



EXECUTIVE SUMMARY

MEETING DATE: November 20, 2023

HCR23-124

SUBJECT: Award of Property Management Services Contract for Kearny Vista Apartments

COUNCIL DISTRICT: 6

ORIGINATING DEPARTMENT: Real Estate

CONTACT/PHONE NUMBER: Emmanuel Arellano (619) 578-7586

REQUESTED ACTION:

Approve an agreement with Hyder & Company for property management services at Kearny Vista Apartments at 5400 Kearny Mesa Road, which the San Diego Housing Commission (Housing Commission) owns. The contract cost for the initial one-year term is \$785,355.72, plus a 20% contingency of \$157,071.14 for a total cost of \$942,426.86. The total cost for a one-year term with four one-year options to renew is \$4,759,539.12, which includes a 20% contingency each year. This includes an annual 3 percent increase in the contracted management fee.

EXECUTIVE SUMMARY OF KEY FACTORS:

- The Housing Commission has a continuing need for property management services for Kearny Vista Apartments at 5400 Kearny Mesa Road, San Diego, 92111, in Council District 6.
- The property consists of 142 permanent affordable rental housing units with supportive services for people who experienced homelessness and two managers' units.
- Property management services include, but are not limited to, leasing units while adhering to Housing Commission policies concerning tenant selection, terminating tenancy while following Housing Commission policies concerning house rules and evictions, performing maintenance of the property, and maintaining accounts and providing reporting for all financial activities related to the property.
- Property Management will partner with the on-site service provider to support and engage with tenants for them to maintain a stable tenancy and prevent lease violations that may jeopardize their housing stability.
- The current contract for property management services expires December 31, 2023. On July 25, 2023, the Housing Commission issued a Request for Proposals (RFP) for Permanent Supportive Housing Property Management Services, seeking well-qualified contractors to operate housing with supportive services at properties the Housing Commission owns.
- One bid was received from Hyder & Company. A responsiveness review was conducted, and the proposal was found to be responsive.
- The evaluation committee reviewed, scored and ranked the responses based on the following criteria: technical capabilities, qualifications and experience, proposed approach, cost, and equity assurance.
- Hyder & Company ranked as a responsive respondent, and after careful consideration, the evaluation committee recommended the award of the contract to Hyder & Company.
- As the incumbent contractor for property management services at Valley Vista Apartments, Hyder & Company has provided professional service to the Housing Commission and the residents of the property.
- The funding source for the property will be the revenue generated by rent collections and is budgeted for \$3,032,368.00 for Fiscal Year 2024.
- Option years will be exercised upon the needs of and at the sole discretion of the Housing Commission.

REPORT

DATE ISSUED: November 14, 2023

REPORT NO: HCR23-124

ATTENTION: Chair and Members of the San Diego Housing Commission
For the Agenda of November 20, 2023

SUBJECT: Award of Property Management Services Contract for Kearny Vista Apartments

COUNCIL DISTRICT: 6

Advance notice of San Diego Housing Commission (Housing Commission) hearing of the following matter has been provided to the Housing Authority Members pursuant to the provisions of San Diego Municipal Code Section 98.0301(e)(4)(A)-(B).

REQUESTED ACTION

Approve an agreement with Hyder & Company for property management services at Kearny Vista Apartments at 5400 Kearny Mesa Road, which the San Diego Housing Commission (Housing Commission) owns. The contract cost for the initial one-year term is \$785,355.72, plus a 20% contingency of \$157,071.14 for a total cost of \$942,426.86. The total cost for a one-year term with four one-year options to renew is \$4,759,539.12, which includes a 20% contingency each year, as allocated below. This includes an annual 3 percent increase in the contracted management fee.

Contract Term	Contract Amount	Contingency	Contract plus Contingency
Year 1 (January 1, 2024 – December 31, 2024)	\$785,355.72	\$157,071.14	\$942,426.86
Year 2, 1 st Option (January 1, 2025 – December 31, 2025)	\$789,189.72	\$157,837.94	\$947,027.66
Year 3, 2 nd Option (January 1, 2026 – December 31, 2026)	\$793,138.74	\$158,627.75	\$951,766.49
Year 4, 3 rd Option (January 1, 2027 – December 31, 2027)	\$797,210.62	\$159,442.12	\$956,652.74
Year 5, 4 th Option (January 1, 2028 – December 31, 2028)	\$801,387.80	\$160,277.56	\$961,665.36
Total Contract Cost	\$3,966,282.60	\$793,256.52	\$4,759,539.12

Option years will be exercised upon the needs of and at the sole discretion of the Housing Commission. Contingency will be used upon the needs of and at the sole discretion of the Housing Commission.

STAFF RECOMMENDATION

That the San Diego Housing Commission (Housing Commission) Board of Commissioners (Board) take the following actions:

- 1) Authorize the Housing Commission to enter into an agreement with Hyder & Company to provide property management services at Kearny Vista Apartments at 5400 Kearny Mesa Road,

which the Housing Commission owns, for a one-year term from January 1, 2024, through December 31, 2024, in the amount of \$785,355.72, with four one-year renewal options, based on the needs of the Housing Commission, with a 3 percent annual increase in the contracted management fee.

- 2) Authorize the President & Chief Executive Officer (President & CEO), or designee, to substitute the funding sources with other available funding sources and/or increase compensation by not more than 20% per year of the total annual agreement amount, if necessary, without further action by the Housing Commission Board of Commissioners or Housing Authority of the City of San Diego, but only if and to the extent that the total program/project budget amount after substitution does not exceed the approved total budget, should the operational need arise or should such actions be to the benefit of the Housing Commission and its mission.
- 3) Authorize the President & CEO, or designee, to execute all document and instruments that are necessary and/or appropriate to implement these approvals, in a form approved by General Counsel, and take such actions as are necessary and/or appropriate to implement these approvals, provided that a copy of the documents, signed as to form by General Counsel, is submitted to each Housing Commissioner.

SUMMARY

The Housing Commission has a continuing need for property management services for Kearny Vista Apartments at 5400 Kearny Mesa Road, San Diego, 92111, in Council District 6. The property consists of 142 permanent affordable rental housing units with supportive services for people who experienced homelessness and two managers' units. Property management services include but are not limited to, leasing units while adhering to Housing Commission policies concerning tenant selection, terminating tenancy while following Housing Commission policies concerning house rules and evictions, performing maintenance of the property, and maintaining accounts and providing reporting for all financial activities related to the property. Property Management will partner with the on-site service provider to support and engage with tenants for them to maintain a stable tenancy and prevent lease violations that may jeopardize their housing stability.

The overall goals of the Permanent Supportive Housing program align with the City's Community Action Plan on Homelessness, the Housing Commissions' Housing First San Diego Homelessness Action Plan, and the County's Live Well, San Diego initiatives to create a client-centered homeless assistance system and increase the production of and access to permanent housing solutions within the City. The Housing Commission has a Memorandum of Agreement (MOA) with the County of San Diego for the resident service component of the Kearny Vista Apartments. The County of San Diego contracts separately with Telecare Corporation to provide on-site supportive services for Kearny Vista residents.

The current contract for property management services expires December 31, 2023. On July 25, 2023, the Housing Commission issued a Request for Proposals (RFP) for Permanent Supportive Housing Property Management Services, seeking well-qualified contractors to operate housing with supportive services at properties the Housing Commission owns. The RFP was posted and made available for download on the Planet Bids website through the Housing Commission's portal. In addition, electronic notices were sent to all property management contractors registered on the Housing Commission's portal, inviting vendors to participate in the RFP. A total of 421 contractors received this notice, and 21 plan holders downloaded the RFP.

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Property Management Services Contract for Kearny Vista Apartments

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Final proposals were due August 15, 2023, and one bid was received from Hyder & Company. A responsiveness review was conducted, and the proposal was found to be responsive.

The evaluation committee reviewed, scored and ranked the responses based on the following criteria: technical capabilities, qualifications and experience, proposed approach, cost, and equity assurance. A copy of the evaluation scoring summary is included as Attachment 1.

Hyder & Company ranked as a responsive respondent and after careful consideration the evaluation committee recommended the award of the contract to Hyder & Company.

As the incumbent contractor for property management services, Hyder & Company has provided professional service to the Housing Commission and the residents of the properties. Housing Commission staff is confident Hyder & Company will continue to provide professional services.

The anticipated on-site staffing composition for Kearny Vista through this contract consists of:

- Property Manager
- Assistant Property Manager
- Residential Laborer (2)
- Office Clerk (1.5)
- Site Cleaner / Custodian

FISCAL CONSIDERATIONS

The funding source for the property will be the revenue generated by rent collections and is budgeted for \$3,032,368.00 for Fiscal Year 2024.

Contract costs are described in five main categories; Staffing, Management Fee, Software, Banking Fee, and Training & Travel. The Management Fee includes an annual three percent (3%) increase.

Cost Category	Year one	Year two	Year three	Year four	Year five
Total Staffing	\$647,958.52	\$647,958.52	\$647,958.52	\$647,958.52	\$647,958.52
Management Fee	\$127,800.00	\$131,634.00	\$135,583.02	\$139,654.90	\$143,832.08
Total Software	\$6,307.20	\$6,307.20	\$6,307.20	\$6,307.20	\$6,307.20
Banking Fees	\$1,440.00	\$1,440.00	\$1,440.00	\$1,440.00	\$1,440.00
Training-Travel	\$1,850.00	\$1,850.00	\$1,850.00	\$1,850.00	\$1,850.00
TOTAL	\$785,355.72	\$789,189.72	\$793,138.74	\$797,210.62	\$801,387.80
3% per year	Year one	Year two	Year three	Year four	Year five
Management Fee	\$127,800.00	\$131,634.00	\$135,583.02	\$139,654.90	\$143,832.08
	\$75/unit	\$77.25/unit	\$79.57/unit	\$81.96/unit	\$84.42/unit

Option years will be exercised upon the needs of and at the sole discretion of the Housing Commission.

EQUAL OPPORTUNITY CONTRACTING AND EQUITY ASSURANCE

Hyder & Company reported that it is committed to equity and inclusion and employs a diverse group of property management professionals who possess the expertise necessary to optimize operations of affordable housing properties. In addition, they have also partnered with ADP and created a toolkit that

shares some internal resources and best practices for advancing racial equity and inclusion as well as providing links to external and trusted resources.

HOUSING COMMISSION STRATEGIC PLAN

This item relates to Strategic Priority Area No. 4 of the Housing Commission's Strategic Plan for Fiscal Year (FY) 2022-2024: Advancing Homelessness Solutions – Supporting the City of San Diego Community Action Plan on Homelessness.

ENVIRONMENTAL REVIEW

Operation of the Permanent Supportive Housing properties is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities), which allows the operation, repair, maintenance permitting, leasing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The properties are existing facilities which will maintain their current use and will not be expanded. Processing under the National Environmental Policy Act is not required as no federal funds are involved in the proposed activities.

Respectfully submitted,



Emmanuel Arellano
Vice President of Asset Management
Asset Management Dept.
Real Estate Division

Approved by,



Jeff Davis
Interim President & Chief Executive Officer
San Diego Housing Commission

Attachments: 1) Evaluation Scoring Worksheet
2) Property Management Agreement

Hard copies are available for review during business hours at the information desk in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101. Docket materials are also available in the "Governance & Legislative Affairs" section of the San Diego Housing Commission website at www.sdhc.org



Evaluator Scoring Worksheet

RFP Evaluation Criteria	Points Available	Evaluator Score
A. Technical	20	
Company provided detailed information regarding the company's technical capabilities to include: <ul style="list-style-type: none"> • Quality, comprehensiveness, and clarity of submitted proposal response; • Statement of its understanding of the work to be performed and the company's ability to carry out the specified Scope of Services; and • Record of completing work on schedule. 		
B. Qualifications & Experience	25	
Provide narrative detailing relevant experience to include: <ul style="list-style-type: none"> • Relevant prior background and/or relevant experience within the past 5 years working on similar scopes of services; • Proposer's relative qualifications and prior experience, industry distinctions, certifications including capability and experience of its key personnel, including their resumes and history of successfully performing similar services; and • Three (3) references of Proposer provided in proposal submittal package with client projects within the past 5 years. 		
C. Proposed Approach	20	
The proposed approach to conducting the solicitation's deliverables, quality and appropriateness of the proposed solutions and services, as well as the ability to meet all Scope requirements including timeliness. Additionally, the following criteria will be evaluated in the Proposed Approach: Proposer is to demonstrate how the proposal will meet all of the Commission's service requirements listed in the Scope of Services.		
D. Cost Proposal	25	
Cost Proposal will be evaluated and scored based on: <ul style="list-style-type: none"> • Itemized budget and a detailed explanation for all costs in relation to evaluated company's experience, qualifications and services offered; • Reasonableness of proposed costs in relation to relevant experience, qualifications, and project approach); 		
E. Equity Assurance	10	
Respondent must demonstrate their experience and commitment to equity & inclusion.		
Total Points	100	

SAN DIEGO HOUSING COMMISSION
AGREEMENT FOR PROPERTY MANAGEMENT SERVICES AT KEARNY VISTA
WITH
HYDER & COMPANY

(More than \$250,000 and Other than Construction or Development)
Contract No. PM-24-05A

This Agreement is entered into this _____ day of _____ 2023,

between the Commission: SAN DIEGO HOUSING COMMISSION
 1122 Broadway, Suite 300
 San Diego, California 92101
 Tel.: 619-231-9400

and the Contractor: HYDER & COMPANY
 1649 Capalina Road, Suite 500
 San Marcos, California 92069
 Tel.: 760-591-9737

Is made in accordance with the following terms and conditions:

101. **Definitions.** When capitalized, the terms used in this Agreement shall have the meanings ascribed thereto by the “Schedule of Definitions,” attached hereto as Attachment A and incorporated herein in full by this reference, and as otherwise defined by this Agreement, unless the context clearly requires otherwise.

102. **Description of Work.** Contractor shall provide services, supplies, and/or materials to the Commission as specified in the Scope of Work.

103. **Term of Agreement.** The term of this Agreement shall be January 1, 2024, through December 31, 2024 (the “Initial Term”), as extended pursuant to this Agreement from time to time.

(a) **Extensions.** Provided that Contractor is not in default under the terms of this Agreement, the Commission may extend the term for one or more periods (each such period, an “Extension Period”) totaling no more than ninety (90) days, in a writing signed by the CEO and delivered to Contractor. No single Extension Period shall be less than seven (7) days. The Commission may not extend the term for an Extension Period earlier than sixty (60) days before nor later than eighty-three (83) days after the then-applicable expiration date of the term.

The Commission shall compensate Contractor during such Extension Period on a *pro rata* basis in accordance with Section 104 as in effect on the date of extension of the term in accordance with this Subsection.

(b) Options. The Commission may also extend the term for four (4) periods (each such one-year period, an "Option Period") by giving written notice thereof to Contractor prior to the expiration of the then-current term of this Agreement. Compensation to Contractor during any Option Period shall be in the amounts and on the same terms and conditions as provided pursuant to this Agreement during the Initial Term.

(c) Additional terms. Nothing contained in this Section shall require the Commission to extend the term of this Agreement. The options to extend the term granted in this Section exist in favor of and for the sole benefit of the Commission and may be exercised in the Commission's sole and exclusive discretion. During any Extension Period or Option Period, all terms and conditions of the Agreement shall remain in full force and effect except as otherwise specified in this Section or any subsequently executed agreement between the Parties.

104. **Compensation**. The Commission shall compensate Contractor for all services performed and/or supplies and materials supplied pursuant to this Agreement in accordance with the Budget and in accordance with the Compensation Terms, which are attached hereto as Attachment D.

(a) Maximum Compensation. Notwithstanding anything in this Section or elsewhere in this Agreement to the contrary, Contractor acknowledges and understands that the Commission shall be under no obligation to compensate or reimburse Contractor for any amounts incurred in excess of Seven Hundred Eighty-Five Thousand Three Hundred Fifty-Five and 72/100 Dollars (\$785,355.72) ("Maximum Compensation") during the Initial Term, or during any Option Period, unless the Budget Terms provide for greater compensation or reimbursement during such Option Period. Further, Contractor acknowledges and understands that it shall bear the sole responsibility for monitoring its expenditures and ensuring that any amounts incurred pursuant to this Agreement do not exceed the Maximum Compensation. In the event Contractor incurs amounts in excess of the Maximum Compensation, Contractor shall bear sole liability for such amounts.

(b) Method of Payment. Except as may otherwise be provided by the Compensation Terms, the Commission will endeavor to pay any invoice within thirty (30) days of submission of such invoice, subject to the approval of all amounts therein by the Commission. At a minimum, each invoice shall (i) reference the Contract Number; (ii) reference any associated purchase order numbers; (iii) describe each service performed and/or supply or material supplied in detail and in accordance with the Scope of Work; (iv) specify the amount charged for each such service, supply, or material; (v) be accompanied by a certification (on or attached to the invoice) that the payment requested is for work performed in accordance with this Agreement; and (vi) contain such other information or certifications as the Commission may specify in writing from time to time. The Commission, in its sole discretion, may elect not to pay any invoice that fails to comply with the requirements of this Subsection.

105. **Necessary Approvals**.

(a) In the event that the initial amount of this Contract exceeds, or a change order increases the amount of this Contract to an amount that exceeds, Two Hundred Fifty Thousand and

No/100 Dollars (\$250,000.00), this Contract must be approved by the Board of Commissioners of the Commission in order to be binding upon the Commission. In no event shall the Commission be bound by this Contract unless and until such approval, if required, is obtained.

(b) In the event that the initial amount of this Contract exceeds, or a change order increases the total amount of this Contract to an amount that exceeds, Five Hundred Thousand and No/100 Dollars (\$500,000.00), this Contract must be approved by the Housing Authority in order to be binding upon the Commission. In no event shall the Commission be bound by this Contract unless and until such approval, if required, is obtained.

106. **Contract Documents.** In addition to this instrument, this Contract includes the Schedule of Definitions, the General Conditions, the Scope of Work, the Compensation Terms, the Prevailing Wage Attachment, and the City of San Diego Provisions, all of which are incorporated herein by this reference, except as to the Prevailing Wage Attachment, which shall only be incorporated in accordance with Section 21 of the General Conditions.

107. **Counterparts; Electronic Execution.** This Agreement may be executed in one or more counterparts and, when and as so executed, all such counterparts taken together shall constitute one and the same agreement. This Agreement may be executed using any “electronic signature” in accordance with California Civil Code section 1633.2.

[Signature Page Follows]

Signature Page to Agreement for Property Management Services at Kearny Vista with Hyder & Company (Contract No. PM-24-05A):

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the day and year first above written, effective as specified in Section 103.

Contractor:

By: _____
Name: Kyle Beach
Title: Vice President

Date: _____

Commission:
San Diego Housing Commission

By: _____
Name: Emily Jacobs
Title: Executive Vice President of Real Estate

Date: _____

By: _____
Name: Emmanuel Arellano
Title: Vice President of Asset Management

Date: _____

By: _____
Name: Debra Fischle-Faulk
Title: Senior Vice President of Compliance and Equity Assurance

Date: _____

Approved as to Form:
Christensen & Spath LLP

By: _____
Name: Charles B. Christensen
Title: General Counsel, San Diego Housing Commission

Date: _____

Attachment A

Schedule of Definitions

1. “Agreement” or “Contract” means the main instrument to which this Attachment A is attached and all exhibits or attachments thereto to the extent the same have been incorporated and as the same may be amended from time to time.
2. “Applicable Law” means all applicable federal, state, and local constitutions, treaties, laws, statutes, ordinances, regulations, rules, orders, decrees, permits, resolutions, requirements, and policies of the United States of America, the State of California, the City, the Commission, or any other governmental authority of competent jurisdiction.
3. “Authority” means the Housing Authority of the City of San Diego.
4. “Budget” shall have the meaning ascribed thereto by the Budget Terms.
5. “Budget Terms” means the terms and conditions specified in Attachment D to the Agreement.
6. “CEO” means the Chief Executive Officer of the Commission or the CEO’s lawful designee.
7. “City” means the City of San Diego.
8. “City of San Diego Provisions” means the terms and conditions specified in Attachment F to the Agreement.
9. “Claims” means damages, liabilities, claims, fines, fees, costs, penalties, judgments, complaints, causes of action, actions, and demands, including, without limitation, demands arising from injuries to or death of persons (including Contractor’s employees, agents, and subcontractors) and damage to real or personal property, or any other losses, damages, or expenses.
10. “Commission” means the San Diego Housing Commission. When this Agreement specifies an action to be taken or withheld by the Commission, “Commission” shall include the authorized officers, employees, and agents of the Commission.
11. “Conflict” means circumstances, known to the Contractor, that would conflict with Contractor’s performance of the terms of this Agreement or place the Commission and a prospective client of Contractor in adverse, hostile, or incompatible positions wherein the interests of the Commission, the Authority, or the City may be jeopardized.
12. “Contract Number” means the number specified next to the phrase “Contract No.” at the top of this Agreement.
13. “Contractor” means the Party other than the Commission identified above, and, unless the context requires otherwise, such Party’s officers, directors, members, managers, partners, limited

partners, employees, agents, and subcontractors.

14. “Extension Period” shall have the meaning ascribed thereto by Section 103(a).
15. “General Conditions” means the terms and conditions contained in Attachment B to the Agreement.
16. “HUD” means the United States Department of Housing and Urban Development and any successor agency thereto.
17. “Indemnitee” means the Commission, the Authority, the City, or any commissioner, officer, employee, member, council member, or agent thereof.
18. “Inspecting Agency” means the Commission and any of its duly authorized representatives.
19. “Initial Term” shall have the meaning ascribed thereto by Section 103.
20. “Maximum Compensation” shall have the meaning ascribed thereto by Section 104.
21. “Option Period” shall have the meaning ascribed thereto by Section 103(b).
22. “Parties” means the Commission and Contractor, collectively, and “Party” means either of the Parties, individually.
23. “Project Records” means all administrative and financial records required to be prepared or gathered by Contractor pursuant to this Agreement, including, but not limited to, all books, papers, invoices, receipts, accounting records, payroll records, personnel records, designs, plans, reports, financial disclosures, audits, other disclosures, certifications, investigations, videos, work product, and any other documents, data, and records pertaining to this Agreement.
24. “Scope of Work” means the terms and conditions specified in Attachment C to the Agreement.

Attachment B

General Conditions

1. **Status of Contractor.** Contractor acknowledges that Contractor is an independent Contractor and is not an agent or employee of the Commission, the Authority, the City, HUD, or any other governmental authority.

(a) Any term of this Agreement that could be construed to give the Commission a right to direct Contractor concerning the details of performing its obligations and duties hereunder or to exercise any control over such performance shall be construed to pertain only to the Commission's direction concern the expected results of performance under this Agreement.

(b) Contractor shall have no authority to bind the Commission in any manner or to incur any obligation, debt, or liability of any kind, on behalf of or against the Commission, whether by contract or otherwise, unless such authority is expressly granted pursuant to this Agreement or in a writing signed by the Commission.

2. **Designated Representative.** Contractor shall designate a representative with the authority to bind Contractor with respect to decisions to made pursuant to this Agreement. Contractor may designate a new representative upon ten (10) days written notice to the Commission.

3. **Ownership of Materials and Documents.** Any and all sketches, drawings, and other materials or documents prepared by Contractor pursuant to or in connection with this Agreement shall be the property of the Commission from the moment of their preparation, and Contractor shall deliver such materials and documents to the Commission whenever requested to do so by the Commission. Contractor shall have the right to make duplicate copies of such materials and documents for its own file or for other purposes in compliance with Section 4.

4. **Non-disclosure.** The designs, plans, reports, investigations, materials, and documents prepared or acquired by Contractor pursuant to this Agreement (including any duplicate or electronic copies however and wherever stored) shall not be disclosed to any non-party, except as previously authorized by the Commission in writing. Furthermore, Contractor shall not disclose to any nonparty any information regarding the activities of the Commission during the term of this Agreement or at any time thereafter except as previously authorized by the Commission in writing. Contractor shall use reasonable care to prevent the unauthorized disclosure of information subject to this Section. If requested by the Commission, Contractor shall negotiate the terms of and enter into a formal non-disclosure agreement with the Commission in form and substance reasonably satisfactory to the Commission.

(a) **Exception.** Nothing in this Section shall apply to the disclosure of any information that:

- (i) was publicly known, or otherwise known to Contractor, at the time the information was first provided to Contractor by the Commission;
- (ii) subsequently becomes publicly known through no act or omission of Contractor;

(iii) becomes known to Contractor from a third party other than the Commission, provided Contractor has not induced such disclosure in violation of law or in breach of any agreement of such third party with the Commission if such agreement was known to Contractor or should have been known to Contractor through the exercise of due diligence;

(iv) is considered a public record pursuant to the California Public Records Act, codified at California Government Code sections 6250 et seq.; or

(v) is required to be disclosed pursuant to law or a court order, provided that Contractor gives notice of such requirement to the Commission prior to such disclosure, if permitted by law; such shall be reasonably calculated to allow the Commission to seek a protective order or other appropriate legal protection against disclosure prior to the disclosure.

5. **Contractor's Indemnification Liability.** Contractor agrees to and shall indemnify, hold harmless, and defend, with counsel of Indemnitees' choosing, at Contractor's sole cost and expense, Indemnitees from and against any and all Claims arising directly or indirectly out of the acts or omissions of Contractor (irrespective of culpability), all obligations of this Agreement, or out of the operations conducted by Contractor pursuant to this Agreement, including, but not limited to, those in part due to the negligence of any of Indemnitees, except as to liabilities, claims, judgments or demands arising through the sole negligence or more culpable act or omission of any Indemnatee.

6. **Insurance Requirements.** Contractor shall not commence work until Contractor has obtained, at its sole cost and expense, all insurance required pursuant to this Section and comply with the other requirements of this Section.

(a) **Requirements for All Policies.** All commercial general liability, commercial automobile liability, and errors and omissions insurance policies required pursuant to this Section shall comply with the following:

(i) Each policy shall contain an endorsement stating that the policy may not be cancelled or materially altered or amended except upon written notice to the Commission via certified mail, deposited at least thirty (30) days prior to the effective date thereof.

(ii) Each policy shall contain an endorsement adding the Commission, the Authority, and the City, and their respective elected and appointed officials, officers, agents, employees, and representatives as additional insureds.

(iii) Each policy shall contain an endorsement stating it is primary and non-contributory to any insurance that may be carried by the Commission, the Authority, or the City.

(iv) Each policy shall contain an endorsement waiving subrogation against the Commission, the Authority, and the City, and each of their respective elected or appointed commissioners, officers, employees, members, council members, or agents for losses paid by Contractor's insurers that arise out of or in relation with Contractor's performance under this Agreement.

(v) No policy may contain an endorsement or other language limiting liability in scenarios in which an insured has a dispute with another insured or limiting contractual liability.

(b) Commercial General Liability Insurance. At all times during the term of this Agreement, Contractor shall maintain commercial general liability insurance, written on an ISO occurrence form CG 00 01 07 98, or an equivalent form providing coverage at least as broad, which shall cover liability arising from any and all personal injury, bodily injury, and property damage in the amount of at least \$1,000,000 per occurrence, subject to an annual aggregate of at least \$2,000,000. In addition to the endorsements required by Subsection (a), the policy shall contain an endorsement excluding all costs of defense from the policy limits.

(c) Commercial Automobile Liability Insurance. At all times during the term of this Agreement, Contractor shall maintain commercial automobile liability insurance for all of Contractor's automobiles (including owned, hired, and non-owned automobiles) that will be used in the performance of Contractor's duties and obligations pursuant to this Contract, written on an ISO form CA 00 01 12 90 or later version of this form, or an equivalent form providing coverage at least as broad, which shall cover liability arising from any and all personal injury, bodily injury, and property damage, with a combined single limit of at least \$1,000,000 per occurrence. The insurance policy shall reflect coverage for any automobile ("any auto").

(d) Errors and Omissions Insurance. At all times during the term of this Agreement, Contractor shall maintain errors and omissions liability insurance in the amount of at least \$1,000,000 per occurrence.

(e) Workers' Compensation Insurance. At all times during the term of this Agreement, Contractor shall maintain workers' compensation insurance for Contractor's employees who perform Contractor's duties and obligations under this Agreement, to the extent and in the minimum amount required by the California law, with a minimum of \$1,000,000 of employer's liability coverage.

(f) Additional Requirements. In addition to the foregoing requirements, Contractor shall comply with the following requirements:

(i) Carriers. All carriers shall have a rating of "A-" or better as determined by A.M. Best Company, Inc.'s Financial Strength Ratings, shall be licensed to do business in the State of California, and shall be subject to the approval of the Commission. The Commission will accept non-admitted "surplus lines" carriers only if licensed to do business in the State of California and listed on the current "List of Approved Surplus Lines Insurers" maintained by the California Department of Insurance.

(ii) Certificate Holders. The Commission, the Authority, and the City shall be named as certificate holders on all insurance policies.

(iii) Timing. All insurance required by this Section must be bound and evidenced by certificates of insurance delivered to the Commission prior to the commencement of the Initial Term and shall remain in full force and effect during the entire term of the Agreement, as extended from time to time, and for such term thereafter as the Commission may reasonably specify.

(iv) Deductibles. All deductibles and retentions shall be Contractor's sole responsibility.

(v) No Limitation on Liability. Contractor's liability shall not be limited in any way as a result of the insurance policies required by this Section.

(vi) No Increased Exposure. Contractor shall not modify any policy or endorsement required by this Section if doing so would increase the Commission's exposure to loss during the term of this Agreement.

(vii) Additional Insurance. Contract may obtain additional insurance not required by this Agreement.

(viii) Expiration. Prior to the expiration of an insurance policy required by this Section, Contractor shall provide the Commission with certificates evidencing that new or extended policies have been obtained that continue to meet the requirements of this Section. Contractor shall provide all endorsements for any new or extended policy within fifteen (15) days of the expiration date of such policy's predecessor.

(g) Commission Review of Policies. Upon the Commission's request, Contractor shall promptly submit to the Commission a copy of any policy required by this Section. If the Commission determines that any such policy is insufficient in light of the risk posed by Contractor's performance under the Agreement and in consideration of any change in relevant circumstances, the Commission may unilaterally amend this Agreement to add new coverages, increase coverage limits, reduce deductibles and retentions, or add or remove endorsements, as determined in the Commission's reasonable discretion, and Contractor shall comply with any the Agreement as amended.

7. Insurance Proceeds. If Contractor receives insurance proceeds when property owned or provided by the Commission, or procured using funds provided pursuant to this Agreement, has been lost or damaged by fire, casualty, or natural disaster, Contractor agrees to apply those proceeds to the cost of replacing such property.

8. Casualty, Fire, Natural Disaster, and Misused Property. When property owned or provided by the Commission, or property procured using funds provided pursuant to this Agreement, is lost or damaged by fire, casualty, or natural disaster, the fair market value shall be calculated on the basis of the condition of such property immediately before the fire, casualty, or natural disaster, irrespective of the extent of insurance coverage. If any damage to such property results from Contractor's acts or omissions, Contractor agrees to restore the such property to its original condition.

9. **Correction of Work.** Performance of the terms of this Contract shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the Commission, provided such work is due to the acts or omissions of Contractor and has not been accepted in writing by an authorized representative of the Commission.

10. **Compliance with Laws and Policies.** Contractor shall comply with Applicable Law. In addition, Contractor shall immediately comply with all directives issued by the Commission or the City, or their duly authorized representatives, under authority of any Applicable Law. Failure by Contractor to comply with Applicable Law shall be deemed a material breach of this Agreement and shall be grounds for the Commission to terminate this Agreement immediately upon written notice to Contractor.

11. **California Equal Opportunity Requirements.** During the performance of this Contract, Contractor agrees as follows:

(a) Contractor and its subcontractors shall not deny this Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

(b) Contractor shall comply with the provisions of the Fair Employment and Housing Act (Cal. Gov. Code § 12900 et seq.), the regulations promulgated thereunder (2 C.C.R. §§ 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the California Government Code (Gov. Code, §§ 11135-11139.5), and any regulations or standards adopted by the Commission to implement such article

(c) Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the Commission upon reasonable notice at any time during normal business hours, but in no case upon less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as either shall require to ascertain compliance with this clause.

(d) Contractor and its subcontractors shall give written notice of their obligations under this Section 11 to labor organizations with which they have a collective bargaining or other agreement.

(e) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract.

12. **Records.** Contractor shall take reasonable measures to maintain the integrity and accuracy of Project Records and shall comply with the terms of this Section.

(a) **Accounting Records.** In accordance with generally accepted accounting principles maintained on a consistent basis, Contractor shall maintain full and complete records of the cost of services performed pursuant to this Agreement, utilizing internal controls and maintaining appropriate source documentation for all costs incurred.

(b) **Inspection and Photocopying.** At any time during normal business hours and as often as requested, during the term of this Agreement for so long as storage is required pursuant to Subsection (d) below, Contractor shall permit any Inspecting Agency to inspect and photocopy, at Contractor's offices or such other reasonable location requested by any of the foregoing, all Project Records for the purposes of making audits, examinations, excerpts, and/or transcriptions, as well as monitoring and evaluating Contractor's performance of its obligations and duties under this Agreement. An Inspecting Agency may retain copies of Project Records if the Inspecting Agency deems such retention necessary in its sole discretion.

(c) **Copies of Records.** Upon any request by an Inspecting Party for copies of Project Records, Contractor shall submit exact duplicates of the originals of the requested Project Records to the such Inspecting Party for the purposes described above in Subsection (b).

(d) **Storage.** Contractor shall store all Project Records for a period of not less than five (5) years after the Contractor's final submission of all required reports under this Agreement, or five (5) years after the Commission and Contractor make all final payments, or until all pending matters including audits and litigation have been finally resolved, whichever period is longest. All Project Records shall be kept at the Contractor's regular place of business. After the storage period has expired, Contractor shall provide each Inspecting Agency with thirty (30) calendar days written notice of Contractor's intent to dispose of any Project Records. During such 30-day period, Contractor shall provide any and all Project Records to any Inspecting Agency upon such Agency's request, and Contractor shall refrain from disposing of specified Project Records if requested by any Inspecting Agency.

(e) **Flow Down.** Contractor shall include the terms of this Section, including the terms of this Subsection, in each of its subcontracts and shall cause each of its subcontractors to do the same.

13. **Subcontracting.** No performance required of Contractor by this Agreement may be subcontracted without the prior written approval of the Commission, which it may withhold in its sole and absolute discretion. Any putative subcontracting of Contractor's rights, obligations, and/or duties under this Agreement shall not create a contractual relationship between the Commission and any putative subcontractor, and any such subcontracting shall be null and void. Any subcontracting in violation of this Section shall be grounds for immediate termination of this Agreement upon written notice to Contractor, at the sole discretion of the Commission.

(a) **Requesting Consent.** In order to obtain consent to subcontract, Contractor shall submit to the Commission a list of all potential subcontractors and a description of work to be performed by each subcontractor. Once this list has been approved, no changes to the list will be allowed

except upon written approval of the Commission.

(b) Contractor's Liability. Contractor shall be fully liable for the acts and omissions of its subcontractors, and their employees, agents, and Contractor, as though such acts and omissions were those of Contractor itself.

14. Assignment. Contractor shall not assign or transfer any interest in this Agreement (whether by assignment or novation) without the express prior written consent of the Commission. Notwithstanding the foregoing, no such approval shall be required for the assignment of claims for money due or to become due to Contractor from the Commission to a bank, trust company, or other financial institution, or to a receiver or trustee in bankruptcy, but Contractor shall promptly provide written notice thereof to the Commission.

15. Preference for Domestic Materials. Except as otherwise provided by California Government Code sections 4300 et seq., wherever possible in the performance of this Agreement, only unmanufactured materials produced in the United States, and only manufactured materials manufactured in the United States, substantially all from materials produced in the United States, shall be used in the performance of the Agreement.

16. Preparation of Written Reports or Documents. Provided that the total cost for work performed by Contractor pursuant to this Agreement exceeds \$5,000, any document or written report prepared in whole or in part by Contractor for or under the direction of the Commission shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report. The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

17. Termination. The Commission may terminate this Agreement, in whole or in part, effective thirty (30) days after delivering written notice to Contractor, if the Commission determines such termination is in the Commission's interest. If this Agreement is terminated, the Commission shall be liable only for amounts due for services, supplies, and/or materials rendered and/or supplied before the effective date of such termination. Additionally, the Commission may terminate this Agreement immediately upon written notice to Contractor as a result of cessation of funding of or lack of adequate appropriations for any federal, state, or local program that provides funds used by this Agreement. The termination rights in this Section are in addition to and cumulative with any other rights of termination located elsewhere in this Agreement.

18. Patents and Copyrights. The Commission hereby reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for government purposes, any patents and copyrights in any work developed under this Agreement.

19. Drug-free Workplace. Contractor certifies to the Commission that it will provide a drug-free workplace and will:

(a) Publish a statement notifying its employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance as defined in schedules I-V of section 202 of the federal Controlled Substance Act is prohibited in Contractor's workplace; such

statement shall specify the actions that will be taken against employees for violation of such prohibition.

(b) Establish a drug-free awareness program to inform employees about all of the following:

- (i) The dangers of drug abuse in the workplace.
- (ii) Contractor's policy of maintaining a drug-free workplace.
- (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
- (iv) The penalties that may be imposed upon employees for drug abuse violations.

(c) Post the statement required by Subsection (a) in a prominent place at Contractor's main office and at any job site large enough to necessitate an on-site office.

20. **Plan of Operations.** Contractor shall submit to the Commission a complete plan of operations. Contractor shall promptly notify the Commission of any changes to the plan of operations.

21. **Labor Law.** Contractor shall be fully aware of and shall comply with each and every requirement of federal, state, and local law regarding the provision of labor concerning this Agreement, including but not limited to, the payment of applicable prevailing wages, if either or both boxes are checked below. In the event both boxes are checked below, Contractor acknowledges that it is solely responsible for determining which prevailing wage terms apply to the work performed under this Agreement.

☒ If checked, additional state prevailing wage terms are contained in Attachment E, which is hereby incorporated in this Agreement in full by this reference.

☐ If checked, additional federal prevailing wage terms are contained in Attachment E, which is hereby incorporated in this Agreement in full by this reference.

22. **Entire Agreement.** This Agreement represents the sole and entire Agreement between the Commission and Contractor and supersedes all prior and contemporaneous negotiations, representations, agreements, arrangements, or understandings, either oral or written, between or among the Parties, relating to the subject matter of this Agreement, except as expressed herein. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each Party.

23. **Waiver.** No failure of a Party to insist upon the strict performance by the other Party of any term, covenant, or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any term, covenant, or condition of this Agreement, shall constitute a waiver of any such breach of such term, covenant, or condition. No waiver of any breach shall affect or alter this Agreement.

24. **Successors in Interest.** The rights, duties, and obligations of this Agreement shall inure to the benefit of the Parties and their respective permitted successors and assigns.

25. **Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiation of the terms, covenants, and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each Party participated in the negotiation or drafting of the Agreement.

26. **Signing Authority.** Each individual executing this Agreement on behalf of an entity represents and warrants that such individual is authorized to execute and deliver this Agreement on behalf of such entity in accordance with duly adopted resolutions or other authorizing actions that are necessary and proper under such entity's governing documents, and that this Agreement is binding upon such entity in accordance with its terms. Upon request, Contractor shall provide the Commission with evidence, satisfactory to the Commission, that such individual's authority is valid and that such entity has been duly formed and is in good standing in the jurisdiction of its formation, and that such entity is authorized to do business in the State of California.

27. **Conflict Between Agreement and Attachments.** To the extent that the terms of the Agreement and the attachments conflict, the construction most favorable to the Commission shall apply.

28. **Partial Invalidity.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

29. **Governing Law; Jurisdiction and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its principles regarding the conflict of laws. The courts of the State of California shall have exclusive jurisdiction over any dispute, claim, or matter arising out of or related to this Agreement, and venue shall lie exclusively in the Central Division of the Superior Court of the County of San Diego, California.

30. **Headings.** All headings in this Agreement are for convenience only and shall not affect the interpretation or construction of this Agreement.

31. **Attorney's Fees and Costs.** In any action involving breach, interpretation, and/or enforcement of the terms of this Agreement, the prevailing party shall be entitled to its costs, expert witness fees, if any, and reasonable attorneys' fees.

32. **Remedies Upon Default.** The failure of Contractor to perform each and every covenant of Contractor in a timely manner, and in a good and workmanlike manner, and in strict compliance with the requirements of the Scope of Work (which, in the case of goals and outcomes shall be construed to require good-faith efforts to meet such goals and outcomes), shall constitute a breach under the terms of the Agreement. For any breach that does not jeopardize the health, safety, or

general welfare of Contractor's clients or members of the public, the Commission shall give seven (7) days written notice to Contractor, detailing the nature of such breach and requiring Contractor to cure such breach within such seven-day period. In the event that such a breach is not timely cured, the Commission shall have all remedies available at law or in equity, including, without limitation, the right to terminate the Contract, the right to cause another Contractor or the Commission to take over the duties under the terms of the Contract, the right to sue for damages, specific performance or injunctive relief, and any other remedies available at law or in equity. In the event that the health, safety, or general welfare of Contractor's clients members of the public is jeopardized, the Commission shall have the right to terminate the Agreement immediately upon written notice to Contract. In addition, in the event of an uncured breach or a breach without the right to cure, the Commission shall have the right to recoup any and all funds that may have been advanced to the Contractor and that have not been earned.

The failure of the Commission to make a timely payment to Contractor under this Agreement shall constitute a breach under the terms of the Agreement. Contractor shall give seven (7) days written notice to cure any such breach to the Commission. In the event that the breach is not cured, Contractor shall have the right to terminate this Agreement.

33. **Notices.** All notices required or permitted to be given by a Party pursuant to this Agreement shall be deemed delivered (i) immediately upon receipt if delivered personally, (i) the next business day if delivered to a nationally recognized overnight carrier with charges prepaid prior to the cutoff for next-day delivery specified by such carrier, or (ii) three (3) business days the date of deposit with the United States Postal Service for delivery via certified mail, postage prepaid, return receipt requested, and in all cases addressed to the other Party at such Party's addresses as set forth at the beginning of this Agreement, or at such other address as such Party shall designate in writing to the other Party by written notice given as specified in this Section from time to time.

34. **Audit Requirements.** Contractor shall comply with the audit requirements of 2 C.F.R. pt. 200, as amended, if no audit requirements are specified in the award of the Contract. Otherwise, Contractor shall comply with the audit requirements specified in the award of the Contact.

35. **Contractor Evaluation Program.** An essential component of public works contract administration is the regular evaluation and documentation of Contractor performance. During the course of the Agreement, the Commission shall conduct performance evaluations to document Contractor's record of complying with the terms of the Agreement. The Commission shall proactively monitor and manage the performance of Contractor during the term of the Agreement and shall create an objective record of performance that can and may be utilized when evaluating Contractor as a responsible bidder for future bid and proposal submissions, extension or renewal consideration, or termination due to unsatisfactory performance. Contractor evaluation program and appeal procedures are located on the Commission's website at <https://www.sdhc.org/doing-business-with-us/contracting-and-procurement-services/vendor-information/>, as amended from time to time, and are incorporated herein in full by this reference.

36. **Interests of Current or Former Commissioners, Officers, and Employees.** No commissioner, officer, or employee of the Commission, no member of the governing body of the locality in which the work performed pursuant to this Agreement is situated, no member of the

governing body in which the Commission was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the assignment of such work, shall, during such person's tenure, or for one (1) year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof. Any violation of this Section shall result in unilateral and immediate termination of this Agreement by the Commission upon written notice to Contractor.

37. **Conflicts of Interest; Disclosure of Economic Interests.** Contractor and its subcontractors shall comply with all applicable federal, state, and local conflict of interest laws and regulations, including, but not limited to, the Commission's Conflict of Interest Code (for purposes of this Section only, the "Code"), a current copy of which may be requested from the Commission. In addition to the other requirements of the Code, and subject to the Commission's determination in writing in accordance therewith, Contractor shall cause each of its officers, directors, partners, limited partners, members, managers, employees, and agents that is determined to be a "consultant" pursuant to the Code to file a completed and executed Statement of Economic Interests (Form 700) with the City's Clerk's Office at the following times:

- (a) No later than thirty (30) days after the execution of this Agreement;
- (b) Annually on or before April 1 of each year;
- (c) Within thirty (30) days after full performance of this Agreement, as determined by the Commission in its sole discretion;

Contractor shall cause each designated consultant to email a copy of each filed Form 700 to Cassie Li, Paralegal at cassiel@sdhc.org within five business (5) days of filing.

Contractor shall provide all assistance requested by the Commission to determine whether any of the above-specified individuals qualifies as a "consultant." Additionally, upon the cessation of a consultant's legal relationship with Contractor, Contractor shall notify such consultant of the consultant's responsibility to file a Form 700 with the City's Clerk's Office within thirty (30) days of such termination or expiration.

Any violation of the Code or this Section shall be deemed a material breach of this Agreement and shall entitle the Commission to terminate this Agreement immediately upon written notice to Contractor.

38. **Procedure for Handling Conflicts of Interest.** Except upon the prior, written consent of the Commission, which it may withhold in its sole and absolute discretion, and in compliance with the other terms of this Section, Contractor shall not perform services of any kind for any person or entity during the term of this Agreement if so doing appears reasonably likely to result in a Conflict. Notwithstanding the foregoing, this Section shall not apply to any of Contractor's business arrangements with clients that began prior to the execution of this Contract.

- (a) **Meet and Confer.** Contractor shall promptly notify the Commission in writing in the event a Conflict appears reasonably likely. Thereafter, Contractor shall meet and confer with the

Commission to agree upon terms to apply to its arrangements with an affected prospective client, and/or its arrangements with the Commission, in order to continue to perform services for such client and the Commission without compromising the interests of either. Should no agreement regarding modification be reached within a reasonable time thereafter, or should the prospective client refuse to agree to such modification, the Commission may terminate this Agreement immediately upon written notice to Contractor.

(b) When Consent Is Given. If and when the Commission has consented as provided above in this Section, Contractor shall use best efforts to avoid performance on behalf of the affected client that would in any manner undermine Contractor's effective performance of the terms of this Agreement. Contractor agrees to alert every prospective client for whom consent to a Conflict is required to the existence of the terms of this Section and to include language in its agreement with such client that will enable Contractor to comply fully with such terms.

(c) Termination. Failure to follow the procedures of this Section shall entitle the Commission to terminate this Agreement immediately upon written notice to Contractor. Additionally, the Commission may unilaterally and immediately terminate this Agreement upon written notice to Contractor if Contractor employs an individual who, within twelve (12) months immediately preceding such employment, in their capacity as a Commission employee, participated in negotiations with or otherwise had an influence on the selection of the Contractor.

Attachment C Scope of Work

Contractor will operate housing with supportive services at Kearny Vista Apartments, 5400 Kearny Mesa Road, San Diego, CA 92111 (Property).

The Property is a permanent supportive housing property. It is open to persons experiencing homelessness (or Category 1 as defined by HUD) in the City of San Diego (City). Referrals and prioritization of available units will be conducted by the County of San Diego Behavioral Health Services (BHS) using the Coordinated Entry System as established by the Regional Task Force on Homelessness. Residents will be able to access BHS supportive services, short-term case management/care coordination, and professional property management operations by Contractor.

MINIMUM REQUIREMENTS

OPERATIONS

Contractor will oversee the effective and efficient day-to-day operation, management, and maintenance of the Property. This includes, but is not limited to:

- Lease up.
- Collect and deposit rent, security deposits and any property fees.
- Show rental units, fill vacancies in coordination with the contracted social service provider to request referrals and complete eligibility packets consistent with the Coordinated Entry System, as applicable.
- Conduct routine maintenance and repairs.
- Provide preventative maintenance and planned capital improvements.
- Ensure housing is decent, safe, and sanitary and meets all applicable codes and HUD-required standards.
- Prepare annual budget for owner review and approval.
- Provide monthly operating financial statements and yearend statements and coordinate with ownership on the annual audit process.
- Provide monthly oversight of operations budget to include revenue, expenses, application of subsidies, etc. with variances and projected variances reported to ownership.
- Provide monthly reporting of operational cash with requests submitted for additional cash 90-120 days in advance of projected need.
- Provide lease enforcement and lease terminations.
- Respond to tenant requests, complaints and grievances.
- Process reasonable accommodations.
- Procure of service and vendor contracts for needed repairs or maintenance.
- Manage vendors as needed for work at the Property site including any applicable security vendor
- Provide compliance and oversight for all Wage and Labor compliance requirements to include 3rd party vendors.
- Effectively monitor, track, and report on contract capacity for all 3rd party repair, maintenance, and service agreements.
- Coordinate extensively with service provider to ensure residents comply with tenancy

requirements and mitigate the potential for lease violations.

- Coordinate onsite lender, investor and owner site, unit and file inspections as requested and/or required.
- Adhere to all federal, state and local laws that govern the operations of the property including but not limited to Fair Housing, Landlord-Tenant Laws and any funding regulations specific to the Property.
- Escalate vendor, Property, and resident-related issues. Present recommendations to and partner with owner on solutions for operational issues.
- Report incidents to owner within 24 hours of occurrence .

Additionally, Contractor will work with the third party supportive services contractor, which includes, at minimum, formal monthly meetings to support tenants in remaining stably housed. The service provider supports residents with achieving and maintaining housing stability with a focus on preventing returns to homelessness. This is accomplished through the provision of appropriate levels of case management combined with linkages to critical services such as mental health services, healthcare services, behavioral health care, and substance use services. The service provider also coordinates extensively with Contractor to ensure residents comply with tenancy requirements and mitigate the potential for lease violations. The service provider addresses any issues directly with the resident in a solutions-focused manner. Notably, the service provider serves as a liaison with neighboring businesses to address community concerns and action resolutions in an effort to create a positive experience for all community stakeholders.

Depending on the Property's governing restrictions and regulatory agreements, units will be leased to tenants receiving Section 8 Project Based Vouchers, Section 8 Sponsored Based Vouchers, Section 8 Housing Choice Vouchers, Low Income Housing Tax Credit (LIHTC) or Area Median Income (AMI) qualified tenants. Contractor will certify and recertify tenants following procedures required by the U.S. Department of Housing and Urban Development ("HUD"), California Tax Credit Allocation Committee (CTAC) or the Commission, as applicable.

Contractor will ensure all rental units within the Property meet all applicable Housing Quality Standards (HQS).

Contractor will develop a Program Plan ensuring the physical, financial, and social well-being of the Property. At minimum, the Program Plan will address the following property management considerations:

- Management
 - Comprehensive Property Management Policies and Procedures
 - Role and responsibility of Contractor
 - Personnel policy and staffing arrangements
 - Accounting records, including timely accruals and purchase orders at the time of expense, not receipt of invoice.
 - Plan for updating the Program Plan
 - Insurance as related to vendors/subcontractors utilized for work performed at the properties.

- Reporting
- Record retention
- Compliance with Fair Housing requirements
- ADA compliance
- General Maintenance and repairs
- Crisis Response and Emergency Plan. Contractor will arrange for all property management (PM) staff working onsite at property to undergo training, arranged by Contractor, in the areas of Psychiatric Emergency Response Team (PERT) and/or Preventing and Responding to Assaultive Behavior (PRAB). Refresher trainings should be conducted annually similar to fair housing training/certification.
- Foreign Language Access Plan
- Occupancy
 - Procedures for achieving and maintaining occupancy.
 - Procedures for affordable housing requirements
 - Rent collections and any other applicable tenant charges (i.e., damages, fines, etc.). including collection process related to bad debt/balances written off and submission of balances to third party collection agency.
 - Procedures for appeals, grievances, and evictions
 - Procedures for processing reasonable accommodations
 - Resident management relations
- Maintenance policies and procedures
- Affirmative Marketing Plan (“Marketing Plan”)
 - Tenant selection procedures that are consistent with the Fair Housing Act and Fair Employment and Housing Act.

Marketing Plan will include a description of how Contractor will address racial equity and inequities for the target population, including any local disproportionate impact of the COVID-19 pandemic and homelessness by race and other protected classes. This should include supporting evidence of the strategies’ effectiveness, if available.

Contractor will provide a Program Plan including the Marketing Plan to the Commission for review and approval within 30 days of the execution of this Agreement.

Minimum staffing requirements for Contractor may include but are not limited to the following depending on needs determined by the Commission:

- On-Site Property Manager
- On-Site Assistant Property Manager
- Maintenance Supervisor/Laborer – or as otherwise determined by the Commission in alignment with any and all wage and labor requirements
- Maintenance Technician/Laborer – or as otherwise determined by the Commission in alignment with any and all wage and labor requirements
- Janitors

Contractor will provide details about all positions charged to the Property, including rates, anticipated work hours, overtime rates and anticipated overtime hours, all bonuses, benefits, etc.

Meetings. Contractor will be available for an initial job meeting with the Commission at which the parties will review all Property use rules and applicable Commission policies and procedures. Unless otherwise determined by the Commission, Contractor and Commission staff will have regular meetings in order to, among other things, review building management progress and quality of work, identify and resolve any problems, maintain a sound working relationship and mutual understanding of this Agreement and formulate and maintain operating procedures for the Property.

Transition Plan. Contractor will coordinate an orderly transition with any future property management contractor selected at the completion of this Agreement (including possible future extensions in the Commission's sole option). The Commission will coordinate with Contractor a two (2) week consulting period with any future property management contractor to allow for transfer of information.

3. ADMINISTRATION & POLICY.

Contractor will adhere to all applicable Commission policies including, but not limited to tenant selection criteria, house rules, eviction, management/marketing plan, lease provisions/amendments, rent collection, maintenance, and procurement. Contractor will collaborate with the Commission to develop the policies, procedures, and plans (including the Program Plan and Marketing Plan) to ensure adherence to Commission requirements and applicable laws and regulations, and state prevailing wage laws for personnel and contracted work.

4. PERSONNEL PROCEDURES.

Contractor will adhere to state prevailing wage laws where applicable. Contractor will retain the services of a labor compliance consultant as needed to ensure internal operations comply with state prevailing wage laws and Commission reporting requirements.

Contractor will have one to two on-site staff at the Property. The Property Manager, Assistant Property Manager, or Maintenance Tech will reside at the Property in pre-designated units and remain available on an emergency basis. Hiring decisions will be reviewed with Commission before making final job offer.

On the basis of the operating budget, job standards, and wage rates required under applicable regulations, Contractor will hire, supervise, and dismiss all persons required for the proper operation and maintenance of the Property.

All salaries, wages, benefits, federal, state, and local income taxes, social security taxes, medical and dental insurance, worker's compensation insurance, and other payroll expenses payable on account of such persons or employees will be operating expenses of the Property, as set forth in the operating budget.

Contractor will comply with all local, state, and federal laws and regulations applicable to any employees, including minimum and prevailing wage laws.

Contractor will provide, at minimum, fair housing, asbestos, lead-based paint, crisis response/de-escalation training, and sexual harassment training to all employees working at or on behalf of the Property upon hire and annually thereafter.

All Contractor employees will undergo a criminal background check and drug testing prior to employment at the Property.

Any staffing for the Property not contemplated in the approved operating budget will not be filled by Contractor until written approval is obtained from the Commission.

Contractor will utilize Commission procedures in hiring community level maintenance employees in a manner consistent with Labor Compliance requirements. As part of the pre-employment process, each maintenance employee will be tested on basic and advanced maintenance knowledge prior to receiving an offer of employment.

The Commission will not be a joint employer of any Contractor employees.

5. CONTRACT PROCUREMENT AND VENDOR MANAGEMENT

In compliance with and pursuant to the limited agency agreement set forth in Section 9 below, Contractor will enter into agreements on behalf of the Commission for the operation of the property, as approved by the Commission and as permitted within the approved budget. These contracts will not exceed \$50,000 and will be for any needed repair or maintenance at the Property. The Contractor will be responsible for developing the scope of work and then the Commission will process these contracts using the standard Commission contract templates. All agreements must be procured in compliance with the Commission's Procurement Policy and approval requirements. No contract may be executed without prior written approval from the Commission.

Contractor will provide the Commission on a bi-weekly basis a Contract Capacity Report (using a Commission approved form) to reflect all service and vendor contracts in place, contract capacity used and remaining contract capacity as to the date of the report. The Contract Capacity Report will reflect the aggregate of invoices paid to the vendor as well as unpaid work for approved work. Contractor will specifically note if/when contract capacity is at 75% of use and make appropriate recommendations to ensure service levels can continue without exceeding contract limits.

Contractor will retain the services of a labor compliance consultant to monitor and ensure vendors compliance with state prevailing wage laws. Contractor will maintain a daily log of all vendors that arrive on site to perform services and submit weekly to the Commission. All services performed by vendors will be documented by Contractor via the execution of a written purchase order. Purchase orders will contain a detailed description of services to be performed, vendor name, the date issued, dollar amount, purchase order number, contract number, and language effectuating state prevailing wage laws. Contractor will not pay vendor invoices until Contractor has verified that vendor complied with state prevailing wage laws. The labor consultant will be paid out of the operating fund, and such payment is in addition to the compensation to be paid to Contractor under the terms of this Agreement. Security will be structured to provide coverage at varying levels, pending on the individual needs and budget capacity of Property.

6. LEASING

Contractor will: (i) accept rental applications and offers to lease; (ii) perform credit checks and reference checks of prospective tenants; (iii) determine eligibility utilizing HUD and TCAC

guidelines as applicable; (iv) enter into leases on behalf of the Commission on forms provided by the Commission). Ensure that all tenants are eligible and income-qualified persons; (vi) sign and serve in the name of the Commission approved notices deemed necessary by Contractor; (vii) institute actions to evict tenants and recover possession of the Property, and further, file suit against and recover bad debts of tenants and settle, compromise and release such actions or suite or reinstate such tenancies on such terms as Contractor deems reasonable, provided Contractor has received written authorization from the Commission prior to initiating any suit or other action; and (viii) maintain the Property at no more than a 5% vacancy rate, to the extent possible.

Vacant units will be made market ready within 5 business days of being vacated and vacant units should be leased within 90 days of becoming vacant. Contractor will ensure each unit's entry hardware/locks are properly re-keyed or replaced upon vacancy. Each vacant unit will be prepared for re-occupancy by performing all required repairs as necessary, including: (i) cleaning of all surfaces; (ii) painting as necessary; (iii) cleaning or replacement of flooring; (iv) repair of all wall and ceiling surfaces; (v) moisture intrusion inspection; and (vi) repair or replacement of appliances and fixtures (vii) any other tasks deemed necessary to prepare a unit for occupancy. Vacant units will be inspected for lead hazards pursuant Federal, State, and local codes/regulations and any lead hazard found will be remediated by appropriately trained personnel. Any and all records relating to lead remediation will be maintained by Contractor and the Commission for at least three (3) years.

Rent Collection. Contractor will collect and enforce collection of all residential rents, security deposits, charges, and other amounts when due. Contractor will proceed in accordance with the policies and procedures established by the Commission and all federal, state, and local laws and as set forth herein.

7. MAINTENANCE OF PROPERTY

Contractor will be responsible for all property maintenance services, including emergency response, janitorial, site cleaning, pest control, preventive maintenance, and all other scheduled and routine repairs.

Contractor will be responsible for regularly assessing the condition of the Property and its systems; developing and implementing building operations; performing preventative maintenance; and establishing capital plans necessary to maintain, preserve and keep the Property in a decent, safe, and sanitary condition.

Contractor will create and manage a housekeeping inspection schedule and vector control program. All units must have a housekeeping inspection conducted, at minimum, twice per year. Contractor will maintain an active schedule for the housekeeping inspections and make the schedule and all completed inspections available to the Commission via a shared Box file (or equivalent). In properties where a Service Provider operates, the housekeeping inspection schedule will be shared with the service provider and coordinated with them, as appropriate to allow them to participate in the inspection with Property Management.

All maintenance and repairs will be performed in accordance with the approved budget and replacement reserve accounts, or as otherwise determined by the Commission. Contractor will maintain the Property in a decent, safe, and sanitary condition in accordance with local code and in a condition acceptable to the Commission.

The Contractor will have no authority, nor will it have any obligation to make any structural changes in the Property or make any other major alteration or additions to any building or equipment therein unless approved in advance and in writing by the Commission. Any and all approved structural changes, alterations, or additions will be completed by a licensed professional approved by the Commission and will comply with all codes, ordinances, and any other requirements.

Equipment and Appliances. Contractor, or vendor(s), will purchase equipment, tools, unit furnishings, appliances, materials, and supplies necessary for the proper operation and maintenance of the Property. Contractor will obtain advanced approval from the Commission if any purchases are not contemplated in the approved operating budget. All such purchases and contracts will be in the name of the property and at the expense of the Commission. All substitutes for the original manufacturer's equipment related to the upgrading of equipment will be Energy Star® compliant, if available. Contractor is responsible for tracking and maintaining an inventory of all equipment, tools, appliances, materials, and any other supplies approved for operation of the property, as applicable.

Tenant Service Requests. Contractor will ensure all service requests are handled on a first-come, first-served basis, barring emergencies. All tenant service requests will be addressed within 72 hours.

Emergency Response. Contractor will establish an after-hours emergency system such that tenants may report emergencies to Contractor after hours. Contractor will have a knowledgeable person available after hours to respond to emergency issues within two hours. Critical incidents must be reported to the Commission using an Incident Report Form on the next working day following the occurrence. Unless a life & safety emergency or there is a threat of imminent and significant property loss, property repairs not contemplated in the approved operating budget will not be filled by the Contractor until written approval is obtained from the Commission. Contractor will address all emergency service requests within 24 hours.

8. PROPERTY ACCOUNTS

Contractor will establish the following separate accounts as trustee for the Commission for funds of the property: a General Operating Account, a Security Deposit Account, and Operating and Replacement Reserve Accounts. Funds in these accounts will be maintained in depositories whose deposits are insured by an agency of the federal government or other comparable federally insured program pursuant to the requirements of the Commission. The Commission and/or its representatives will be authorized signatories on the aforementioned accounts.

- a) General Operating Account. Contractor will establish, subject to the Commission's approval, a segregated bank account for the purposes of maintaining funds available for Contractor's payment

of supplies, equipment and services associated with maintaining and repairing the property. Contractor will utilize funds held in the Operating Account subject to the Commission's approved operating budget.

Contractor will make all disbursements promptly when due and payable. In the event that the balance in the Operating Expense Account is at any time insufficient to pay disbursements due and payable under the approved budget, Contractor will promptly inform the Commission of such, and the Commission then remit to Contractor sufficient funds to cover the deficiency. In no event will Contractor be required to use its own funds to pay such disbursements.

Contractor will obtain prior written approval from the Commission for any expenditures exceeding the approved operating budget by \$2000 or more, except for emergency repairs involving manifest danger to person or property or required to avoid imminent suspension of any necessary service to the property.

- a) Security Deposit Account. Contractor will collect, deposit, and disburse security deposits from all tenants of the property. In collecting, handling, and disbursing these funds, Contractor will comply with applicable state law, as amended from time to time. The Security Deposit Account will, at all times, be equal or exceed the total amount held by Contractor for the residents. No interest will accrue to the benefit of Contractor. Contractor will refund tenant security deposits at the termination of tenancies under the provision of the applicable lease, any associated documents, and applicable law.
- b) Operating Reserve Account. Contractor will be responsible for tracking all expenses eligible for payment from the reserve accounts and provide a report to the Commission staff twice per year with a request for approval. Any and all payments or withdrawals from the Operating or Replacement Reserve Account will require the express written authorization of the Commission and the signatures of both the Commission and Contractor.

The Commission funds will at all times be kept separate and apart from Contractor's own funds and separate and apart from other monies received by Contractor in a representative capacity on behalf of Contractor's clients other than the Commission if any. Contractor understands and agrees that all funds in said trust accounts remain the sole property of the Commission until paid out by Contractor to meet operating or other approved expenses. Contractor is authorized the Commission to endorse any and all checks in regard to the Property drawn to the order of the Commission for deposit in said trust accounts.

9. AUTHORIZED AGENT FOR A LIMITED PURPOSE

Upon execution of this Agreement, the parties will execute an agreement to enable Contractor to act as an authorized agent for a limited purpose on behalf of the Commission related to the provision of services under this Agreement.

10. REPORTING AND RECORD KEEPING REQUIREMENTS

Contractor will establish and maintain a system of records, books, and accounts, including computerized systems, on an accrual basis, in accordance with GAAP, in a manner satisfactory to the Commission. Contractor will comply with standard internal controls. All records, books, and accounts are subject to examination by the Commission at all reasonable times. Files will be the property of the Commission.

PM will keep an active record of all formal and informal verbal and/or written communication with residents. All resident engagements should be documented in a central log and include the date/time of engagements and a brief summary. This could be done via resident memo in Property Management software system.

Certified Payroll Reports. Contractor will prepare and submit certified payroll reports weekly, and vendor's certified payroll reports weekly, to the Commission as required by state prevailing wage laws. Contractor and vendors must submit certified payroll reports to the State of California's Department of Industrial Relations (DIR). Contractor and vendors must also register as a Public Works Contractor (where applicable) and maintain an active registration with the DIR to be eligible for contract awards.

Annual Budgets. Contractor will prepare and submit a draft annual budget to the Commission approximately eight months prior to the close of the fiscal year.

Financial Reports. Contractor will provide reports, on or before the 20th of the following month, as stated in the Financial Reports tables set forth herein.

Variance Reports. Contractor will prepare a monthly variance report explaining in detail all variances from budget for month-to-date and year-to-date variances. Such report will be submitted to the Commission by the 15th of every month.

Personnel Records. Contractor will prepare, execute, and file all forms, reports, and returns required by law in connection with the employment of personnel, unemployment insurance, worker's compensation insurance, disability benefits, Social Security, and other similar insurance.

Tenant Files. Contractor will establish tenant files containing copies of leases, certification forms, notices, all written records of tenant household income and size, and other information necessary to comply with the requirements or otherwise reasonably requested by the Commission.

Upon execution of the Agreement, Contractor will audit tenant files for completeness and notify the Commission of missing documents.

Tenant Service Requests. Contractor will maintain a record of all incoming tenant service requests. Contractor will record and monitor all incoming service requests to include date of request; who requested the work to be performed; location of the problem; nature of the problem; to whom work is assigned; what was done to solve the problem; time spent on repair; approximate cost of materials; completion date; and determination on whether tenant is responsible for charges and bill as appropriate.

Contractor will create a schedule of housekeeping inspections for all units whereby inspections are conducted twice per year (by PM and/or Maintenance), comprehensive inspection reports are completed and saved in a central location and accessible by the Commission as needed.

Auditors and Tax Preparers. Contractor will cooperate fully with the Commission staff, auditors, and tax preparers to facilitate preparation of audits and tax returns. Upon request of the Commission, Contractor will expedite response time in times of audit to comply with regulatory deadlines.

Supplemental Reporting. Contractor promptly furnishes any additional information requested by the Commission, including but not limited to the Operations and Resident Services Reports outlined below. Contractor may be requested from time to time by the Commission to provide additional information and reporting with respect to the renting and financial, physical, or operational condition of the property. Contractor will furnish, at minimum, the following reports outlined below at the designated frequency. The Commission reserves the right to amend or append the requested reports, data contained within the reports, frequency of reporting, format, and/or request supplemental reports to provide any data needed by the Commission.

Financial Reports	Frequency	Format
Bank Statements	Monthly	.pdf
Bank Reconciliations	Monthly	.pdf
Schedule of Cash Balances	Monthly	.xls
Income Statement	Monthly	.xls
Balance Sheet	Monthly	.xls
Actual vs Budget Comparison with Variance Notes	Monthly	.xls
Trial Balance	Monthly	.xls
A/R Aging	Monthly	.pdf
A/P Aging	Monthly	.pdf
Rent Roll	Monthly	.pdf & .xls
Security Deposit Report - Tenant	Monthly	.pdf
Vacancy Report	Monthly	.xls
GL Transaction Detail - MTD	Monthly	.xls
Management Fee Schedule	Monthly	.pdf
Mortgage Statement	Monthly	.pdf
Net Receivable Report	Monthly	.pdf
Prepays Report - Rent	Monthly	.pdf
Prepays Report - Subsidy	Monthly	.pdf
AR Write Off Detail	Monthly	.pdf & .xls
Security Deposit Schedule - Commercial	Quarterly	.xls
Security Deposit Acct Reconciled to Liability	Quarterly	.xls
Subledger Detail - Deferred Revenue	Quarterly	.pdf
Balance Sheet Account Reconciliation - Prepaid Insurance	Quarterly	.xls
Balance Sheet Account Reconciliation - Prepaid Taxes	Quarterly	.xls
Balance Sheet Account Reconciliation - Prepaid Other	Quarterly	.xls
Balance Sheet Account Reconciliation - Accrued Insurance	Quarterly	.xls
Balance Sheet Account Reconciliation - Accrued Taxes	Quarterly	.xls
Balance Sheet Account Reconciliation - Accrued Management Fees	Quarterly	.xls

Balance Sheet Account Reconciliation - Accrued Payroll	Quarterly	.xls
Balance Sheet Account Reconciliation - Accrued Other	Quarterly	.xls
Balance Sheet Account Reconciliation - Deposit	Quarterly	.xls
AP Other Schedule	Quarterly	.xls
AR Other Schedule	Quarterly	.xls
Commercial Income Schedule	Quarterly	.xls
Property Liability Insurance Schedule	Quarterly	.pdf
Listing of Employees with Salary Allocation %	Yearly	.xls
Units' months leased and unit months available per HUD definition (Annual Vacancy Report)	Yearly	.xls
Staffing information (I. E rates, hours, benefits)	Quarterly	.xls
Operations Reports	Frequency	Format
Occupancy Reports	Weekly	.xls
Delinquency Reports	Weekly	.xls
Leasing Information	Weekly	.xls
List of Behavioral Issues on the Property	Weekly	.xls
List of Property Issues (physical)	Monthly	.xls
List of Resident Issues or Residents in Legal	Monthly	.xls
Any reported incidents involving tenants / insurance claims	Monthly	.xls

Attachment D

Compensation

Contractor agrees that the management fee for providing professional property management services will be paid out of the General Operating Account with the initial monthly fee shall be \$75.00 per unit per month. The management fee will be increased by 3% each fiscal year.

Services not covered by the fee include the following:

- ✓ Maintenance & repair supplies and contracts dprocured by the Contractor
- ✓ On-site telephone & computer costs including software & hardware maintenance costs & office supplies directly related to the Project
- ✓ Property Utilities
- ✓ On-site computer costs & processing

Set-up/Transition costs:

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Contractor is not responsible for any material errors in tenant files prior to the beginning date of this Management Contract. The correction of material errors in files prior to this management contract will not be included as part of the management contract.

Contractor shall submit invoice monthly in accordance with section 104 of the Agreement.

Attachment E
Prevailing Wage Attachment

Note: California prevailing wages apply to any public work project in an amount exceeding \$1,000. This includes all purchase orders or work orders within the scope of a single public work project that exceeds \$1,000, regardless of whether any such purchase order or work order is itself less than or equal to \$1,000.

Contractor shall comply with all duties, obligations, restrictions, and requirements specified in California Labor Code sections 1720-1861. This shall include, but not be limited to, the following:

- A. Contractor shall pay all workers performing work under this Contract the prevailing wage rates specified by the California Department of Industrial Relations (DIR) for each craft, classification, and type of work pursuant to **State Prevailing Wage Determination 2023-1**. Copies of such determinations are available at the Commission's offices and may be made available upon any interested party's request.
- B. Contractor shall furnish all of its employees and subcontractors with a copy of the DIR's prevailing wage rates applicable to their respective crafts, classifications, and types of work. Contractor also shall post all such applicable rates at the job site in a visible location in accordance with California Labor Code section 1773.2.
- C. Contractor shall comply with all payroll recordkeeping and inspection requirements specified by California Labor Code section 1776.
- D. All wages paid by Contractor shall include payments for all items specified in California Labor Code section 1773.1.
- E. Contractor shall comply with all requirements for payment of prevailing wages to and employment of apprentices in accordance with California Labor Code section 1777.5.
- F. Contractor shall not, and shall not conspire to, take or receive any portion of worker's wages in violation of California Labor Code section 1778.
- G. Upon completion of the work under this Contract, Contractor shall sign and notarize an affidavit of compliance in the form provided by the Commission, certifying compliance with California Labor Code sections 1720-1861.

- H. In accordance with California Labor Code section 1771.6, in the event the Commission discovers any violation of California Labor Code sections 1720-1861, including delinquent or inadequate payroll records, as a result of an audit of Contractor's payroll records, interviews of Contractor's employees, or any other investigative means utilized by the Commission, the Commission shall withhold any payments due to Contractor.
- I. In accordance with California Labor Code section 1725.5, unless otherwise exempt pursuant to California Labor Code section 1725.5(f), Contractor and its subcontractors shall register with the DIR. Pursuant to California Labor Code section 1771.1(a):

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

Pursuant to Labor Code section 1771.1(f), this Contract shall be subject to termination by the Commission immediately upon written notice to Contractor if Contractor or any of its subcontractors fails to comply with this Section.

- J. In accordance with California Labor Code section 1771.4, the work performed under this Contract is subject to compliance monitoring and enforcement by the DIR.
- K. Contractor shall post all job site notices required by applicable laws and regulations.
- L. Contractor shall secure the payment of compensation to its employees pursuant to California Labor Code section 3700.

Payroll Reporting Requirements

For the duration of the term of this Contract, Contractor and each of its subcontractors shall submit payroll records as follows:

1. On a weekly basis, complete, accurate, and certified payroll reports shall be submitted to the Commission using DIR's Public Works Payroll Report Form (Form A-1-131) in original form with wet signatures, or using the Commission's electronic reporting service provider, eComply Solutions.
2. On a monthly basis, electronic certified payroll reports shall be submitted using the DIR's online portal, located at <https://www.dir.ca.gov/public-works/certified-payroll-reporting.html>.
3. Proof of actual payment of wages to all employees.
4. Proof of actual payment of fringe benefits to all employees.
5. Proof of the use of apprentices as and when required by law.

Labor Compliance Requirements

Prior to commencing work under this Contract, Contractor and each of its subcontractors shall submit the following forms to the Commission: Authorized Signatory, Checklist of Labor Law Requirements, Request for Dispatch of an Apprentice (Form DAS 142) (as applicable), Public Works Contract Award Information (Form DAS 140) (as applicable), Fringe Benefit Statement, List of Trades and/or Crafts, and Project Contact Sheet. These forms can be found on the Commission's website at <https://www.sdhc.org/doing-business-with-us/labor-compliance/>.

Contractor certifies that it has read, understands, and will comply with all the foregoing requirements specified in this Prevailing Wage Attachment.

Contractor:

Hyder & Company

By: _____

Date: _____

Name: _____

Title: _____

Email: _____

DIR Reg. #: _____

Attachment F
City of San Diego Provisions

1. **Definitions for City of San Diego Provisions.** For purposes of the Agreement, the following terms, when capitalized, shall have the following meanings, unless the context clearly requires otherwise:

(a) “City Operating Manual” means that certain Operating Manual of the Economic Development Department of the City, as the same may be amended, supplemented, or superseded from time to time.

(b) “Equal Employment Opportunity Plan” or “EEOP” has the meaning ascribed thereto by Section 10.

(c) In addition to the definition specified by the Agreement, “Inspecting Agency” shall also mean the City and its duly authorized representatives.

(d) In addition to the definition specified by the Agreement, “Project Records” shall also mean all records required to be maintained pursuant to the City Operating Manual.

(e) “Work Force Report” means the City’s form entitled “Work Force Report,” currently the City’s form number BB05, as the same may be amended, updated, or superseded by the City from time to time.

2. **City’s Equal Opportunity Requirements.** During the performance of this Agreement, Contractor agrees as follows:

(a) Contractor shall comply with all applicable local, state, and federal equal opportunity programs.

(b) Each month, Contractor will report to the Commission all payments made to all vendors by month, contract to date, and percentage of overall contract value.

(c) Contractor and each of its subcontractors, if any, shall (a) submit a Work Force Report to the Commission, (b) submit an “Equal Employment Opportunity Certification of Compliance” to the Commission using the Commission’s approved form, and (c) comply with all other applicable equal opportunity requirements specified below.

(d) Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this Subsection shall be considered a material breach of this Contract and may result in termination thereof, debarment, or other sanctions.

(e) If any underrepresentation is found after submission of Contractor's Work Force Report as required above, the Commission may require Contractor in writing to submit an "Equal Employment Opportunity Plan" ("EEOP"). Thereafter, Contractor will be required to submit to the Commission an acceptable EEOP to correct underrepresented categories within thirty (30) days. Once the EEOP has been approved by the Commission, the Contractor must adhere to the EEOP. If the term of this Agreement, as extended from time to time, exceeds one (1) year, Contractor will be required to submit updated Work Force Reports each year, and, as requested by the Commission, an updated EEOP.

(f) Upon the Commission's request, Contractor agrees to provide to the Commission, within sixty (60) calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this Subsection shall be considered a material breach of this Contract and may result in termination thereof, debarment by the City, and other sanctions.

(g) In each subcontract approved by the Commission for the performance of this Agreement, Contractor shall include the language of Subsection (d), with appropriate modifications for nomenclature.

(h) Failure to comply with this Section or submitting false information to any governmental authority pursuant hereto may result in penalties provided for by local, state, and federal law. In addition, Contractor may, at the election of the Commission, be debarred from participating in Commission projects for not less than one (1) year.

3. **City's Local Business and Employment Policy.** Contractor acknowledges and understands that the Commission and the City seek to promote employment and business opportunities for local residents and firms in all contracts with the Commission or the City. Contractor shall to the extent reasonably possible, solicit applications for employment as well as bids and proposals for subcontracts for work associated with this Agreement from residents and firms located in the City, as opportunities occur. Contractor shall hire and contract with qualified residents and firms located in the City whenever reasonably possible.

4. **City's Equal Benefits Ordinance.** Contractor acknowledges and understands, and certifies that it will comply with, the following: Except as otherwise provided by San Diego Municipal Code section 22.4308, Contractor shall provide equal benefits to its employees with spouses and its employees with domestic partners and shall not discriminate in the provision of such benefits on the basis of the gender or sexual orientation of such spouses and domestic partners. Contractor shall notify its employees of its equal benefits policy at the time of hire and during open enrollment periods and must post a copy of the following statement in an area frequented by employees: "During the performance of a contract with the San Diego Housing Commission, this employer will provide equal benefits to its employees with spouses and its employees with domestic partners." Upon written request, Contractor shall provide evidence of

compliance with this Section to the Commission. Contractor's failure to comply with this Section 13 shall be deemed a material breach of the Agreement.

5. **City's Americans with Disabilities Act Policy**. Contractor shall comply with the City's Council Policy 100-4, which provides that Contractor certifies that it will abide by the following requirements:

(a) Contractor may not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

(b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of services, programs, or activities by Contractor.

(c) Contractor shall post a statement addressing the foregoing requirements in a prominent place where Contractor performs its services under this Contract.

(d) Contractor shall ensure that the terms contained in Subsections 5 through (b) are included in each subcontract. Contractor and its subcontractors shall be responsible for the administration of their own respective Americans with Disabilities Act employment programs.