

**FIRST 5 COMMISSION OF SAN DIEGO
CONTRACT 557201, AMENDMENT # 14**

MIG, Inc. (“Consultant”) and the First 5 Commission of San Diego (“Commission”) enter into this amendment (“Amendment”) to amend the above-referenced contract (“Contract”) as described herein.

Title of Contract, Project, or Program: **Strategic Planning Consultant Services**

Amendment Effective Date: **The Date signed by the Executive Director of First 5 San Diego**

1. Contract Terms and Work:

Changes (excluding corrected typographical, punctuation and spelling errors) are marked by ***bold italicized type*** and a vertical line to the right.

- Revise Signature Page: Correct the not to exceed date to June 30, 2027.
- Revised Project Requirements and Deliverables with updated tasks

2. Compensation:

The Total Agreement Price remains at \$385,590.

MIG, Inc. – Strategic Planning Consultant Services 557201	Contract Terms	Current Contract Amount	Amendment Amount	Total
Initial Term	10/16/17 – 06/30/26	\$360,590		\$360,590
First Option Period	07/01/26 – 06/30/27	\$25,000		\$25,000
Cumulative Contract Amount		\$385,590		\$385,590

3. Term of Agreement:

The Agreement time for completion remains **June 30, 2027**.

All other terms and conditions remain in effect.

IN WITNESS WHEREOF, County and Contractor have executed this Amendment effective as of the Effective Date set forth above. This Amendment is not valid unless signed by Contractor and County Contracting Officer. The person(s) signing this Agreement for Contractor represent(s) and warrant(s) that they are duly authorized to bind Contractor and have the legal capacity to execute and deliver this Agreement.

CONTRACTOR:

By: *Daniel Iacofano*
Daniel Iacofano (Jun 12, 2026 10:45:40 PDT)
Name: Daniel Iacofano
Title: President & CEO
Email: danieli@migcom.com
Date: Jun 12, 2026

By electronically signing this document, all parties accept the use of electronic signatures.

Adobe Acrobat Sign Transaction Number: CBJCHBCAABAA--fOrCNx5keHZZVe9zb0hWG0ENcLuC

COUNTY OF SAN DIEGO:

Alethea Arguilez, Executive Director
First 5 Commission of San Diego
By: *Alethea Arguilez*
Name: Alethea Arguilez
Title: Executive Director
Date: Jun 15, 2026

**THIS AMENDMENT IS NOT EFFECTIVE UNTIL
REVIEWED AND APPROVED BY THE EXECUTIVE
DIRECTOR OF THE FIRST 5 COMMISSION OF SAN
DIEGO.**

**FIRST 5 COMMISSION OF SAN DIEGO
CONTRACT NUMBER: 557201
AGREEMENT WITH MIG, INC. FOR
STRATEGIC PLANNING CONSULTANT SERVICES**

This agreement ("Agreement") is made and entered into effective as of the date of the last signature on the signature page by and between the First 5 Commission of San Diego, a public agency, which was established by the Board of Supervisors in County Administrative Code Section 84.100 et seq., pursuant to the Children and Families First Act of 1998 ("Commission"), and MIG, Inc., located at 800 Hearst Avenue, Berkeley, CA 94710 ("Contractor"), with reference to the following facts:

RECITALS

- A. The Commission, by action on April 24, 2017 (Item 3) approved the FY 2017-18 Operating Budget which include "Consultants" line item. This approval authorized the Commission to negotiate and execute a contract for up to \$54,040 for FY 2017-19.
- B. The Executive Director, per Policy Number: F5C-008 - Executive Director Signatory Authority, authorized to increase the funding by adding a project length budget of up to \$4,500 for FY 2017-19 and up to \$37,050 for FY 2019-20.
- C. The Commission by action on April 22, 2020 (Item 4), authorized the Executive Director to extend the agreement for two (2) additional option years (FY 20-21 through FY 21-22) and approve additional funding of up to \$25,000 per year for FYs 20-21 and 21-22 from each fiscal year's project length budget (pending budget approval for each fiscal year).
- D. The Commission by action on April 20, 2021 (Item 3), authorized the Executive Director to extend the agreement for three (3) years (FY 22-23, 23-24 and 24-25) and approve additional funding of up to \$75,000 (up to \$25,000 for each of the three new option years) from each fiscal year's project length budget (pending budget approval for those fiscal years).
- E. Contractor is specially trained and possesses certain skills, experience, education and competency to perform the work described herein.
- F. The Agreement shall consist of this Agreement, Exhibit A Statement of Work, Exhibit B Insurance Requirements, and Exhibit C Payment schedule. In the event of a conflict between any provisions of this Agreement, the following order of precedence shall govern: First (1st) this document; Second (2nd) Exhibit B; Third (3rd) Exhibit A; Fourth (4th) Exhibit C.
- G. The Commission by action on November 17, 2022 (Item 5), authorized the Executive Director to increase project length funding of up to \$40,000 for FY 22-23.
- H. The Executive Director, per Policy Number: F5C-008 - Executive Director Signatory Authority, authorized to increase the funding by adding a project length budget of up to \$15,000 for FY 23-24.
- I. The Commission by action on February 8, 2024 (Item 2) authorized the Executive Director to increase the funding by adding a project length budget of up to \$20,000 for FY23-24.
- J. The Commission by action on April 16, 2025 (Item 4), authorized the Executive Director to extend the contract for one (1) year and approve additional funding of up to \$25,000 for FY 25-26.
- K. ***The Commission by action on April 16, 2026 (Item 5), authorized the Executive Director to extend the contract for one (1) year and approve additional funding of up to \$25,000 for FY 26-27.***

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1
PERFORMANCE OF WORK

- 1.1 **Standard of Performance.** Contractor shall, in good and workmanlike manner and in accordance with the highest professional standards, at its own cost and expense, furnish all of the labor, technical, administrative, professional and all other personnel, all supplies and materials, equipment, printing, transportation, training, facilities, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by Commission, necessary or proper to perform and complete the work and provide the services required of Contractor by this Agreement.
- 1.2 **Contractor's Representative.** The person identified on the signature page ("Contractor's Representative") shall ensure that Contractor's duties under this Agreement shall be performed on behalf of the Contractor by qualified personnel; Contractor represents and warrants that (1) Contractor has fulfilled all applicable requirements of the laws of the State of California to perform the services under this Agreement and (2) Contractor's Representative has full authority to act for Contractor hereunder. Contractor and Commission recognize that the services to be provided by Contractor's Representative pursuant to this Agreement are unique; accordingly, Contractor's Representative shall not be changed during the Term of the Agreement without Commission's written

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consent. Commission reserves the right to terminate this Agreement pursuant to section 7.1, "Termination for Default," if Contractor's Representative should leave Contractor's employ, or if, in Commission's judgment, the work hereunder is not being performed by Contractor's Representative.

- 1.3 Contractor as Independent Contractor. Contractor is, for all purposes under this Contract, an independent contractor, and neither Contractor nor Contractor's employees or subcontractors shall be deemed to be employees of Commission for any reason. Contractor shall perform its obligations under this Contract according to Contractor's own means and methods of work which shall be in the exclusive charge and under the control of Contractor, and which shall not be subject to control or supervision by Commission except as to the results of the work. Commission hereby delegates to Contractor any and all responsibility for the safety of Contractor's employees, which shall include inspection of property to identify potential hazards. Neither Contractor nor Contractor's employees or subcontractors shall be entitled to any benefits to which Commission employees are entitled including, without limitation, overtime, retirement, workers' compensation and injury leave.
- 1.4 Contractor's Agents, Employees and Subcontractors. Contractor's duties under this Contract shall be performed on behalf of Contractor by Carolyn Verheyen, Kate Welty, ***Sarah Romano, Aaron Ishaiek, Michele Zuniga, Lori Maness, and Joey Nielsen***. ("Contractor's Key Personnel"). Contractor represents and warrants that (1) Contractor's Key Personnel has fulfilled all applicable requirements of the laws of the State of California to perform the work under this Contract and has full authority to act for Contractor hereunder. Contractor's Key Personnel shall perform the work or oversee the performance of the work described in Exhibit A, Statement of Work. Contractor's Key Personnel shall not be changed during the Term of the Contract without Commission's prior written consent.

Contractor shall obtain, at Contractor's expense, all agents, employees and subcontractors required for Contractor to perform the services under this Contract. All such services shall be performed by Contractor's Key Personnel, or under Contractor's Key Personnel's supervision by persons authorized by law to perform such services. Retention by Contractor of any agent, employee or subcontractor shall be at Contractor's sole cost and expense, and Commission shall have no obligation to pay Contractor's agents, employees or subcontractors; to support any such person's or entity's claim against Contractor; or to defend Contractor against any such claim.

In the event any subcontractor or consultant is utilized by Contractor for any portion of the project, Contractor retains the prime responsibility for carrying out all the terms of this Agreement, including the responsibility for performance and ensuring the availability and retention of records of subcontractors and consultants in accordance with this Agreement.

- 1.4.1 "Related Subcontract" means an agreement to furnish, or the furnishing of, supplies, materials, equipment, or services of any kind to Contractor or any higher tier subcontractor in the performance of some or all of the work in this Agreement. Related Subcontracts includes consultant agreements, which are defined as agreements for services rendered, or the rendering of services, by persons who are members of a particular profession or possess as special skill and who are not officers or employees of the Contractor. Examples include those services acquired by Contractor or a subcontractor in order to enhance their legal, economic, financial, or technical positions. Professional and consultant services are generally acquired to obtain information, advice, opinions, alternatives, conclusions, recommendations, training or direct assistance, such as studies, analyses, evaluations, liaison with government officials, or other forms or representation. Related Subcontracts shall not include agreements for ancillary goods or services, or consulting services intended to support Contractor in a general manner not specific to the work performed under this Agreement. "Related Subcontractor" means an individual or entity holding or performing a Related Subcontract.
- 1.4.2 Required Subcontract Provisions: Contractor shall notify all Related Subcontractors of Contractor's relationship to Commission. Contractor shall include in its Related Subcontracts and require Related Subcontractor's compliance with the provisions of Articles 3, 7, 8, 9, 10, 11, 13, 14 and 16, and section 4.6.1 of Article 4, hereunder except altered as necessary for proper identification of the contracting parties.
- 1.4.3 Contractor shall provide Contracting Officer Representative ("COR") with copies of all Related Subcontracts entered into by Contractor within thirty (30) days after the effective date of the Related Subcontract, or within thirty (30) days of the effective date of this Agreement if such Related Subcontract is already in existence at that time.
- 1.4.4 Commission Approval: Any Related Subcontract that is in excess of fifty thousand dollars (\$50,000) or twenty five percent (25%) of the value of this Agreement, whichever is less, or a combination of Related Subcontracts to the same individual or firm for the Agreement period, the aggregate of which exceeds fifty thousand dollars (\$50,000) or twenty five percent (25%) of the value of this Agreement, whichever is less; or any Related Subcontract for professional medical or mental health services, regardless of value, must have prior concurrence of the COR.

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- 1.5 Offshore Prohibition. Except where Contractor obtains the Commission's prior written approval, Contractor shall perform the work of this Agreement only from or at locations within the United States. Any Commission approval for the performance of work outside of the United States shall be limited to the specific instance and scope of such written approval, including the types of work and locations involved. Notwithstanding the foregoing, this section shall not restrict the country or countries of origin of any assets purchased to provide the work hereunder; provided that when such assets are used to provide the work, such assets shall be used only from or at locations within the geographic boundaries of the United States.
- 1.6 DVB Participation. If this Agreement resulted from a solicitation containing Disabled Veteran Business ("DVB") requirements and forms, such requirements and Contractor's submitted forms are incorporated herein by reference to the extent not included as an Exhibit to this Agreement. Contractor shall make all commercially reasonable efforts to comply with all such DVB requirements, including meeting the DVB Percent of Utilization on Contractor's DVB Subcontractor Participation Plan. Contractor shall maintain a rate of DVB utilization throughout the term of this Agreement that is reasonably in alignment with the progress of the Agreement (e.g., term, utilization, deliverables). Contractor shall provide to Commission, upon request, documentation sufficient to verify Contractor's compliance with such requirements.
- If in Commission's determination, Contractor is not in compliance with all DVB requirements, Commission may take corrective action, which may include (i) requiring Contractor to submit a corrective action plan acceptable to Commission detailing actions the Contractor will take to fulfill its DVB requirements and/or (ii) withholding of payments to Contractor equivalent to the amount of DVB underutilization. Such corrective actions shall be in addition to any other remedies the Commission may have under this Agreement or at law or equity.
- 1.7 Preferred Vendor. If this Agreement resulted from a solicitation where Contractor claimed Preferred Vendor status in its response per section 405 of the San Diego County Administrative Code, Contractor shall perform a commercially useful function (as that term is defined in California Military and Veterans Code § 999 or successor statute) throughout the term of this Agreement.

**ARTICLE 2
SCOPE OF WORK**

- 2.1 Statement of Work. Contractor shall perform the work described in the "Statement of Work" attached as Exhibit A to this Contract, and by this reference incorporated herein, except for any work therein designated to be performed by Commission.
- 2.2 Right to Acquire Equipment and Services. Nothing in this Contract shall prohibit the Commission from acquiring the same type or equivalent type of equipment and/or service from other sources, when deemed by the Commission to be in its best interest.
- 2.3 Responsibility for Equipment. Commission shall not be responsible nor be held liable for any damage to person or property resulting from the use, misuse or failure of any equipment used by Contractor or any of Contractor's employees, even though such equipment may be furnished, rented or loaned to Contractor by Commission. The acceptance or use of any such equipment by Contractor or any of Contractor's employees shall be construed to mean that Contractor accepts full responsibility for and agrees to exonerate, indemnify and save harmless Commission from and against any and all claims for any damage whatsoever resulting from the use, misuse or failure of such equipment, whether such damage be to the employee or property of Contractor, other consultants, Commission, or other persons. Equipment includes, but is not limited to material, tools and machinery.
- 2.3.1 Contractor shall repair or replace, at Contractor's expense all Commission equipment or fixed assets that are damaged or lost as a result of Contractor negligence.
- 2.4 Non-Expendable Property Acquisition. County retains title to all non-expendable property provided to Contractor by County, or which Contractor may acquire with funds from this Agreement if payment is on a cost reimbursement basis, including property acquired by lease purchase Agreement. Contractor may not expend funds under this Agreement for the acquisition of non-expendable property having a unit cost of \$5,000 or more and a normal life expectancy of more than one year without the prior written approval of COR. Contractor shall maintain an inventory of non-expendable equipment, including dates of purchase and disposition of the property. Inventory records on non-expendable equipment shall be retained, and shall be made available to the County upon request, for at least three years following date of disposition. Non-expendable property that has value at the end of the Agreement (e.g. has not been depreciated so that its value is zero), and to which the County may retain title under this paragraph, shall be disposed of at the end of the Agreement as follows: At County's option, it may: 1) have Contractor deliver to another County contractor or have another County contractor pick up the non-expendable property; 2) allow Contractor to retain the non-expendable property provided that Contractor submits to the County a written statement in the format directed by the County of how the non-expendable property will be used for the public good; or 3) direct the Contractor to return to the County the non-expendable property.

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**ARTICLE 3
DISENTANGLEMENT**

3.1 General Obligations.

Upon the expiration or termination of all or a portion of the services provided hereunder ("Transitioning Services,"), the Commission may elect to have such services, substantially similar services, or follow-on services ("Disentangled Services") performed by Commission or one or more separate Contractors ("Replacement Provider"). Contractor shall take all actions necessary to accomplish a complete and timely transition of the Disentangled Services ("Disentanglement") without any material impact on the services. Contractor shall cooperate with Commission and otherwise take all steps required to assist Commission in effecting a complete and timely Disentanglement. Contractor shall provide Replacement Provider with all the information regarding the services and any other information needed for Disentanglement.

Contractor shall provide for the prompt and orderly conclusion of all work required under this Agreement, as Commission may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly Disentanglement.

3.2 Disentanglement Process

Contractor and Commission shall discuss in good faith a plan for Contractor's Disentanglement that shall not lessen in any respect Contractor's Disentanglement obligations.

If Commission requires the provision of Transitioning Services after expiration or termination of the Agreement or Disentanglement work not otherwise required under this Agreement, for which additional compensation will be due, such services shall be compensated at: (i) the applicable rates in Agreement or a reasonable pro-rata of those prices, or (ii) if no applicable rates apply, no more than Contractor's costs. Such work must be approved in writing by Commission approval of a written Disentanglement plan or separately in writing and is subject to the Compensation clause on the signature page.

Contractor's obligation to provide Disentanglement services shall not cease until all Disentanglement obligations are completed to Commission's reasonable satisfaction, including the performance by Contractor of all Specific Obligations of Contractor. Commission shall not require Contractor to perform Transitioning Services beyond 12 months after expiration or termination, provided that Contractor meets all Disentanglement obligations and other obligations under Agreement.

3.3 Specific Obligations

The Disentanglement shall include the performance of the following specific obligations ("Specific Obligations"):

3.3.1 No Interruption or Adverse Impact.

Contractor shall cooperate with Commission and Replacement Provider to ensure a smooth of Disentanglement, with no interruption of or adverse impact to Disentangled Services, Transitioning Services, other work required under the Agreement, or services provided by third parties.

3.3.2 Client Authorizations.

Contractor shall obtain from clients served by Contractor all client consents or authorizations legally necessary to transfer client data to Replacement Provider.

3.3.3 Leases, Licenses, and Third-Party Agreements.

Contractor shall procure at no charge to Commission all authorizations necessary to grant Replacement Provider the use and benefit of any third-party agreements pending their conveyance or assignment to Replacement Provider.

Contractor, at its expense, shall convey or assign to Replacement Provider leases, licenses, and other third-party agreements procured under this Agreement, subject to written approval of the Replacement Provider (and Commission, if Replacement Provider is other than Commission).

Without limiting any other provision of this Agreement, Contractor shall reimburse Commission for any losses resulting from Contractor's failure to comply with any terms of any third-party agreements prior to the date of conveyance or assignment.

3.3.4 Delivery of Documentation.

Notwithstanding section 13.5 of this Agreement, and without limiting Contractor's obligations thereunder, Contractor shall deliver to Replacement Provider (and/or Commission, if Replacement Provider is other than Commission), all documentation and data necessary for Disentanglement.

3.3.5 Delivery of Documentation.

Notwithstanding section 13.5 of this Agreement, and without limiting Contractor's obligations thereunder, Contractor shall

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deliver to Replacement Provider (and/or County, if Replacement Provider is other than County), all documentation and data necessary for Disentanglement.

**ARTICLE 4
COMPENSATION**

Commission will pay Contractor in accordance with Exhibit C Payment Schedule and this Article 4, for the work specified in Exhibit A Statement of Work (SOW), not to exceed the maximum compensation as set forth on signature page. Contractor shall employ and maintain an accounting and financial system to effectively monitor and control costs and assure accurate invoicing and performance under this Agreement. Invoices are subject to the requirements below.

4.1 General Principles. Contractor shall comply with generally accepted accounting principles, good business practices, San Diego County Code of Administrative Ordinances section 472, and the cost principles published by the federal Office of Management and Budget (OMB), including 2 CFR 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS "The Uniform Guidance," which can be viewed at https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl. Contractor shall comply with all applicable federal, State, and other funding source requirements. Contractor shall, at its own expense, furnish all cost items associated with this Agreement except as specifically stated herein to be furnished by Commission.

4.1.1 Fiscal Year. The Commission's fiscal year runs from July 1 through June 30 ("Commission Fiscal Year").

4.2 Compensation.

4.2.1 Contractor shall be entitled to compensation only upon completion and acceptance of a deliverable or portion of work as described in the Payment Schedule ("Services"). Services shall include any additional or as-needed services specified in the SOW and Pricing Schedule and pre-approved in writing by COR or authorized by Commission task order issued in accordance with this Agreement ("As-Needed Services").

4.2.1.1 Contractor shall be entitled to reimbursement for incidental expenses associated with any such portions of the work only when specifically allowed for in the SOW and Pricing Schedule ("Reimbursable Expenses"), and only upon completion and acceptance of the Services for which they were incurred unless earlier reimbursement is otherwise authorized under this Agreement. Compensation for Reimbursable Expenses shall be at cost.

4.2.1.2 Where travel, lodging, or meal expenses ("Travel Expenses") are allowable Reimbursable Expenses, rates must not exceed County-authorized rates set forth in Administrative Code section 472. Should Contractor incur Travel Expenses greater than the County-authorized rates, Contractor shall not be entitled to reimbursement for the difference between the County-authorized rate for each category and the actual cost.

4.3 Invoices.

4.3.1 Contractor shall invoice monthly for completed and accepted Services performed in the prior month.

4.3.2 Contractor shall submit invoices to the COR that are completed and submitted in accordance with written COR instructions and are in compliance with all Agreement terms.

4.3.2.1 Contractor shall provide accurate invoices with sufficient detail and supporting documentation for Commission verification. Invoices must reference the Agreement number (and task order, if applicable), contain a detailed listing of each deliverable or portion of work, including the pay point, target, accomplishment, unit price, percentage completion, and appropriate calculations where applicable.

4.3.2.2 Contractor invoices shall include the following language:

I certify, under penalty of perjury under the laws of the State of California, that the deliverables and/or services invoiced were delivered and/or performed specifically for this Agreement in accordance with and compliance to all terms and conditions set forth therein.

4.3.3 Contractor requests for payment of authorized Reimbursable Expenses must be included in the invoice for the associated Services, unless previously invoiced in accordance with this Agreement.

4.4 Payments. Contractor shall be entitled to payment only upon Commission approval of a correct and substantiated invoice. Payment terms are, unless otherwise specified by Commission, thirty (30) days from the later of: (i) performance of work under the Agreement entitling Contractor to payment, (ii) County receipt of a correct and substantiated invoice, and (iii) Commission receipt of all substantiating information. The Commission at its sole discretion may issue partial payment where only a portion of an invoice is correct and substantiated. Payment shall be deemed to have been made on the date that Commission submits electronic

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payment or mails a warrant or check. The Commission is precluded from making payments prior to receipt of services (advance payments).

- 4.5 Full Compensation. The compensation set forth in this Agreement shall constitute the full and complete payment for Contractor's performance of the services set forth herein. Contractor shall not be entitled to any additional payment for services rendered. Contractor shall not be entitled to any compensation, reimbursement, ancillary benefits, or other consideration for services rendered beyond that specified in Agreement.
- 4.6 Prompt Payment for Vendors and Subcontractors
- 4.6.1 Unless otherwise set forth in this section 4.6, Contractor shall promptly pay Related Subcontractors for satisfactory performance of work required by this Agreement. Such prompt payment shall be no later than thirty (30) days after Contractor receives payment for such services from Commission, and Contractor shall apply such payments to the payment of the Related Subcontractor(s) that performed the work.
- 4.6.2 If Contractor determines that any payment otherwise due such Related Subcontractor is subject to withholding in accordance with a Related Subcontract, Contractor shall:
- 4.6.2.1 Provide written notice to the Related Subcontractor and COR within three (3) business days of such withholding stating the amount to be withheld, the basis for the withholding, and, if applicable, the cure required of the Related Subcontractor in order to receive payment of the amounts withheld; and;
- 4.6.2.2 Reduce the Related Subcontractor's payment by an amount not to exceed the amount specified in the notice furnished under paragraph 4.6.2.1 above.
- 4.6.3 Contractor shall not include in any invoice to the Commission amounts that the Contractor has withheld or intends to withhold from a Related Subcontractor for failure to satisfactorily perform work in a manner required by this Agreement. If such withholding determination is made after submitting an invoice to the Commission, Contractor shall submit to Commission a revised invoice omitting or crediting such amount. Contractor shall not include such amounts in any subsequent invoices unless the Related Subcontractor has cured the basis for withholding.
- 4.7 Partial Payment. Contractor shall be paid only for work performed in accordance with this Agreement. If Contractor fails to perform a portion of the work or fails to perform some or all of the work in accordance with this Agreement, Commission, at its sole discretion, may provide partial payment to Contractor to reflect the reasonable value of work properly performed.
- 4.8 Withholding of Payment. Without limiting any other provision of this Agreement, Commission may withhold payment, in whole or in part, if any of the following exist:
- 4.8.1 Missing Information. Contractor has not provided to Commission any reports, data, audits, or other information required for Agreement administration, for reporting or auditing purposes, or by State, federal, or other funding source.
- 4.8.2 Misrepresentation. Contractor, with or without knowledge, made any misrepresentation of a substantial and material nature with respect to any information furnished to Commission.
- 4.8.3 Unauthorized Actions by Contractor. Contractor took any action under this Agreement that required Commission approval without having first received such approval.
- 4.8.4 Breach. In the County's determination, Contractor is, or at the time of performance was, in breach of any of the terms of this Agreement.
- 4.9 Disallowance. Commission may disallow payment at any time if it determines that the basis for the payment is or was not eligible for compensation under this Agreement. If Commission makes payment to Contractor that is later disallowed by the County, State or federal government, or other funding source, Commission shall be entitled to prompt recovery of funds in accordance with Article 12.
- 4.10 Maximum Price. During the performance period of this Agreement, the maximum price for the same or similar items and/or services shall not exceed the lowest price at which Contractor then offers the items and/or services to its most favored customer.
- 4.11 Overpayments. If Contractor becomes aware of a duplicate contract financing or invoice payment or that Commission has otherwise overpaid on a contract financing or invoice payment, Contractor shall immediately notify the COR and Commission shall be entitled to prompt recovery of funds in accordance with Article 12.
- 4.12 Availability of Funding. The Commission's obligation for payment under this Agreement is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the Commission shall arise for payment beyond the end of the Commission Fiscal Year for which funds are designated by the Commission. In the event that federal, State, or Commission funding ceases or is reduced, the Commission shall, in its sole discretion and without limiting any other provision of

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this Agreement, have the right to terminate or suspend this Agreement, or to reduce compensation and service levels proportionately.

- 4.13 Rate of Expense. Contractor shall control its rate of expense throughout the term of this Agreement such that it is reasonably in alignment with the progress of the Agreement, inclusive of term, achievement towards objectives, anticipated revenue, deliverables, and other applicable factors. Contractor shall provide to Commission, upon request, documentation sufficient to verify Contractor's compliance with such requirements.
- 4.13.1 Contractor shall promptly inform the COR if its rate of expense exceeds, or is anticipated to exceed, the progress of this Agreement or would result in expenses that exceed the maximum Agreement amount or budget. In no event, however, shall Contractor's invoiced amounts exceed the maximum Agreement amount or budget.
- 4.13.2 If the Agreement term, Initial Term, or any Option Period originates in one Commission Fiscal Year and ends in another Commission Fiscal Year, Contractor shall not exceed the amounts reasonably allocated to each of the Commission Fiscal Years based on the monthly budget or other rate of expense.
- 4.14 Revenue Sources. Federal or other funding source amounts listed in the Agreement or the budget are preliminary estimates and shall not limit the County's use of specific funding sources that vary from the preliminary estimates, provided that such payments do not exceed the total Agreement amount.
- 4.15 Program Income. Program Income as defined in 2 CFR §200.1 shall be administered in accordance with 2 CFR §200.307 and shall be reported at the end of the Initial Term of the Agreement and each Option Period. All use of Program Income requires written County approval.
- 4.15.1 Unless otherwise required by federal, State, or other funding source requirements, Program Income earned after the period of performance of this Agreement shall be utilized in support of the same or similar goals and objectives, preferably under an agreement between County and Contractor.
- 4.16 Incentive/Bonus/Performance Payments. Contractor shall not use any funds paid under this Agreement for employee incentive or bonus programs or structures, for employees at any level, unless such payments are within Contractor's normal compensation policy and are based upon objective measurements of performance that include compliant and ethical conduct. Contractor agrees to provide information to the County on the formula or criteria used to calculate such payments upon request.

**ARTICLE 5
AGREEMENT ADMINISTRATION**

- 5.1 The Commission's Executive Director or designated Commission official is the contracting officer for this Agreement ("Contracting Officer").
- 5.2 Commission's Agreement Administrator. The Commission has designated the individual identified on the signature page as the Contracting Officer's Representative ("COR"). The COR will coordinate the Commission's administration of this Agreement.
- 5.2.1 The COR is designated to receive and approve Contractor invoices for payment, audit and inspect records, inspect Contractor services, and provide other technical guidance as required.
- 5.2.2 The COR is not authorized to make Changes to this Agreement, except for administrative adjustments, such as line-item budget changes or adjustments to the service requirements that do not change the purpose or intent of the Statement of Work, the Terms and Conditions, the Agreement Term, or the total Agreement price ("Administrative Adjustments"). Each Administrative Adjustment shall be in writing and signed by COR and Contractor.
- 5.3 Agreement Progress Meeting. The COR and other Commission personnel, as appropriate, will meet periodically with Contractor to review the Agreement performance with the COR serving as meeting chair. At these meetings, the COR will apprise Contractor of how Commission views Contractor's performance, and Contractor will apprise the Commission of problems, if any, being experienced. The Contractor shall also notify the Contracting Officer (in writing) of any work being performed that the Contractor considers being over and above the requirements of the Agreement. Appropriate action shall be taken to resolve outstanding issues. The minutes of these meetings will be reduced to writing and signed by the COR and the Contractor. Should the Contractor does not concur with the minutes, the Contractor shall set out in writing any area of disagreement within 10 days. Appropriate action will be taken to resolve any areas of disagreement.

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**ARTICLE 6
CHANGES**

- 6.1 Changes. Changes to this Agreement may only be made by Administrative Adjustment, Change Order, or amendment, in accordance with this Article 6. No other modification of this Agreement shall be valid.
- 6.1.1 Administrative Adjustment. Changes that do not change the purpose or intent of the Statement of Work, the Terms and Conditions, the Agreement Term, or the total Agreement price of the Agreement, such as line-item budget changes or adjustments to the service requirements, ("Administrative Adjustments") may be made if in writing and signed by COR and Contractor.
- 6.1.2 Change Order. The Commission may at any time, by written order, make Changes within the general scope of this Agreement ("Change Order"). If any Change Order causes an increase or decrease in the cost or time required for the performance of the work under this Agreement, an equitable adjustment shall be made to the price, delivery schedule, or both.
- 6.1.2.1 Contractor must assert any claim for equitable adjustment within thirty (30) days from the date of receipt by the Contractor of the Change Order; however, the Contracting Officer may receive and act upon any such claim asserted at any time prior to final payment under this Agreement where the facts justify such action. Where the cost of property made obsolete or excess as a result of a Change Order is included in the Contractor's claim for equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any equitable adjustment shall be a dispute concerning a question of fact within the meaning of Article 15 "Disputes." However, nothing in this section shall excuse the Contractor from proceeding with this Agreement as changed.
- 6.1.3 Amendment. The Commission and Contractor may modify this Agreement by written amendment signed by the Contracting Officer and Contractor.

**ARTICLE 7
SUSPENSION, DELAY AND TERMINATION**

- 7.1 In the event of Contractor's breach of this Agreement, Commission shall have the right to terminate this Agreement in whole or in part.
- 7.1.2 Prior to termination for default, Contracting Officer will send Contractor written notice specifying the default. Contractor shall have ten (10) days from issuance (unless a different time is given in the notice) to respond to the notice as directed by Commission to acknowledge the default or show cause as to why Contractor is not in default. Such notice may provide Contractor the opportunity to cure the default or to demonstrate progress towards curing the default. If Contractor fails to respond, or if Contractor's response is not satisfactory to the Commission, Commission may terminate this Agreement for default upon written notice from Contracting Officer.
- 7.1.3 If Commission determines that the default contributes to the curtailment of an essential service; poses an immediate threat to life, health, or property; or constitutes fraud or other serious misconduct, Commission may terminate this Agreement for default by written notice from the Contracting Officer without the notice described in section 7.1.2 above.
- 7.1.4 In the event of termination for default, all finished or unfinished documents, and other materials, prepared by Contractor under this Agreement shall become the sole and exclusive property of Commission.
- 7.1.5 If, after termination for default, it is determined for any reason that Contractor was not in default under this Agreement, the rights and obligations of the parties shall be the same as if terminated for convenience under section 7.5 "Termination for Convenience."
- 7.2 **RESERVED.**
- 7.3 Failure to Perform. Contractor shall immediately notify the COR upon learning that it has, or that it is reasonably foreseeable that it will, fail to perform or timely perform its obligations under this Agreement for any reason, including, but not limited to, a labor dispute, emergency, epidemic, pandemic, or supply chain shortage. In such event, Contractor shall, upon request, prepare and deliver to the COR a written mitigation plan. Nothing in this section relieves the Contractor of its obligations under this Agreement.
- 7.4 Reduction in Funding. In the event there is a reduction of funds made available by Commission to Contractor under this or subsequent agreements, the County of San Diego and its departments, officers and employees shall incur no liability to

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Contractor and shall be held harmless from any and all claims, demands, losses, damages, injuries, or liabilities arising directly or from such action.

- 7.5 Termination for Convenience. The Commission may, by written notice from Contracting Officer, terminate this Agreement for convenience, in whole or in part, at any time. Upon receipt of such notice, Contractor shall promptly report to Commission all undelivered or unaccepted work performed in accordance with this Agreement prior to termination ("Incomplete Work"). Contractor may, at Commission's option, be required to complete some or all Incomplete Work during Disentanglement.
- 7.5.1 The Commission shall pay Contractor as full compensation for work performed and costs of termination:
- 7.5.1.1 The unit or pro rata price for any delivered and accepted portion of the work.
- 7.5.1.2 Actual and reasonable Contractor costs for Incomplete Work not mitigable or otherwise recoverable by Contractor. Such compensation shall not exceed the unit or pro rata price due to Contractor had the work been completed.
- 7.5.2 In no event shall the Commission be liable for any loss of profits or any other consequential damages.
- 7.5.3 Commission's termination of this Agreement for convenience shall not preclude it from changing the termination to a default, as set forth in section 7.1 of this Agreement, nor from taking any action in law or equity against Contractor for:
- 7.5.3.1 Fraud, waste, or abuse of Agreement funds, or
- 7.5.3.2 Improperly submitted claims, or
- 7.5.3.3 Any failure to perform the work in accordance with the Statement of Work, or
- 7.5.3.4 Any breach of any term or condition of the Agreement, or
- 7.5.3.5 Any actions under any warranty, express or implied, or
- 7.5.3.6 Any claim of professional negligence, or
- 7.5.3.7 Any other matter arising from or related to this Agreement, whether known, knowable, or unknown before, during, or after the date of termination.
- 7.6 Suspension of Work. The Contracting Officer may order Contractor, in writing, to suspend, delay, or interrupt all or part of the work of this Agreement for the period of time that the Contracting Officer determines appropriate. Commission reserves the right to prohibit, without prior notice, Contractor or Contractor's employees, directors, officers, agents, subcontractors, vendors, consultants, or volunteers from 1) accessing County data systems and County owned software applications, including websites, domain names, platforms, physical files, 2) treating County's patients, clients, or facility residents, or 3) providing any other services under this Agreement.

**ARTICLE 8
COMPLIANCE WITH LAWS AND REGULATIONS**

- 8.1 Compliance with Laws and Regulations. Contractor shall at all times perform its obligations hereunder in compliance with all applicable federal, State, Commission, County and local laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all licenses, permits, notices and certificates as are required. Contractor shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation.
- 8.2 Contractor's Permits and License. Contractor certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to Commission, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all applicable statutes, ordinances, and regulations, or other laws, that may apply to performance of work hereunder. Commission reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of any services hereunder.
- 8.3 Equal Opportunity. Contractor shall comply with the federal and State equal employment opportunity laws, including, but not limited to, provisions of Title VII of the Civil Rights Act of 1964 in that Contractor shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment nor shall Contractor discriminate in any way that would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, sexual orientation or marital status.

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- 8.4 **Affirmative Action.** Each Contractor of services and supplies employing fifteen (15) or more full-time permanent employees shall comply with the Affirmative Action Program for Vendors as set forth in Article IIIk (commencing at section 84) of the San Diego County Administrative Code, which program is incorporated herein by reference. A copy of this Affirmative Action Program will be furnished by the COR upon request or can be obtained from the County of San Diego Internet website (www.sandiegocounty.gov).
- 8.5 **Non-Discrimination.** Contractor shall ensure that services and facilities are provided without regard to ethnic group identification, race, color, nation origin, creed, religion, age, sex, physical, or mental disability, political affiliation or marital status in accordance with applicable laws, including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C 324), section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1987 (P.L. 100-209), Executive Order 12898 (February 11, 1994), Executive Order 13166 (August 16, 2000), Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000-e), the Age Discrimination Act of 1975 (42 U.S.C. 6101), Article 9.5, Chapter 1, Part 1, Division 2, Title 2 (section 11135, et seq.) of the California Government Code, Title 9, Division 4, Chapter 6 (section 10800, et seq.) of the CCR and California Dept. of Social Services Manual of Policies and Procedures (CDSS MPP) Division 19.
- 8.6 **AIDS Discrimination.** Contractor shall not deny any person the full and equal enjoyment of, or impose less advantageous terms, or restrict the availability of the use of any Commission facility or participation in any Commission-funded or supported service or program on the grounds that such person has Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome, (AIDS) as those terms are defined in Title 3, Division 2, Chapter 8, section 32.803, of the San Diego County Code of Regulatory Ordinances.
- 8.7 **American with Disabilities Act (ADA) 1990.** Contractor shall not discriminate against qualified people with disabilities in employment, public services, transportation, public accommodations and telecommunications services in compliance with the Americans with Disabilities Act (ADA) , the California Fair Employment and Housing Act (HESA) and California Administrative Code Title 24.
- 8.8 **Political Activities Prohibited.** None of the funds, provided directly or indirectly, under this Agreement shall be used for any political activities or to further the election or defeat of any candidate for public office. Contractor shall not utilize or allow its name to be utilized in any endorsement of any candidate for elected office. Neither this Agreement nor any funds provided hereunder shall be utilized in support of any partisan political activities, or activities for or against the election of a candidate for an elected office.
- 8.9 **Lobbying.** Contractor agrees to comply with the lobbying ordinances of the County of San Diego and to assure that its officers and employees comply before any appearance before the Commission. Except as required by this Agreement, none of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat any legislation pending before State and federal Legislatures or the Board of Supervisors of the County, or before any other local governmental entity. This provision shall not preclude Contractor from seeking necessary permits, licenses and the like necessary for it to comply with the terms of this Agreement.
- 8.10 **Religious Activity Prohibited.** There shall be no religious worship, instructions or proselytization as part of or in connection with the performance of this Agreement.
- 8.11 **Audit Requirement.**
- 8.11.1 Contractor shall annually engage a Licensed Certified Public Accountant licensed to perform audits and attests in the State of California to conduct an annual financial audit of the organization. Contractors that expend \$750,000 or more of federal grant funds per year shall also have an audit conducted in compliance with Government Auditing Standards, which includes Single Audit Act Amendments and the Compliance Supplement (2 CFR part 200 App. XI). Contractors that are commercial organizations (for-profit) are required to have a non-federal audit if, during its fiscal year, it expended a total of \$750,000 or more under one or more HHS awards. 45 CFR part 74.26(d) incorporates the threshold and deadlines of the Compliance Supplement but provides for-profit organizations two options regarding the type of audit that will satisfy the audit requirements. Contractor shall include a clause in any agreement entered into with an audit firm, or notify the audit firm in writing prior to the audit firm commencing its work for Contractor, that the audit firm shall, pursuant to 31 U.S.C. 7503, and to the extent otherwise required by law, provide access by the federal government or other legally required entity to the independent auditor's working papers that were part of the independent auditor's audit of Contractor. Contractor shall submit two (2) copies of the annual audit report, the audit performed in accordance with the Compliance Supplement, and the management letter to the Commission fifteen (15) days after receipt from the independent Certified Public Accountant but no later than nine (9) months after the Contractor's fiscal year end.

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- 8.11.2 Contractor shall immediately notify Commission upon learning that Contractor's independent Certified Public Accountant may or will issue a disclaimer of opinion due to substantial doubt of Contractor's ability to continue as a going concern.
- 8.12 Board of Supervisors' Policies. Contractor represents that it is familiar, and shall use its best efforts to comply, with the following policies of the Board of Supervisors, available on the County of San Diego website.
- 8.12.1 Board Policy B-67, which encourages the County's Contractors to offer products made with recycled materials, reusable products, and products designed to be recycled to the County in response to the County's requirements; and
- 8.12.2 Board Policies B-53 and B-39a, which encourage the participation of small and disabled veterans' business enterprises in County procurements; and
- 8.12.3 Zero Tolerance for Fraudulent Conduct in County Services. Contractor shall comply with County of San Diego Board of Supervisors Policy A-120 "Zero Tolerance for Fraudulent Conduct in County Services." There shall be "Zero Tolerance" for fraud committed by contractors in the administration of County programs and the provision of County services. Upon proven instances of fraud committed by independent contractors in connection with their performance under the Agreement, said contractor shall be subject to corrective action up to and including termination of the Agreement; and
- 8.12.4 Interlocking Directorate. Per Board Policy A-79, if Contractor is a non-profit Contractor shall not subcontract any work under this Agreement with related for-profit subcontractors where an interlocking directorate, management, or ownership relationship exists unless specifically authorized by the Commission; and
- 8.12.5 Drug and Alcohol-Free Work Environment. Commission, in recognition of its responsibility to provide a safe, healthy and productive work environment and perform services as safely, effectively, and efficiently as possible, has adopted a requirement for a work environment not adversely affected or impaired in any way by the use or presence of alcohol or drugs in Board Policy C-25 County of San Diego Drug and Alcohol Use Policy.
- 8.12.5.1 As a material condition of this Agreement, the Contractor agrees that Contractor and Contractor's employees, while performing services or using Commission equipment pursuant to Agreement:
- 8.12.5.1.1 Shall not be in any way impaired because of being under the influence of alcohol or a drug.
- 8.12.5.1.2 Shall not possess, consume, or be under the influence of alcohol and/or an illegal drug.
- 8.12.5.1.3 Shall not sell, offer, or provide alcohol or an illegal drug to another person; provided, however, that the foregoing restriction shall not be applicable to a Contractor or Contractor's employee who as part of the performance of normal job duties and responsibilities prescribes or administers medically prescribed drugs.
- 8.12.5.2 Contractor shall inform all employees who are performing applicable services of the County's Board Policy C-25 and the above prohibitions.
- 8.13 Cartwright Act. Following receipt of final payment under the Agreement, Contractor assigns to Commission all rights, title and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright act (Chapter 2) (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the Commission under this Agreement.
- 8.14 Hazardous Materials. Contractor shall comply with all Environmental Laws and all other laws, rules, regulations, and requirements regarding Hazardous Materials, health and safety, notices, and training. Contractor agrees that it will not store any Hazardous Materials at any Commission facility for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by Environmental Law. Contractor agrees to take, at its expense, all actions necessary to protect third parties, including, without limitation, employees and agents of Commission, from any exposure to Hazardous Materials generated or utilized in its performance under this Agreement. Contractor agrees to report to the appropriate governmental agencies all discharges, releases, and spills of Hazardous Materials that are required to be reported by any Environmental Law and to immediately notify Commission of it. Contractor shall not be liable to Commission for Commission's failure to comply with, or violation of, any Environmental Law. As used in this section, the term "Environmental Law" means any and all federal, State or local laws or ordinances, rules, decrees, orders, regulations or court decisions (including the so-called "common law"), including, but not limited to, the Resource Conservation and Recovery Act, relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions or other similar substances or conditions. As used in this section the term "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (a) is a flammable, explosive, asbestos, radioactive nuclear medicine, vaccine, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious

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material, whether injurious or potentially injurious by itself or in combination with other materials; (b) is controlled, referred to, designated in or governed by any Environmental Laws; (c) gives rise to any reporting, notice or publication requirements under any Environmental Laws, or (d) is any other material or substance giving rise to any liability, responsibility or duty upon Commission or Contractor with respect to any third person under any Environmental Laws.

8.15 Clean Air Act and Federal Water Pollution Control Act

8.15.1 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq.

8.15.1.1 Contractor agrees to report each violation to the County (and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate federal agency) and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include this requirement in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance.

8.15.2 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq.). Contractor agrees to report each violation to the USDA and the appropriate EPA Regional Office.

8.16 Debarment, Exclusion, Suspension, and Ineligibility.

8.16.1 Contractor certifies that, to the best of its knowledge, and except as disclosed to Commission and acknowledged in writing by County prior to the execution of this Agreement, Contractor, its employees, directors, officers, agents, subcontractors, vendors, consultants, and volunteers:

8.16.1.1 Are not presently debarred, excluded, suspended, declared ineligible, voluntarily excluded, or proposed for debarment, exclusion, suspension or ineligibility by any federal, state, or local department or agency; and

8.16.1.2 Have not within a 3-year period preceding this Agreement been convicted of, or had a civil or administrative judgment rendered against them for, the commission of fraud or a criminal offense or civil action in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction; violation of federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, physical, financial or sexual abuse or misconduct with a patient or client, or medical negligence or malpractice;

8.16.1.3 Are not presently indicted or otherwise criminally, civilly or administratively charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and

8.16.1.4 Are not presently the target or subject of any investigation, accusation, or charge related to the conduct of business by any federal, state, or local agency or law enforcement, licensing, certification, labor standards, occupational safety, ethics, or compliance body.

8.16.1.5 Are not proposed for debarment by any state, local, or federal department or agency.

8.16.1.6 Do not have a judgment rendered against them by a body described in 8.16.1.5 that is unsatisfied.

8.16.1.7 Have not within a three (3) year period preceding this Agreement (i) been found in violation or had a judgment rendered against them resulting from the type of investigation, accusation, or charge described in 8.16.1.5 or (ii) had one or more public transactions (federal, state, or local) terminated for cause or default.

8.16.2 Contractor shall have an ongoing duty during the term of this Agreement to disclose to the Commission any occurrence that would prevent Contractor from making the certifications contained in this section 8.16 on an ongoing basis. Such disclosure shall be made in writing to the COR and the County Office of Ethics and Compliance within five (5) business days of when Contractor discovers or reasonably believes there is a likelihood of such occurrence. 8.17 Display of Fraud Hotline Poster(s). As a material term and condition of this Agreement, Contractor shall:

8.17.1 Prominently display in common work areas within all business segments performing work under this Agreement County of San Diego Office of Ethics and Compliance Ethics Hotline posters;

8.17.2 Posters may be downloaded from the County Office of Ethics and Compliance website at: <http://www.sandiegocounty.gov/content/sdc/cao/oc.html>. Additionally, if Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website;

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- 8.17.3 If Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, the Contractor need not display the County poster;
- 8.18 False Claims Act Training. Contractor shall, not less than annually, provide training on the Federal False Claims Act (31 USC 3729, et seq. or successor statutes) and State False Claims Act (California Government Code 12650, et seq. or successor statutes) to all employees, directors, officers, agents, Related Subcontractors, or volunteers providing services under this Agreement. Contractor shall maintain verification of this training. Contractor shall retain verifications in accordance with the Agreement requirement for retention of records.
- 8.19 Code of Ethics. As a material term and condition of this Agreement, Contractor shall develop and implement a Code of Ethics or similar document and maintain it during the term of this Agreement. Additionally, Contractor shall train all employees and volunteers on the Code of Ethics, and all employees, volunteers, directors, officers, and agents shall certify that they have received training and have been provided an opportunity to ask questions of their employer regarding the Code of Ethics. Contractor shall retain these certifications in accordance with the Agreement's provision regarding retention of records.
- 8.20 Compliance Program. Contractors with an agreement that exceeds more than \$250,000 in value annually shall establish, and maintain for the duration of this Agreement, a compliance program that meets the standards of Federal Sentencing Guidelines section 8B2.1 and 42 CFR 438.608 regardless of funding source or services.
- 8.21 Investigations. Unless prohibited by an investigating government authority, Contractor shall cooperate and participate fully in any investigation initiated by the Commission relative to this Agreement. Upon Commission's request, Contractor shall promptly provide to Commission any and all documents, including any and all communications or information stored digitally, and make available for interviews any employee(s) of Contractor identified by Commission. Contractor further agrees to immediately notify Commission if any employee, director, officer, agent, subcontractor, vendor, consultant or volunteer of Contractor comes under investigation by any federal, State or local government entity with law enforcement or oversight authority over the Agreement or its funding for conduct arising out of, or related to, performance under this Agreement.

Contractor shall promptly make available to Commission all internal investigative results, findings, conclusions, recommendations and corrective action plans pertaining to the investigation in its possession as requested by the Commission, unless otherwise protected by applicable law or privilege.

**ARTICLE 9
CONFLICTS OF INTEREST; CONSULTANT'S CONDUCT**

- 9.1 Conflicts of Interest. Contractor presently has no interest including, but not limited to, other projects or independent Contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Contractor shall not employ any person having any such interest in the performance of this Contract. Contractor shall not hire Commission's employees to perform any portion of the work or services provided for herein including secretarial, clerical and similar incidental services except upon the written approval of Commission. Without such written approval, performance of services under this Agreement by associates or employees of Commission shall not relieve Contractor from any responsibility under this Agreement.
- 9.1.1 California Political Reform Act and Government Code Section 1090 et seq. Contractor acknowledges that the California Political Reform Act ("Act"), Government Code section 81000 et seq, provides that consultants hired by a public agency, such as Commission, may be deemed to be a "public official" subject to the Act if the consultant advises the agency on decisions or actions to be taken by the agency. The Act requires such public officials to disqualify themselves from participating in any way in such decisions if they have any one of several specified "conflicts of interest" relating to the decision. To the extent the Act applies to Contractor, Contractor shall abide by the Act. In addition, Contractor acknowledges and shall abide by the conflict of interest restrictions imposed on public officials by Government Code section 1090 et seq.
- 9.2 Conduct of Contractor.
- 9.2.1 Contractor shall inform Commission of all Contractor's interests, if any, that are, or that Contractor believes to be incompatible with any interests of Commission
- 9.2.2 Contractor shall not, under circumstances that might reasonably be interpreted as an attempt to influence the recipient in the conduct of his duties, accept any gratuity or special favor from individuals or organizations with whom the Contractor is doing business or proposing to do business, in accomplishing the work under this Agreement.

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- 9.2.3 Contractor shall not use for personal gain or make other improper use of confidential information acquired in connection with this Agreement. In this connection, the term “confidential information” includes, but is not limited to, unpublished information relating to technological and scientific development; medical, personnel, or security records of the individuals; anticipated materials requirements or pricing actions; and knowledge of selections of Contractors or subcontractors in advance of official announcement.
- 9.2.4 Contractor, its employees, directors, officers, agents, subcontractors, vendors, consultants, and volunteers shall not offer, directly or indirectly any unlawful gift, gratuity, favor, entertainment, or other item(s) of monetary value to an employee or official of the Commission.
- 9.2.5 Referrals. Contractor further covenants that no referrals of clients through Contractor’s intake or referral process shall be made to the private practice of any person(s) employed by Contractor.
- 9.3 Prohibited Contracts. As required by section 67 of the San Diego County Administrative Code, Contractor certifies that it is not in violation of the provisions of section 67, and that Contractor is not, and will not subcontract with, any of the following:
- 9.3.1. Persons employed by Commission or public agencies for which the Board of Supervisors or Commission is the governing body.
- 9.3.2 Profit-making firms or businesses in which employees described in sub-section 9.3.1 serve as officers, principals, partners, or major shareholders;
- 9.3.3 Persons who, within the immediately preceding twelve (12) months came within the provisions of the above sub-sections and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the Contract, or (2) participated in any way in developing the Contract or its service specifications; and
- 9.3.4 Profit-making firms or businesses in which the former employees described in subsection 9.3.3 above, serve as officers, principals, partners, or major shareholders.
- 9.4 Limitation of Future Agreements or Grants. It is agreed by the parties to the Agreement that Contractor shall be restricted in its future contracting with Commission to the manner described below. Except as specifically provided in this section, Contractor shall be free to compete for business on an equal basis with other companies.
- 9.4.1 If Contractor, under the terms of the Agreement, or through the performance of tasks pursuant to this Agreement, is required to develop specifications or statements of work and such specifications or statements of work are to be incorporated into a solicitation, Contractor shall be ineligible to perform the work described within that solicitation as a prime or subcontractor under an ensuing Commission agreement. It is further agreed, however, that Commission will not, as additional work, unilaterally require Contractor to prepare such specifications or statements of work under this Agreement.
- 9.4.2 Contractor may not apply for nor accept additional payments for the same services contained in the Statement of Work.

**ARTICLE 10
INDEMNITY AND INSURANCE**

- 10.1 Indemnity. Neither Commission nor County shall be liable for, and Contractor shall defend and indemnify Commission and County and the employees and agents of Commission (collectively “Commission Parties”), against any and all claims, demands, liability, judgments, awards, fines, mechanics’ liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys’ fees and court costs (hereinafter collectively referred to as “Claims”), related to this Contract and arising either directly or indirectly from any act, error, omission or negligence of Contractor or its Contractors, licensees, agents, servants or employees, including, without limitation, Claims caused by the sole passive negligent act or the concurrent negligent act, error or omission, whether active or passive, of Commission Parties. Contractor shall have no obligation, however, to defend or indemnify Commission Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of Commission Parties.
- 10.2 Insurance. Contractor shall, at its own cost and expense, obtain and keep in force and effect during the term of this Agreement, including all extensions, the insurance specified in Exhibit B Insurance Requirements. Evidence of insurance and any other documents or notices required to be provided to County pursuant to Exhibit B shall be submitted to the COR or as instructed by the COR. The provisions of section 10.1 are independent of, and shall in no way limit, Contractor’s and its insurer’s requirements under this section 10.2 and Exhibit B.

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**ARTICLE 11
AUDIT AND INSPECTION**

11.1 Audit and Inspection.

- 11.1.1 Authorized federal, State, Commission or County representatives and their designated inspectors shall each have the following rights ("Audit and Inspection"):
 - 11.1.1.1 to monitor, assess, and evaluate Contractor's performance under this Agreement;
 - 11.1.1.2 to conduct audits, inspections, reviews of reports, and interviews of staff and participants involved with the services provided under this Agreement; and
 - 11.1.1.3 to inspect the premises, services, materials, supplies, and equipment furnished or utilized in the performance of this Agreement and the workmanship of the work performed under this Agreement.
- 11.1.2 Contractor shall fully cooperate with any Audit and Inspection. Commission or County shall perform Audits and Inspections in a manner so as not to unduly interfere with Contractor's performance.
- 11.1.3 At any time during normal business hours and as often as Commission and County may deem necessary, Contractor shall make available to Commission, County, State or federal officials for examination all of its records with respect to all matters covered by this Agreement and will permit Commission, County, State or federal officials to examine and make excerpts or transcripts from such records, and to make audits of all invoices, materials, payrolls, records of personnel, information regarding clients receiving services, and other data relating to all matters covered by this Agreement.
- 11.1.4 If an audit is conducted, it will be done in accordance with generally accepted government auditing standards as described in "Government Auditing Standards," published for the United States General Accountability Office or the institute of Internal Auditors International Standards for the Professional Practice of Internal Auditing.

11.2 External Audits. Contractor shall provide the following to the COR:

- 11.2.1 a copy of all notifications of audits or pending audits by federal or State representatives regarding contracted services identified in this Agreement within three (3) business days of Contractor receiving notice of the audit.
- 11.2.2 a copy of the draft and final State or federal audit reports within twenty-four (24) hours of receiving them. Contractors shall also provide electronic copies to Agency Contract Support (ACS) at ACS.HHSA@sdcounty.ca.gov.
- 11.2.3 a copy of Contractor's response to the draft and final State or federal audit reports at the same time the response is provided to the State or federal representatives.
- 11.2.4 a copy of all responses made by a federal or State representative to a Contractor's audit response no later than three (3) business days after receiving it, unless prohibited by the government agency conducting the audit. This shall continue until the federal or State auditors have accepted and closed the audit.

11.3 Availability of Records. Contractor shall maintain and/or make available within Commission accurate books, accounting records, and other records related to Contractor's performance under this Agreement, including all records of costs charged to this Agreement during the term of this agreement and for the longer of: (i) a period of five (5) years after the date of final payment under this Agreement, (ii) for records that relate to appeals under Article 15 "Disputes," or litigation or the settlement of claims arising out of the performance of this Agreement, three (3) years after such appeals, litigation, or claims have been disposed of and (iii) any retention period required by the funding source(s) of this Agreement. Contractor shall provide any requested records to Commission within two (2) business days of request. Contractor assertions of confidentiality shall not be a bar to full access to the records. Commission shall keep the materials described above confidential unless otherwise required by law.

- 11.3.1 Contractor shall maintain, and the records referred to in section 11.3 shall include, records sufficient to establish the reasonableness accuracy, completeness and currency of all cost or pricing data submitted to Commission in connection with this Agreement, including records of adequate price competition, negotiations, and cost or price analysis.

11.4 Outcome-Based Measures. Where outcome-based measures are set forth in the Statement of Work, Contractor shall maintain, and provide to Commission upon Commission's request as often as Commission deems necessary, complete, and accurate data documenting such outcome measures under this Agreement. Such data may include, but is not limited to, statistics on outcomes, rates of success, and completion rate of deliverables.

11.5 Full Cost Recovery. Contractor shall reimburse Commission for all direct and indirect expenditures incurred in conducting an audit, investigation, or inspection when Contractor is subsequently found to have violated terms of this Agreement.

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- 11.6 Corrective Actions. If any services performed hereunder are found to have not been in conformity with the specifications and requirements of this Agreement, Commission shall have the right to (1) require the Contractor to perform the services in conformity with said specifications and requirements at no additional increase in total Agreement amount, (2) require Contractor to immediately take all necessary steps to ensure future performance of the services in conformity with requirements of the Agreement, (3) reduce payment to Contractor in accordance with Article 4, (4) have the services performed, by agreement or otherwise in conformance with the specifications of this Agreement and recover from Contractor any costs incurred by Commission that are directly related to the performance of such services, and/or (5) pursue any other rights or remedies available to Commission under this Contract.

**ARTICLE 12
INSPECTION OF SERVICE**

Where Contractor is required to reimburse Commission under any provision of this Agreement, or where Commission is otherwise owed funds from Contractor, Commission may, at its sole discretion and subject to funding source restrictions and State and federal law: (1) withhold such amounts from any amounts due to Contractor pursuant to the payment terms of this Agreement, (2) withhold such amounts from any other amounts due to Contractor from Commission, and/or (3) require Contractor to make payment to Commission for the total amount due (or a lesser amount specified by Commission) within thirty (30) days of request by Commission. Notwithstanding the foregoing, Commission may allow Contractor to repay any such amounts owed in installments pursuant to a written repayment plan.

**ARTICLE 13
USE OF DOCUMENTS AND REPORTS**

- 13.1 Findings Confidential. Any reports, records, data, or other information given to or prepared or assembled by Contractor under this Agreement that Commission requests to be kept confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of Commission except as may be required by law. Contractor shall not disclose to any individual or organization any reports, records, data, or other information received, prepared, or assembled by Contractor under this Agreement.
- 13.2 Ownership, Publication, Reproduction and Use of Materials. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials produced under this Agreement shall be the sole and exclusive property of Commission. No materials produced in whole or in part under this Agreement shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express prior written consent of Commission. Commission shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement.
- 13.3 Confidentiality. Commission and Contractor agree to maintain the confidentiality of and take industry appropriate and legally required measures to prevent the unlawful disclosure of any information that is legally required to be kept confidential. Except as otherwise allowed by local, State or federal law or regulation and pursuant to this section 13.3, Commission and Contractor agree to only disclose confidential records where the holder of the privilege, whether the Commission, the Contractor or a third party, provides written permission authorizing the disclosure.
- 13.4 Public Records Act. The California Public Records Act ("CPRA") requires Commission to disclose "public records" in its actual or constructive possession unless a statutory exemption applies. This generally includes contracts and related documents. If Commission receives a CPRA request for records relating to the Agreement, Commission may, at its sole discretion, either determine its response to the request without notifying Contractor or notify Contractor of the request. If Commission determines its response to the request without notifying Contractor, Contractor shall hold Commission harmless for such determination. If County notifies Contractor of the request, Contractor may request that Commission withhold or redact records, responsive to the request by submitting to Commission a written request within five (5) business days after receipt of the Commission's notice. Contractor's request must identify specific records to be withheld or redacted and applicable exemptions. Upon timely receipt of Contractor's request, Commission will review the request and at its sole discretion withhold and/or redact the records identified by Contractor. Contractor shall hold Commission harmless for Commission's decision whether to withhold and/or redact pursuant to Contractor's written request. Contractor further agrees that its defense and indemnification obligations set forth in section 10.1 of this Agreement extend to any Claim (as defined in section 10.1) against the Commission Parties (as defined in section 10.1) arising out of Commission's withholding and/or redacting of records pursuant to Contractor's request. Nothing in this section shall preclude Contractor from bringing a "reverse CPRA action" to prevent disclosure of records. Nothing in this section shall prevent the Commission or its agents or any other governmental entity from accessing any records for the purpose of audits or program

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reviews if that access is legally permissible under the applicable local, State or federal laws or regulations. Similarly, County or its agent or designee may take possession of the record(s) where legally authorized to do so.

- 13.5 Custody of Records. Contractor shall deliver to Commission or its designee, at Commission's request, all documentation and data related to Contractor's work under this Agreement, including but not limited to, Commission data and client files held by Contractor, at no charge to Commission. Commission, at its option, may take custody of Contractor's client records upon Agreement termination, expiration, or at such other time as Commission may deem necessary. Commission agrees that such custody will conform to applicable confidentiality provisions of State and federal law and that retained records shall be available to Contractor for examination and inspection in accordance with applicable law. Contractor shall destroy records not turned over to Commission in accordance with applicable retention requirements and this Agreement. Notwithstanding the foregoing, Contractor may retain one (1) copy of the documentation and data for archival purposes or warranty support, and Contractor may maintain records that it is legally required to maintain.
- 13.6 Reports. Contractor shall submit reports required in Exhibit A and additional reports as may be requested by the COR and agreed to by the Contractor. Format for the content of such reports may be developed by Commission. The timely submission of these reports is a necessary and material provision of this Agreement, and Contractor agrees that failure to meet specified deadlines will be sufficient cause to withhold payment. Contractor shall submit to Commission within thirty (30) days of the termination of this Agreement a report detailing all work done pursuant to this Agreement by Contractor.

**ARTICLE 14
(RESERVED)**

**ARTICLE 15
DISPUTES**

Notwithstanding any provision of this Contract to the contrary, the Contracting Officer shall decide any dispute concerning a question of fact arising out of this Contract that is not otherwise disposed of by the parties within a reasonable period of time. The decision of the Contracting Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous as necessarily to imply bad faith. Contractor shall proceed diligently with its performance hereunder pending resolution by the Contracting Officer of any such dispute. Nothing herein shall be construed as granting the Contracting Officer or any other administrative official, representative or board authority to decide questions of law, or issues regarding the medical necessity of treatment or to pre-empt any medical practitioners' judgment regarding the medical necessity of treatment of patients in their care. The foregoing does not change the Commission's ability to refuse to pay for services rendered if Commission disputes the medical necessity of care.

**ARTICLE 16
GENERAL PROVISIONS**

- 16.1. Change of Control. Contractor shall notify County in writing of any change in majority ownership of Contractor (or all or substantially all of Contractor's assets) through a transaction or series of transactions including, without limitation, an acquisition, sale, reorganization, merger, or consolidation ("Change of Control") at least one hundred eighty (180) days prior to the effective date of a Change of Control or as soon as practicable thereafter if notice cannot legally be provided to County within such timeframe.
- 16.1.1. Without limiting any other rights or remedies of County, in the event of a pending or actual Change of Control, County may terminate this Agreement in accordance with section 7.5, Termination for Convenience, except that Contractor shall not be entitled to costs of termination set forth in section 7.5.2.
- 16.2. Assignment and Delegation. Contractor shall not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of County, which shall not be unreasonably withheld; provided, however, that Contractor may assign or delegate its rights or obligations under this Agreement to the entity becoming a majority owner of Contractor's assets during a Change of Control, provided that notice is given in accordance with section 16.1 above. Any purported assignment or delegation in violation of this section shall be null and void.
- 16.3. Entire Contract. This Contract, together with all exhibits attached hereto and other Contracts expressly referred to herein, constitute the entire Contract between the parties with respect to the subject matter contained herein. All prior or contemporaneous Contracts, understandings, representations, warranties and statements, oral or written, including any proposals from Contractor and requests for proposals from Commission, are superseded by this Contract.

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- 16.4. Remedies Not Exclusive. The rights and remedies of Commission provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law, equity, or under resulting order .
- 16.5. Sections and Exhibits. All recitals, sections, and exhibits referred to this Contract are incorporated herein by reference.
- 16.6. Further Assurances. The parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required to carry out the provisions of this Contract and the intentions of the parties.
- 16.7. Governing Law. This Contract shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California and any action brought relating to this Contract shall be held exclusively in a State court in the County of San Diego, State of California.
- 16.8. Headings. The article and section headings used in this Contract are inserted for convenience only and are not intended to define, limit or affect the construction or interpretation of any term or provision hereof.
- 16.9. Neither Party Considered Drafter. Despite the possibility that one party may have prepared the initial draft of this Contract or played the greater role in preparing subsequent drafts, neither party shall be deemed to be the drafter of this Contract. In construing this Contract, no provision shall be construed in favor of one party on the ground that the provision was drafted by the other party.
- 16.10. No Other Inducement. The making, execution and delivery of this Contract by the parties hereto have not been induced by any representations, statements, warranties or Contracts other than those expressed herein.
- 16.11. Notices. Notices to either party shall be in writing and either personally delivered; sent by certified mail, postage prepaid, return receipt requested, or emailed to the Commission's or Contractor's designated representative (or such party's authorized representative). Any such notice shall be deemed received by the party (or such party's authorized representative) on the earliest of the date of personal delivery, three (3) business days after deposit in the U.S. Mail, or upon sending an e-mail from which an acknowledgement of receipt has been received other than an out of office, unavailable, or undeliverable reply.
- 16.12. Severability. If any term, provision, covenant or condition of this Contract is held to be wholly or partially invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Contract shall not be affected thereby, and each term, provision, covenant or condition of this Contract shall be valid and enforceable to the fullest extent permitted by law.
- 16.13. Successors. Subject to the limitations on assignment set forth in section 16.1 and 16.2 above, all terms of this Contract shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, legal representatives, successors, and assigns.
- 16.14. Time. Time is of the essence of each provision of this Contract.
- 16.15. Time Period Computation. All periods of time referred to in this Contract shall be calendar days, unless the period of time specifies business days. Calendar days shall include all days of the week, including holidays. Business days shall be Monday through Friday, excluding County observed holidays.
- 16.16. Waiver. The waiver by one party of the performance of any term, provision, covenant or condition shall not invalidate this Contract, nor shall it be considered as a waiver by such party of any other term, provision, covenant or condition. Delay by any party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant or condition shall not prevent such party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.
- 16.17. Third Party Beneficiaries Excluded. This Agreement is intended solely for the benefit of the Commission and its Contractor. Any benefit to any third party is incidental and does not confer on any third party to this Agreement any rights whatsoever regarding the performance of this Agreement. Any attempt to enforce provisions of this Agreement by third parties is specifically prohibited.
- 16.18. Publicity Announcements and Materials. All public announcements, including those issued on Contractor letterhead, and materials distributed to the community shall identify the First 5 Commission of San Diego or First 5 San Diego as the funding source for contracted programs identified in this Contract. All publicity materials shall comply with the standards provided in the commission's Public Outreach partners Program Graphics Reproductions Standards. Copies of all publicity materials related to Contracted programs identified in this Contract shall be submitted to and filed with the COR. Contractor shall advise Commission at least twenty-four (24) hours in advance of all locally generated press releases and media events regarding contracted services identified in this Contract.
- 16.19. Critical Incidents. Contractor shall have written plans or protocols and provide employee training for handling critical incidents involving: external or internal instances of violence or threats of violence directed toward staff or clients; loss, theft, or unlawful

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accessing of confidential client, patient, or facility resident Personal Information (PI). Personally Identifiable Information (PII) and/or Personal Health Information (PHI); fraud, waste and/or abuse of agreement funds; unethical conduct; or violation of any portion of San Diego County Board of Supervisors Policy C-25 “Drug & Alcohol Use” while performing under this Agreement. Contractor shall report all such incidents to the COR within one business day of their occurrence. However, if this Agreement includes Article 14, Contractor must adhere to the timelines and processes contained in Article 14.

- 16.20. Responsiveness to Community Concerns. Contractor shall notify Commission within one business day of receipt of any material complaints submitted to Contractor orally or in writing related to Contractor’s performance of work under this Agreement (“Complaints”), unless prohibited by applicable State, federal, or local law. Complaints include, but are not limited to, issues of abuse or quality of care, or issues regarding a program or facility applicable to this Agreement. Contractor shall take appropriate steps to acknowledge receipt of Complaints(s) from individuals or organizations and to address or resolve all Complaints. Contractor shall promptly notify the Commission of the status and disposition of all complaints and provide additional information or documentation upon request. Nothing in this provision shall be interpreted to preclude Contractor from engaging in any legally authorized use of its facility, property, or business as approved, permitted or licensed by the applicable authority.
- 16.21. Criminal Background Check Requirements. Contractor shall ensure that criminal background checks are required and completed prior to employment or placement of any employee, director, officer, agent, subcontractor, consultant, or volunteer who will be providing any services, accessing Commission or client data, or receiving compensation under this Agreement. Background checks shall be in compliance with any licensing, certification, funding, or Agreement requirements, including the Statement of Work, which may be higher than the minimum standards described herein. Furthermore, for any individuals identified above who will be assigned to sensitive positions funded by this Agreement, background checks shall be in compliance with Board of Supervisors Policy C-28, available on the County of San Diego website. Sensitive positions are those that: (1) physically supervise minors or vulnerable adults; (2) have unsupervised physical contact with minors or vulnerable adults; and/or (3) have a fiduciary responsibility to any Commission client, or direct access to, or control over, bank accounts or accounts with financial institutions of any client. If this Agreement includes Article 14, Contractor must also adhere to requirements contained in Article 14.
- 16.22. Contractor shall have a documented process for reviewing the information and determine if criminal history demonstrates behavior that could create an increased risk of harm to clients or risk to services to be performed under Agreement. Contractor shall document review of criminal background findings and consideration of criminal history in the selection of such persons listed above in this section.
- 16.22.1. Contractor shall utilize a subsequent arrest notification service or perform a criminal background check annually during the term of this Agreement for any employee, director, officer, agent, subcontractor, consultant or volunteer who will be providing any services under this Agreement. Contractor shall keep the documentation of their review and consideration of the individual’s criminal history on file in accordance with paragraph 11.3 “Availability of Records.”
- 16.22.2. Definitions
- 16.22.2.1. Minor: Individuals under the age of eighteen (18) years old.
- 16.22.2.2. Vulnerable Adult: (1) Individuals age eighteen (18) years or older, who require assistance with activities of daily living and who may be put at risk of abuse during service provision; (2) Individuals age eighteen (18) years or older who have a permanent or temporary limited physical and/or mental capacity which may put them at risk of abuse during service provision because it renders them unable to make decisions for themselves, unable to physically defend themselves, or unaware of physical abuse or other harm that could be perpetrated against them. Activities of daily living are defined as the basic tasks of everyday life, such as eating, bathing, dressing, toileting, and transferring.
- 16.22.2.3. Volunteer: A person who performs a service willingly and without pay.
- 16.23. Survival. The provisions of this Agreement necessary to carry out the intention of the parties as expressed herein shall survive the termination or expiration of this Agreement. Without limiting the foregoing, the following sections and articles of this Agreement shall survive the expiration or earlier termination of the Agreement: sections 8.1, 8.21, 10.1, 16.4, 16.7, and articles 3, 4, 7, 11, 12 and 13.
- 16.24. Coordinated Services. Contractor shall coordinate services with other Commission funded programs and initiatives, as appropriate.
- 16.25. Equipment Retention. Contractor shall be entitled to retain ownership of any equipment or computers identified in the approved budget at the end of the Contract Term under the condition that the equipment will continue to be used to serve children ages 0 – 5 and their families. Equipment must be in the budget and meet the definition of minor equipment – less than \$5,000 for a single item.

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SIGNATURE PAGE

AGREEMENT TERM. The initial term of this Agreement shall begin on October 16, 2017 and end on June 30, **2026** ("Initial Term").

OPTION TO EXTEND. The Commission shall have the option to extend the term of this *Agreement in increments of one (1) year (each an "Option Period")*, beyond the expiration of the contract period, not to exceed **June 30, 2027**. This option shall be automatically exercised unless Commission notifies Contractor in writing, not less than thirty (30) days prior to an Option Period that the Commission does not intend to extend the Agreement.

Options to Extend for One To Six Additional Months at End of Agreement. Commission shall also have the option to extend the term of this Agreement, in one or more increments, for a total of no less than one (1) and no more than six (6) calendar months ("Incremental Options"). The Commission may exercise each Incremental Option by providing written notice to Contractor no fewer than fifteen (15) calendar days prior to expiration of this Agreement. The rates in effect at the time an Incremental Option is exercised shall apply during the term of the Incremental Option.

COMPENSATION: Pursuant to Exhibit C, Article 4, and other applicable provisions of this Agreement, Commission agrees to pay Contractor a sum not to exceed **three hundred eighty-five thousand five hundred ninety dollars (\$385,590)** ("Maximum Agreement Amount"). Furthermore, compensation for the Initial Term and any Option Periods shall not exceed the amounts shown for the Initial Term or that Option Period shown below / in Exhibit C.

<i>Initial Term</i>	<i>10/16/2017 – 06/30/2026</i>	<i>\$360,590</i>
<i>First Option Period</i>	<i>07/01/2026 – 06/30/2027</i>	<i>\$25,000</i>

COR. The Commission designates the following individual as the Contracting Officer's Representative ("COR"):

Lenette Javier, Program and Evaluation Administrator
9655 Granite Ridge Drive, Suite 120
San Diego, CA 92123
(858) 285-7725
Lenette.Javier@sdcounty.ca.gov

CONSULTANTS REPRESENTATIVE. Contractor designates the following individual as the Contractor's Representative:

Sarah Romano, Project Manager
MIG, Inc.
800 Hearst Avenue
Berkeley, CA 94710
sromano@migcom.com

IN WITNESS WHEREOF, Commission and Contractor have executed this Agreement effective as of the date first set forth above.

FIRST 5 COMMISSION OF SAN DIEGO

MIG, INC.

By: XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Alethea Arguilez, Executive Director

By: XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Daniel Iacofano, Chief Operating Officer

Date: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Date: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

**FIRST 5 COMMISSION OF SAN DIEGO
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EXHIBIT A – STATEMENT OF WORK**

1. BACKGROUND

The First 5 Commission of San Diego (Commission) was established by the California Children and Families Act (Proposition 10) passed by California voters in November 1998. This statewide Proposition imposed an additional tax on tobacco products. The revenue generated from the tax is used to fund programs and activities that promote early childhood development from the prenatal stage through age five. The Commission is responsible for implementing the Act in San Diego County.

The Commission leads the San Diego community in promoting the vital importance of the first five years of life to the well-being of children, families and society. The Commission's vision is that all children ages 0 through 5 are healthy, loved and nurtured, and enter school as active learners. The Commission seeks to achieve this vision by funding services and activities to achieve desired results, advocating for policy change at local and state levels, acting as a catalyst and leader for coordinating, integrating and leveraging existing resources, and building community and organizational capacity to support families.

By designing outreach strategies about the importance of the first five years of life, parents and the community will be well-informed as to how to best support the needs of children and pregnant women. The Commission's goal is to deliver campaigns promoting early childhood literacy practices and good nutrition as well as informing the public about the availability of First 5 Commission of San Diego services.

Strategic Plan. The Commission's 2025-2030 Strategic Plan includes Health, Learning, Family and Community as Strategic Goal areas which represent the Commission's key funding priorities to address the complexity and breadth of local needs. The Parent & Public Education services support the Strategic Plan's core strategies by: Increasing the use of positive parenting practices to promote the healthy social emotional development of children ages 0 through 5.

Live Well San Diego. The County of San Diego, Health and Human Services Agency (HHSA), supports the Live Well San Diego vision of Building Better Health, Living Safely, and Thriving. Live Well San Diego, developed by the County of San Diego, is a comprehensive, innovative regional vision that combines the efforts of partners inside and outside County government to help all residents be healthy, safe, and thriving. All HHSA partners and contractors, to the extent feasible, are expected to advance this vision. Building Better Health focuses on improving the health of residents and supporting healthy choices. Living Safely seeks to ensure residents are protected from crime and abuse, neighborhoods are safe, and communities are resilient to disasters and emergencies. Thriving focuses on promoting a region in which residents can enjoy the highest quality of life.

Information about Live Well San Diego can be found on the County's website and a website designated to the initiative:

http://www.sdcountry.ca.gov/hhsa/programs/sd/live_well_san_diego/index.html and <http://www.LiveWellSD.org>.

Trauma-Informed System: The County of San Diego Health and Human Services Agency (HHSA) is committed to becoming a Trauma-Informed System as part of its effort to build a better service delivery system. All programs operated and supported by HHSA shall be part of a Trauma-Informed System, which includes providing trauma-informed services and maintaining a trauma-informed workforce. It is an approach for engaging individuals – staff, clients, partners, and the community – and recognizing that trauma and chronic stress influence coping strategies and behavior. Trauma-informed systems and services minimize the risk of re-traumatizing individuals and/or families, and promote safety, self-care, and resiliency.

Trauma-Informed Principles include:

- Understanding trauma and its impact to individuals;
- Promoting safety;
- Awareness of cultural, historical, disability, and gender issues, and ensuring competence and responsiveness;
- Supporting consumer empowerment, control, choice, and independence;
- Sharing power and governance (e.g. including clients and staff at all levels in the development and review of policies and procedures);
- Demonstrating trustworthiness and transparency;
- Integrating services along the continuum of care;
- Believing that establishing safe, authentic, and positive relationships can be healing;

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- Understanding that wellness is possible for everyone.

2. PROJECT REQUIREMENTS AND DELIVERABLES

Task 1: Ongoing Project Management

The MIG project manager will meet virtually with the First 5 action planning lead to check on project progress and problem-solve any obstacles that may arise. Three, one-hour, virtual core team meetings are included in this task for coordination.

Task 2: Core Team Meetings

MIG will design, facilitate, and document two, one-hour virtual meetings of the Core Team (to consist of 2 leaders of First 5 San Diego and the PIC or Consulting PIC and PM from MIG). Through these meetings, we will discuss and advise on any implementation challenges or opportunities that may arise.

Task 3: Formatting and Graphic Design Support for Implementation Documents

MIG will finalize the formatting and design of the implementation action plans for the recent Strategic Plan. In addition, we will provide graphic design support to update action plans and other implementation documents. For the purpose of budgeting, MIG will assume a total of five rounds of document updates during the project period for documents up to 20 pages in length.

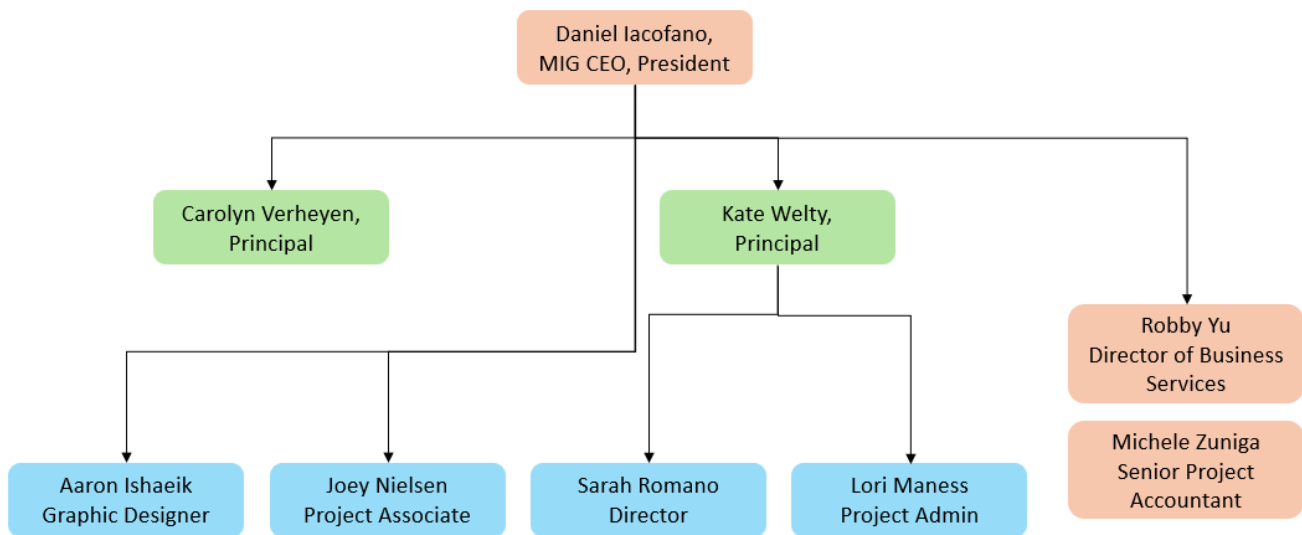
3. STAFFING

- 3.1 Notification of Key Personnel Changes. Contractor shall notify the COR (or designee) in writing within seventy-two (72) hours of a change of key personnel funded under this Agreement. Key personnel include personnel who provide direct services, management oversight, or any combination of these duties. Notification will include a plan to ensure services continue with minimal impact.
- 3.2 Unfilled Positions. Contractor shall notify the COR of any position that remains vacant or unfilled for over thirty (30) days.

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ATTACHMENT 1 – ORGANIZATION CHART**

First 5 Commission of San Diego
Contract - 557201
FY 2026-27

MIG, Inc. Organizational Chart



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ATTACHMENT 2 – ROLES AND RESPONSIBILITIES**

Project Team Member, Title	Percent Time Devoted to Project	Roles and Responsibilities
Carolyn Verheyen, Principal-in-Charge	11%	Manage overall project delivery Lead action planning sessions Provide expertise in designing and facilitating effective meetings Provide expertise in First 5, strategic and action planning, and facilitative leadership
Kate Welty, Consulting Principal	11%	Provide expertise in early care and education, child welfare, organizational development, and First 5
Sarah Romano, Project Manager	36%	Administer daily project coordination Serve as point-of-contact to First 5 staff Lead facilitation of Project/Core Team meetings Co-design and facilitate group input sessions Lead documentation of project outcomes
Joey Nielsen, Project Associate	1%	Support project coordination, materials production, research, and documentation of project
Lori Maness, Project Administrator	3%	Support project coordination, materials production, research, and documentation of project
Aaron Ishaeik, Graphic Designer	33%	Develop graphic design for the final action plan document
Michele Zuniga, Project Accountant	5%	Manage overall fiscal responsibilities

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EXHIBIT B - INSURANCE REQUIREMENTS**

INSURANCE REQUIREMENTS FOR CONTRACTORS

Without limiting Contractor's indemnification obligations to Commission, Contractor shall provide at its sole expense and maintain for the duration of this contract, or as may be further required herein, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of the work by the Contractor, his agents, representatives, employees or subcontractors.

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- A. Commercial General Liability, Occurrence form, Insurance Services Office form CG0001.
- B. Automobile Liability covering all owned, non-owned, hired auto Insurance Services Office form CA0001.
- C. Workers' Compensation, as required by State of California and Employer's Liability Insurance.
- D. Professional Liability (Errors & Omissions) insurance appropriate to the Contractor's Profession and the type of work to be undertaken.

2. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- A. Commercial General Liability including Premises, Operations, Products and Completed Operations, Contractual Liability, and Independent Contractors Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. The General Aggregate limit shall be \$4,000,000.
- B. Automobile Liability: \$1,000,000 each accident for bodily injury and property damage.
- C. Employer's Liability: \$1,000,000 each accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of the Commission and County of San Diego.
- D. Professional Liability (Errors & Omissions): \$2,000,000 per claim with an aggregate limit of not less than \$4,000,000. This coverage shall be maintained for a minimum of three years following termination or completion of Contractor's work pursuant to the Contract.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, Commission requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. As a requirement of this contract, any available insurance proceeds in excess of the specified minimum limits and coverage stated above, shall also be available to Commission.

3. Self-Insured Retentions

Any self-insured retention must be declared to and approved by County Risk Management acting on behalf of the Commission. At the option of the Commission, either: the insurer shall reduce or eliminate such self-insured retentions as respects the Commission, the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Commission guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

4. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

A. Additional Insured Endorsement

The Commission and the County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively are to be covered as additional insureds on the General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed by or on behalf of the Contractor. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO from CG 2010 11 85 or **both** CG 2010, CG 2026, CG 2033, or CG 2038; **and** CG 2037 forms if later revisions used).

B. Primary Insurance Endorsement

For any claims related to this Contract, Contractor's insurance coverage, including any excess liability policies, shall be primary insurance at least as broad as ISO CG 20 01 04 13 as respects the Commission, the County, the members of the

**FIRST 5 COMMISSION OF SAN DIEGO
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Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the Commission or County, its officers, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

C. Notice of Cancellation

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the Commission.

D. Severability of Interest Clause

Coverage applies separately to each insured, except with respect to the limits of liability, and that an act or omission by one of the named insureds shall not reduce or avoid coverage to the other named insureds.

General Provisions

5. Qualifying Insurers

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A, VII according to the current Best's Key Rating guide, or a company of equal financial stability that is approved in writing by County Risk Management, acting on behalf of the Commission.

6. Evidence of Insurance

Prior to commencement of this Contract, but in no event later than the effective date of the Contract, Contractor shall furnish the Commission with a copy of the policy declaration and endorsement pages along with the certificates of insurance and amendatory endorsements effecting coverage required by this clause. Policy declaration and endorsement pages shall be included with renewal certificates and amendatory endorsements submissions and shall be furnished to Commission within thirty days of the expiration of the term of any required policy. Contractor shall permit Commission at all reasonable times to inspect any required policies of insurance.

7. Failure to Obtain or Maintain Insurance; Commission's Remedies

Contractor's failure to provide insurance specified or failure to furnish certificates of insurance and amendatory endorsements or failure to make premium payments required by such insurance shall constitute a material breach of the Contract, and Commission may, at its option, terminate the Contract for any such default by Contractor.

8. No Limitation of Obligations

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by the Commission or County Risk Management, acting on behalf of the Commission are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to the Contract, including, but not limited to, the provisions concerning indemnification.

9. Review of Coverage

Commission retains the right at any time to review the coverage, form and amount of insurance required herein and may require Contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

10. Self-Insurance

Contractor may, with the prior written consent of County Risk Management, acting on behalf of the Commission, fulfill some or all of the insurance requirements contained in this Contract under a plan of self-insurance. Contractor shall only be permitted to utilize such self-insurance if in the opinion of County Risk Management acting on behalf of the Commission, Contractor's (i) net worth, and (ii) reserves for payment of claims of liability against Contractor, are sufficient to adequately compensate for the lack of other insurance coverage required by this Contract. Contractor's utilization of self-insurance shall not in any way limit liabilities assumed by Contractor under the Contract.

11. Claims Made Coverage

If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly so state. In addition to the coverage requirements specified above, such policy shall provide that:

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- A. The policy retroactive date coincides with or precedes Contractor's commencement of work under the Contract (including subsequent policies purchased as renewals or replacements).
- B. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Contract.
- C. If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least three years to report claims arising in connection with the Contract.
- D. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

12. Subcontractors' Insurance

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Commission is an additional insured on insurance required from subcontractors. Such Additional Insured endorsement shall be attached to the certificate of insurance in order to be valid and on a form at least as broad as ISO from CG 2010 11 85 or both CG 2010, CG 2026, CG 2033, or CG 2038; and CG 2037 forms if later revisions used. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall defend and indemnify Commission from any damage, loss, cost, or expense, including attorneys' fees, incurred by Commission as a result of subcontractor's failure to maintain required coverage.

13. Waiver of Subrogation

Contractor hereby grants to Commission a waiver of their rights of subrogation which any insurer of Contractor may acquire against Commission by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Commission for all work performed by the Contractor, its employees, agents and subcontractors.

**FIRST 5 COMMISSION OF SAN DIEGO
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AGREEMENT WITH MIG, INC. FOR
STRATEGIC PLANNING CONSULTANT SERVICES
EXHIBIT C-1 – CURRENT BUDGET**

First 5 Commission of San Diego	
PROGRAM BUDGET	
Strategic Planning Consultant Services	
Contract # 557201	
July 1 - June 30	
APPROVED OPTION YEARS (refer to each approved new FY budget for line item breakdown and narrative)	ANNUAL MAX OPERATIONS DOLLAR AMOUNT
FY 26-27	\$25,000

SPCS MIG FY26.27 557201 -14

Final Audit Report

2026-06-15

Created:	2026-06-10 (Pacific Daylight Time)
By:	Alicia Castro (Alicia.Castro@sdcounty.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA--fOrCNx5keHZZVe9zb0hWG0ENcLuCWB

"SPCS MIG FY26.27 557201 -14" History

-  Document created by Alicia Castro (Alicia.Castro@sdcounty.ca.gov)
2026-06-10 - 8:30:06 AM PDT- IP address: 68.7.147.144
-  Document emailed to danieli@migcom.com for signature
2026-06-10 - 8:30:14 AM PDT
-  Email viewed by danieli@migcom.com
2026-06-10 - 9:48:05 AM PDT- IP address: 74.125.209.67
-  Signer danieli@migcom.com entered name at signing as Daniel Iacofano
2026-06-12 - 10:45:38 AM PDT- IP address: 143.105.119.202
-  Daniel Iacofano (danieli@migcom.com) has agreed to the terms of use and to do business electronically with SAN DIEGO COUNTY
2026-06-12 - 10:45:40 AM PDT- IP address: 143.105.119.202
-  Document e-signed by Daniel Iacofano (danieli@migcom.com)
Signature Date: 2026-06-12 - 10:45:40 AM PDT - Time Source: server- IP address: 143.105.119.202 - Signature Appearance Selected: TYPE
-  Document emailed to Alethea Arguilez (Alethea.Arguilez@sdcounty.ca.gov) for signature
2026-06-12 - 10:45:47 AM PDT
-  Email viewed by Alethea Arguilez (Alethea.Arguilez@sdcounty.ca.gov)
2026-06-15 - 8:20:29 PM PDT- IP address: 38.44.207.147
-  Alethea Arguilez (Alethea.Arguilez@sdcounty.ca.gov) has agreed to the terms of use and to do business electronically with SAN DIEGO COUNTY
2026-06-15 - 8:20:58 PM PDT- IP address: 38.44.207.147
-  Document e-signed by Alethea Arguilez (Alethea.Arguilez@sdcounty.ca.gov)
Signature Date: 2026-06-15 - 8:20:58 PM PDT - Time Source: server- IP address: 38.44.207.147 - Signature Appearance Selected: IMAGE



✔ Agreement completed.
2026-06-15 - 8:20:58 PM PDT

