

**AGREEMENT FOR SERVICES
BETWEEN SANTA CLARA COUNTY HOUSING AUTHORITY
AND SANTA CLARA COUNTY**

This Agreement, effective December 1, 2020 (**Effective Date**), is entered into between Santa Clara County Housing Authority, a public agency formed under the authority of state law (**Housing Authority**) and Santa Clara County (**County**).

RECITALS

WHEREAS, the Housing Authority recognized a need for unhoused Chronically Homeless Direct Referral (**CHDR**) Program and Special Needs Direct Referral (**SNDR**) Program Project Based Voucher holders to have temporary housing when waiting for construction of their new homes to be completed;

WHEREAS, the Housing Authority received HUD approval to implement Moving to Work activity 2020-2: Interim Housing as a local, non-traditional activity to provide temporary housing for chronically homeless and homeless persons with disabilities waiting for their permanent home; and

WHEREAS, in the past the County has provided ad-hoc interim housing arrangements for the target population in similar situations and now plans to lease housing specifically for this purpose; and

WHEREAS, the County and Housing Authority have a contractual relationship, providing a partnership in housing homeless and special needs populations. This intergovernmental agreement ensures the County's intensive case management services remain connected to the voucher holders in the CHDR and SNDR programs; and

WHEREAS, given the County's expertise in the delivery of temporary housing and social and supportive services for residents in need of permanent supportive housing and the effectiveness of these efforts, the Housing Authority has determined that the most effective way to provide temporary housing to these target populations is to enter into a partnership with the County for the County to administer the temporary housing and supportive services in accordance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Agreement.

The documents forming the entire Agreement between the Housing Authority and the County shall consist of this Agreement and its attachments:

Attachment 1 – Scope of Services

Attachment 2 – Compensation

Attachment 3 – Insurance Requirements

This Agreement contains all the representations and understandings of the parties, and supersedes and replaces any previous understandings, commitments, or proposals,

whether oral or written. Any other terms or conditions included in any quotes, proposals, or other forms exchanged by the parties are not incorporated in this Agreement and are not binding upon the parties.

2. Term of Agreement.

The term of this Agreement commences on the date indicated above and continues through October 31, 2025 (**Initial Term**) unless terminated earlier in accordance with this Agreement.

3. Scope of Services.

The Housing Authority and the County shall perform those Services specified in **Attachment 1** in accordance with the time stated in **Attachment 1**, entitled "Scope of Services."

4. Maximum Compensation.

The maximum compensation limit of this Agreement is **FIVE MILLION FOUR HUNDRED THOUSAND DOLLARS** (\$5,400,000.00), which is the sum of all payments that may be authorized for Services, and for the expenses, supplies and equipment required to perform the Services. The method and rate of payment are set forth in **Attachment 2** entitled "Compensation." The County is responsible for not exceeding this Maximum Compensation Limit and understands that the County will not be entitled to any additional compensation under this Agreement for Services provided or expenses incurred in excess of this Maximum Compensation Limit.

5. Project Manager.

The Housing Authority's Project Manager is Heather Miller, Senior Housing Policy Analyst. The Project Manager is the primary point of contact, and the person responsible for receiving reports, providing direction and comment, and coordinating payment.

6. Independence.

It is understood and agreed that the County will perform the Services as an independent contractor. In performing these Services, the County is not acting as an agent or employee of the Housing Authority; and, as such, County employees shall obtain no rights or other employee benefits which accrue to The Housing Authority's employees. The County, on behalf of itself, its employees and Contractors, hereby expressly waives any claim it may have to any such rights.

7. Assignability.

The expertise and experience of the County are material considerations for this Agreement. The County shall not assign or transfer any interest in this Agreement, nor the performance of any of the County's obligations hereunder, without the prior written consent of the Housing Authority, and any attempt by the County to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect. The Housing Authority consents to the County subcontracting with Abode Services for purposes of this Agreement.

8. **Termination.**

- a) **Termination for Convenience.** The Housing Authority shall have the right to terminate this Agreement, without cause or penalty, by giving not less than thirty (30) days prior written notice to the other party. The Housing Authority will compensate the County for units occupied through the termination date.
- b) **Termination for Default.** If the County fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the Housing Authority may terminate this Agreement immediately upon written notice to the County.
- c) Upon termination, each party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, the County shall deliver to the Housing Authority all Confidential Information and any other material which the County developed for the Housing Authority pursuant to this Agreement.

9. **Confidentiality of Records.**

- a) **Intent.** The nature of the Services the County will provide pursuant to this Agreement necessarily involves the Housing Authority's disclosure of detailed information about its' operations, including information which may be protected from public disclosure by confidentiality laws, the attorney client privilege, or other provisions of law which govern the nature and timing of disclosure of such information (**Confidential Information**). So that the Housing Authority may fully use the County's services, the Housing Authority must be confident that the County will handle such information properly and in a manner that protects the interests of the Housing Authority and those that it serves.
- b) **Privacy Protection and Security Obligations.** The County shall implement appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Housing Authority clients' personally identifiable information (**PII**) required by federal, state, and local rules. The County shall make its internal policy, procedures, and records relating to the use, disclosure, and safeguard of PII received from or created by the County available to the Housing Authority for purposes of determining compliance with PII. If this Agreement involves the Housing Authority's transmission of PII to the County, it is included in the definition of Confidential Information.
- c) **Release of Information.** The County may not disclose any information the County obtained while performing the Services required by this Agreement without the Housing Authority's specific, written consent. This prohibition applies to any type or manner of unauthorized communication, whether verbal, written or electronic. Electronic communication includes, but is not limited to, communication or data transmitted by email, chat room, internet, blogs, and instant or text messaging. In addition, the County may provide draft documents and the Housing Authority's Confidential Information only (i) to those within County 's organization (or contractors) that need to know to provide the required Services; (ii) to the Housing Authority's General Counsel; (iii) to the Housing Authority's Project Manager; and (iv) the Housing Authority department director who has a business need to know in order to provide necessary information to the County required for completion of its services.

- d) Court Orders. If the County receives a subpoena, court order, or other legal document requiring release of any information or documents, or is informed that such an order is forthcoming, the County will immediately provide notice to the Housing Authority's Project Manager to permit it to take appropriate action.
- e) Notification of Security Incident or Breach. Within one (1) business day of the County's discovery of a security incident or a breach that may involve information governed by this Agreement, the County shall immediately report the security incident or breach to the Housing Authority's Project Manager.
- f) Agreements with Contractors or Subcontractors. The County shall enter into a written agreement with any Contractors or Subcontractors to whom the County provides the Housing Authority's Confidential Information in which the Contractors or Subcontractors agree to be bound by the same restrictions and conditions of this Agreement.
- g) Disposition of Information. Upon the expiration or termination of this Agreement, the County will return all Confidential Information to the Housing Authority and ensure all electronic records are permanently deleted from all of the County's information technology resources. The County may not retain any copies of the Housing Authority's Confidential Information unless expressly authorized in writing, and if authorized, the Agreement will dictate the manner of the County's storage and eventual destruction of such information.

10. Indemnification

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by each Party shall not be shared pro rata but, instead, the County and Housing Authority agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Parties hereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Parties under this Agreement.

11. Insurance Requirements

Without limiting the County's indemnification of the Housing Authority, the County shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the insurance coverage set forth in **Attachment 3**, entitled "Insurance Requirements."

12. Nondiscrimination

The County shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of

this Agreement.

13. Governing Law.

The parties agree that the law governing this Agreement shall be that of the State of California.

14. Compliance with Laws.

The County shall comply with all applicable laws, and regulations of the federal, state and local governments.

15. Ownership of Instruments of Service.

All work, materials and deliverables of this contract prepared by the County pursuant to this Agreement, including narratives, written materials, and related documents (**Instruments of Service**) are the property of the Housing Authority. The County must provide the Housing Authority with such materials at appropriate times during this Agreement, and on termination of this Agreement. The County may retain a copy for its records.

16. Waiver

The County agrees that the Housing Authority's waiver of any County breach of any term or condition of this Agreement shall not be deemed to be a waiver of any other violation of any other term or condition, or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by the Housing Authority of the performance of any work or services by the County shall not be deemed to be a waiver of any term or condition of this Agreement.

17. Books and Records.

- a) The County shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of two (2) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- b) Any records or documents the County is required to maintain pursuant to this Agreement shall be made available for inspection or audit at no cost to the Housing Authority, at any time during regular business hours, upon written request by the Housing Authority. Copies of such documents shall be provided to the Housing Authority for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at the County's address indicated for receipt of notices in this Agreement.
- c) Where the Housing Authority has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of the County's business, the Housing Authority may, by written request by any of its officers, require that custody of the records be given to the Housing Authority and that the records and documents be maintained. Access to such records and documents shall be granted to any party authorized by the County to act on its behalf, its representatives, or its successors-in-interest.

18. Conflict of Interest.

The County understands and agrees that it owes a duty of loyalty to the Housing Authority in the performance of Services under this Agreement. The County covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of services under this Agreement. The County further covenants that, in the performance of this Agreement, it will not employ any consultant or person having such an interest.

19. Gifts.

The County understands that the Housing Authority’s personnel policies prohibit its employees from accepting personal gifts (as defined in state law, including meals and travel) from any business partners, including the County.

20. Standard of Care.

The County must perform Services in accordance with those standards of care that are generally recognized as being used by competent persons in the County's area of specialty and profession in the State of California.

21. Notices.

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served, mailed (or electronic mail), postage prepaid and return receipt requested, addressed to the respective parties as follows:

<p>To Housing Authority: Santa Clara County Housing Authority ATTN: Procurement 505 West Julian Street San Jose, CA 95110 (408) 993-3044 procurement@scchousingauthority.org</p> <p>Invoices to: ap@scchousingauthority.org</p>	<p>To County: County of Santa Clara Office of Supportive Housing ATTN: Contracts Management 2310 North First Street, Suite 201 San Jose, CA 95131 (408) 278-6400 Hilary.Barroga@hhs.sccgov.org</p>
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22. Amendments.

This Agreement may only be modified by a written amendment duly executed by the parties to this Agreement.

WITNESS THE PARTIES’ EXECUTION of this Agreement by the following representatives of the parties:

**SANTA CLARA COUNTY HOUSING
AUTHORITY**

DocuSigned by:
Katherine Harasz
By: _____
Name: Katherine Harasz
Title: Executive Director
Date: 11/4/2020

APPROVED AS TO FORM

DocuSigned by:
Valerie J. Armento
By: _____
Name: Atkinson-Farasyn LLP
Title: General Counsel for the Housing
Authority
Date: 11/3/2020

COUNTY OF SANTA CLARA

DocuSigned by:
Jeffrey V. Smith
By: _____
Name: Jeffrey V. Smith, M.D., J.D.
Title: County Executive Officer
Date: 11/4/2020

**APPROVED AS TO FORM AND
LEGALITY**

DocuSigned by:
Zoe Friedland
By: _____
Name: Zoe Friedland
Title: Deputy County Counsel
Date: 11/4/2020

ATTACHMENT 1 SCOPE OF SERVICES

The County shall provide qualified personnel, equipment, and materials to assist eligible prospective Section 8 Project-Based Voucher holders with interim housing when they are unable to move into their permanent home upon determination of Section 8 eligibility. The County shall:

1. Assist voucher holders referred by the Housing Authority with interim housing by performing a variety of duties which are described below:
 - a. The County will select and contract with Providers for the provision of social and supportive services at the interim housing location;
 - b. The County will make available to Housing Authority voucher holders up to 30 units per month;
 - c. In addition to the compensation from the Housing Authority payable under Attachment 2, the County may charge tenants a rental fee of no more than **FIFTY DOLLARS** (\$50) per month. The County is responsible for collecting any and all rental fees charged from tenants. If the County charges a monthly rental fee to Housing Authority tenants, the County will develop policies for hardship exemptions and provide tenants with information regarding those policies. The Housing Authority has no interest in rental fees from tenants of interim housing;
 - d. The County or County's Providers will provide ongoing, direct assistance (including but not limited to meeting with clients) to tenants until they are able to move into their permanent unit;
 - e. Prior to occupancy, the County will provide the Housing Authority access to each unit to be tenanted by voucher holders for the purpose of performing Housing Quality Standards inspections. Units must pass HQS inspection before tenants are permitted to occupy the unit.
2. For each household receiving interim housing, the County will maintain a file, which will include: the name(s) of tenant(s), the unit number assigned, and the move-in and move-out dates. The County will submit monthly reports to the Housing Authority as outlined in **Attachment 2**.

ATTACHMENT 2 COMPENSATION

As Compensation for units occupied in accordance with this Agreement, the Housing Authority shall pay the County in accordance with the methodology described within "Billing and Reporting" section of this attachment. Unless otherwise indicated, rates are inclusive of all labor, equipment, administrative and associated expenses in providing the Services, including mileage. Unless otherwise specified, fees are payable on a monthly basis, in arrears.

Billing & Reporting

The County shall submit monthly reports and monthly invoices. The parties agree that the County shall not be entitled to advance payments, nor shall the County submit invoices for fees not yet incurred. Invoices must be accompanied by supporting documentation describing the number of units occupied for the month and for which the County is requesting payment.

The County shall submit monthly reports and attach them to corresponding monthly invoices.

a) Payment methodology for services:

Number of units occupied for part of a month	Payment methodology
1-30 units	The County will receive a rate of \$100.00 per occupied unit per night.

b) The monthly report will include:

- i. Names of the Section 8 tenants occupying the units;
- ii. Unit numbers and unit size (Single Room Occupancy or Studio)
- iii. Move-in date and move-out date (if applicable) for each tenant.

The Housing Authority reserves the right to withhold payment due to lack of supporting documentation or late submission of any monthly report.

ATTACHMENT 3 INSURANCE REQUIREMENTS

Insurance

Without limiting the County's indemnification of the Housing Authority, the County shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverage and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the County shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the County upon request. **This verification of coverage shall be e-mailed to the Housing Authority at procurement@scchousingauthority.org.** The County shall not proceed with the work under this Agreement until has obtained all insurance required and such insurance has been approved by the Housing Authority. The approval of insurance by the Housing Authority shall neither relieve nor decrease the liability of the County.

B. Qualifying Insurers

All coverage, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the Housing Authority.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the Housing Authority or its designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

- | | | |
|----|-------------------|-------------|
| a. | Each occurrence | \$1,000,000 |
| b. | General aggregate | \$2,000,000 |
| c. | Personal Injury | \$1,000,000 |

General liability coverage shall include the following endorsement, a copy of which shall be provided to the Housing Authority.

2. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less

than one million dollars (\$1,000,000.00) combined single limit per occurrence applicable to hired vehicles.

3. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

4. Professional Errors and Omissions Liability Insurance

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence/aggregate.
- b. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this Agreement.

5. Claims Made Coverage

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

- a. Policy retroactive date coincides with or precedes the County's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the County and any approval of insurance by the Housing Authority or its insurance sub-Contractors are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the County pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The Housing Authority acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the County. However, this shall not in any way limit liabilities assumed by the County under this Agreement. Any self-insurance shall be approved in writing by the Housing Authority upon satisfactory evidence of financial capacity. The County's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the County shall require each of its sub-Contractors of any tier to carry the aforementioned coverages or the County may insure sub-Contractors under its own policies.
4. The Housing Authority reserves the right to withhold payments to the County in the event of material noncompliance with the insurance requirements outlined above.