional HMU via Landline or Cellular) will be capable of:**

- Producing mapping displays and reports that include participant location, zone violations, tampering and battery status.
- Determining if a participant has violated a zone/schedule that is associated with an area on a map. System must allow for unlimited number of zones and schedules.
- Allowing to program buffer zones around each exclusion zone for high risk cases to enable staff time to act before the participant enters an exclusion zone.
- Allowing for easy changes in scheduling software program.

- Determining geographical areas to be designated as a) allowable, b) unallowable, c) optional, but can be temporarily SFSD allowed for a specific time period, on a case-by-case basis.
- Allowing an agency to break out caseloads by branch and case manager.
- Allowing caseworker to include notes related to and capable of attaching to system generated alerts.
- Allowing caseworker to determine reporting intervals. Reporting intervals are 10 minutes or less.
- Providing alternative location tracking using the cellular network in the absence of GPS at no additional cost.
- Having a, FCC certified, one-piece/ single-body-attached GPS device housing the receiver and transmitter into a single unit. All participant equipment (except a charging cable) must be included in a 1-piece, ankle attached device and must report all information exclusively through the cellular network. Must be as small and inconspicuous as possible – Dimensions shall be no larger than approximately 3.5” (L) x 2.4” (W) x 1.6” (D) eight and four tenths (8.4) ounces or must be consistent in size and weight with the latest industry standards.
- Attaching to participant with either a reusable or field replaceable strap that is adjustable to fit the participant and attaches at the ankle. Contractor will replace reusable straps once every year at no additional cost or will provide six (6) disposable straps per unit, per year at no additional cost.
- Attaching to participant with the fewest pieces possible; no screws or tools are required.
- Attaching to the participant so that efforts to tamper with or remove the bracelet are obvious upon visual inspection and will provide immediate tampering detection and alert reporting.
- Remaining in “tamper” mode until a Case Worker has inspected the device and cleared the alert. In the event a tamper does occur, the device will not terminate the signal, shut down, or “reset” itself in any way.
- Functioning reliably under normal atmospheric and environmental conditions, and will be shock resistant and water proof up to 30 feet.
- Allowing participant to engage in activities without posing safety hazards or undue restrictions and is FCC Specific Absorption Rate (SAR) compliant.
- Tracking indoors and outdoors. In GPS-impaired environment, device will track utilizing AFLT, which uses the cellular network triangulation to track participants.
- Permitting secondary tracking in 30 minute intervals.
- Displaying secondary and GPS tracking on a single, integrated map.
- Eliminating drift and ensuring participant’s points on the map are accurate.
- Providing internal, rechargeable, non-removable battery power, with a minimum battery life of 24 to 32 hours on a single charge
- Equipping GPS device with a wall charge cord for easy recharging.
- Providing fully recharging GPS device within 90 minutes.

- Providing a low power signal, visual indicator and vibrating alarm to indicate a device should be recharged. All notifications can be disabled remotely without the participant's knowledge.
- Providing any replacement power sources for use with GPS device that fails under normal use.
- Providing multiple, multicolor indicators that can be disabled, and that communicate the following to participant
 1. Six (6) hours of battery life remaining
 2. Two (2) hours of battery life remaining
 3. Charging
 4. Tamper Mode
- Providing a vibrating and audible alarm for participant communication that can be changed remotely.
- Providing a remotely controlled (web based) system to perform at multiple status levels including but not limited to a) Passive, b) Active, c) Others, and will enable Case Worker to increase or decrease the status intensity without needing to change equipment, come in contact with the equipment or the participant, and without alerting the participant to such a change in supervision.
- Pinging the device at any time to receive a current location and status.
- Collecting a tracking point at least once every 30 seconds on Active GPS, and must report information via the cellular network, at least once every three (3) minutes and must report tampering and zone violations immediately.
- Collecting a tracking point at least once every minute on Passive GPS, and must report information via a cellular or landline telephone at least once every thirty (30) minutes. The passive settings can be modified.
- Automatically going into passive mode where cellular service is not feasible.
- Allowing for up to 10,080 points to be stored (7 days with 1 minute reporting) in the internal memory of the bracelet.
- Having one (1) piece body attached GPS devices incorporating a transceiver capable of two-way communication with an optional full feature home monitoring unit (HMU) capable of RF based presence/absence residential tracking within multi-dwelling buildings in/around San Francisco. A full feature HMU will have the following requirements:
 - Dimensions no larger than 3.75" x 7" x 7.75" and will weigh no more than four (4) pounds.
 - Will incorporate non-volatile memory capability of storing 2,500 events with date and time stamp.
 - Will operate from 110VAC commercial electricity and have internal rechargeable batteries backup capable of performing all functions in excess of 50 hours of continuous operation.
 - Will support landline and cellular communications.
 - Will incorporate a transceiver capable of two-way communication with the 1-piece body attached GPS device.

- Will detect and report tampering and motion, as well as, disconnect/reconnect of electrical power and telephone line.
- Will detect if a participant relocates the device after it is initially placed and notifies the case manager.
- Will communicate with participants through the bracelet. All programming and monitoring performed by case manager and SFSD is accomplished through a web based program.
- Will enable Contractor and SFSD through a web based program to remotely and discretely perform the following:
 - Variable range testing
 - Variable range settings (low, medium, high)
 - Variable reporting interval in one (1) hour increments with a default of four (4) hours
 - Pairing with 1-piece body attached GPS device
 - Diagnostic Testing
- Optional - Automatically increasing tracking and reporting intervals on Active GPS at times when in zone breach violation mode and return to the primary Active intervals when leaving zone breach/violation mode.

g. Mobile Breath Alcohol Testing capable of:

- Collecting and reporting a color participant image at time of test for participant verification against a "Master Photo" via an embedded high resolution camera.
- Capable of being lightweight, handheld and mobile with the participant, and to test in all locations; dimensions no larger than approximately 5" x 2.8" x 1.4" weighing no more than 8.4 ounces.
- Utilizing an evidentiary-grade Deep Lung, Dart fuel cell sensor specific to alcohol to perform and measure the exact Breath Alcohol Content (BAC) from participant being tested.
- Confirming the BAC level to the central computer once testing has concluded
- Providing immediate test reporting of participant photo, BAC, and corresponding GPS coordinates via cellular communication. All communication costs are included within the proposed price.

- Continuing to test and store results, along with the date and time of such testing, while in a cellular disadvantaged areas; storing up to 99 tests, enough to test every 4 hours, 24/7 over a 16 day period.
- Continued attempts to report to the Monitoring Center until successful.
- Sending reminder emails or text messages continuously to the participant's phone when testing is required in a cellular disadvantaged area.
- Operating without body attached equipment, home equipment, or home phone line.
- Performing random, scheduled and on-demand testing. Changes can be made by staff remotely without participant interaction.
- Performing tracking of participant location at time of each test via built-in GPS or Cell Tower data, displayed with Google Maps.
- Recharging of re-chargeable Lithium-ion battery within 60 minutes will provide a 25% charge to perform all functions for a 24 to 30 hour period and a 3-hour recharging will provide a full 100% charge.
- Providing capability for Contractor and SFSD staff to communicate to participant via text or email, plus participant acknowledgement of request when test is taken and uploaded.
- Providing multiple methods of guidance and functionality to the participant during the testing process, including the following:
 - Audible prompts for time to test
 - Multiple instructional alpha-numeric display prompts to guide participant through testing.
 - Multi-colored LED indicators
 - Test button
 - Acknowledgement button
 - Front panel lights to ensure quality image
- Providing, at a minimum, the following:
 - Email alerts with numeric BAC reading
 - Device utilizes a cellular system for testing
 - Color facial participant image taken at the time of test
 - Web-based geo-map of participant location at the time of test

h. Continuous Alcohol Monitoring (CAM) via Landline or Cellular capable of:

- Measuring the ethanol concentration in a discrete sample of the ethanol vapor as insensitive perspiration or the unnoticed perspiration that occurs continuously and shall be obtained via body attached device without the need for active participation by the participant, and will be capable of distinguishing between environmental factors and actual consumption.
- Detecting and reporting tampering/removal and be tamper evident via temperature, infra-red, or other methods and tamper capabilities.

- Providing a range of reports and graphs, from a snapshot of a single event to a comprehensive view of an offender's behavior over time.
- Reporting data via landline through a base station that plugs into an analog telephone. There is no additional charge for communication costs.
- Reporting data via cellular through a plug into an electrical outlet, downloading data daily at scheduled time. There is no additional charge for cellular communication.
- Providing for testing to be automatically conducted at fixed intervals set by the Contractor or SFSD staff, as frequently as once every 30 minutes.
- Incorporating ankle worn unit batteries with a minimum 90 days life duration
- Replacing batteries and/or ankle unit small parts (screws, clips, rails, etc.)
- Providing HMUs capable of reporting data via landline phone line.
- Offering an optional companion cellular transceiver (for CAM participants without landline phone lines.)
- Providing CAM device integrating RF presence/absence residential tracking and web-based information system.
- Offering CAM device that can be Peer reviewed, able to withstand judicial scrutiny and meet the 33 Frye Daubert Rulings and Federal Rules of Evidence (FRE) 702 and 703 admissibility standards.
- Providing comprehensive court support, including manufacturer testimony when needed.
- Providing Apple iPads for field enforcement and compliance activities so as not to interfere with the ability of SFSD staff to actively engage participants during enforcement actions, at no cost to SFSD
- Providing tablet app for real time access to GPS monitoring system.
- Remaining current with industry standards and practices for tracking equipment purposes or applications.

Reporting

Contractor shall submit written reports as requested by the San Francisco Sheriff's SFSD. Format for the content of such reports shall be determined by the SFSD. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

SFSD Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the San Francisco Sheriff's Department will be Capt. Kevin Paulson during normal operational hours as defined by SFSD and rotating supervisory staff on off-hours as defined by SFSD.

**Appendix B
Calculation of Charges**

Device	Unit of Measure	Price Per Day
Active Omnilink GPS Participation	Per Inmate, Per Day	\$16.40
Passive Omnilink GPS Participation	Per Inmate, Per Day	\$10.75
Beacon (HMU) via Landline (N/A – beacon included at no additional cost)	Per Inmate, Per Day	\$0.00
Beacon (HMU) via Cellular (N/A – beacon included at no additional cost)	Per Inmate, Per Day	\$0.00
RF/Curfew Participation via Landline	Per Inmate, Per Day	\$10.50
RF/Curfew Participation via Cellular	Per Inmate, Per Day	\$13.50
Soberlink Mobile Breath Testing	Per Inmate, Per Day	\$7.50
SCRAM CAM via Cellular	Per Inmate, Per Day	\$14.50
SCRAM CAM via Landline	Per Inmate, Per Day	\$12.00
Active GPS/SCRAM	Per Inmate, Per Day	\$22.00
Passive GPS/SCRAM	Per Inmate, Per Day	\$19.25
Active GPS/Mobile Breath	Per Inmate, Per Day	\$21.00
Passive GPS/Mobile Breath	Per Inmate, Per Day	\$16.43
SCRAM/RF Landline	Per Inmate, Per Day	\$18.00
SCRAM/RF Cell	Per Inmate, Per Day	\$20.50
* Volume Pricing-Omnalink GPS	More than 50 Units	Less 10%

*Volume Pricing for Omnilink GPS: Less 10%; determined as the average daily population greater than 50 units over one billing cycle.

