

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



**Contract Number**

**21-500**

**SAP Number**

**N/A**

## **Sheriff/Coroner/Public Administrator**

**Department Contract Representative**  
**Telephone Number**

John Ades, Captain  
(909) 387-0640

**Contractor**

San Francisco Sheriff's  
Department, Five Keys Charter  
School (hereinafter called  
CONTRACTOR)

**Contractor Representative**  
**Telephone Number**  
**Contract Term**  
**Original Contract Amount**  
**Amendment Amount**  
**Total Contract Amount**  
**Cost Center**

Amy Roth  
(628) 243-0323  
07/01/2021 – 6/30/2024  
Mutual Aid  
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4420005167

### **IT IS HEREBY AGREED AS FOLLOWS:**

*(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)*

**WHEREAS**, County of San Bernardino ("County"), through its included Sheriff's Department ("Sheriff") administers rehabilitative programs to incarcerated individuals in a custodial setting;

**WHEREAS**, CONTRACTOR is a charter management (non-profit) corporation that was established in 2003 by the San Francisco Sheriff's Department as the first charter school in the nation to operate inside a county jail;

**WHEREAS**, CONTRACTOR's curriculum is specifically designed to meet the needs of incarcerated populations as they prepare to become contributing members of the community;

**WHEREAS**, County desires to provide CONTRACTOR's educational instruction to inmates;

**WHEREAS**, CONTRACTOR desires to provide said services to the County;

**NOW, THEREFORE**, the County and CONTRACTOR mutually agree to the following terms and conditions:

**A. DEFINITIONS**

- A.1 ADA**– Average Daily Attendance – is defined as the total days of student attendance divided by the number of days of instruction. Public education funding is apportioned based upon each school's ADA.
- A.2 Contractor** – Any individual, company, firm, corporation, partnership or other organization to whom a contract award is made by the County.
- A.3 INROADS** – Inmate Rehabilitation through Occupational and Academic Develop Systems – The collective academic, vocational, substance abuse, behavioral and life skills programs provided to inmates by the County.
- A.4 Sheriff's Inmate Program Coordinator** – Under direction, coordinates the various stages of inmate vocational, educational, volunteer, and related programs and services for Sheriff's Department, Detentions and Corrections Bureau. Supervises staff engaged in providing individual and group counseling. Plans, organizes, implements, monitors, and promotes inmate academic, vocational and crisis intervention courses.

**B. CONTRACTOR RESPONSIBILITIES**

- B.1** CONTRACTOR shall provide educational services consisting of: academic assessment, General Education Development (GED) test preparation, High School credited classes, English as a Second Language (ESL), and Adult Basic Education (ABE) at the County's detention centers. Services may be provided at one or more of the following locations as determined by the Sheriff and CONTRACTOR: Glen Helen Rehabilitation Center (GHRC), Central Detention Center (CDC), High Desert Detention Center (HDDC) and West Valley Detention Center (WVDC) (hereinafter collectively referred to as "Facilities").
- B.2** CONTRACTOR agrees to:
- B.2.1** Provide credentialed teachers and administrators at no cost to the County. The number of days per week of instruction is dependent upon reportable ADA according to prescribed student-to-teacher ratios.
  - B.2.2** Provide a combination of classroom based instruction and independent study course work toward a high school diploma, GED or English as a Second Language (ESL) classes geared toward the Spanish version of the GED, and if necessary based upon the individual inmate's needs, Adult Basic Education. The determination of whether instruction will take place in a classroom or through independent study will be made based upon a variety of criteria, including: the inmate population, availability of classroom space, availability of CONTRACTOR and Sheriff staffing, etc.
  - B.2.3** Provide classes during the Academic School Year. Exact schedule of classes and time to be determined by mutual agreement of CONTRACTOR and the Sheriff's Inmate Programs Coordinator.
  - B.2.4** Provide initial assessments and follow-up assessments.
  - B.2.5** Provide a program coordinator to liaison between instructors and Sheriff's Inmate Programs Coordinator.
  - B.2.6** Provide Sheriff's Inmate Programs Coordinator with monthly reports of inmate attendance and completion rates for each class. The report will be in a format approved by the Inmate Programs Coordinator.
  - B.2.7** Provide all textbooks and basic materials to inmate participants.
  - B.2.8** Provide documentation of attendance and course credit completion to inmate participants.
  - B.2.9** Provide California high school diplomas and certificates of completion as appropriate.
  - B.2.10** Follow all Sheriff's policies and procedures as they pertain to safety, security and professional conduct while in the Facilities and conform to all applicable policies, standards, procedures, regulations and general orders, requirements and restrictions.

- B.2.11** Ensure that CONTRACTOR staff report to the Facilities on time and follow all regulations while on site.
- B.2.12** Ensure that CONTRACTOR staff comply with dress code, wears name badges and undergo security checks as required by Sheriff.
- B.2.13** Attend regular program meetings to communicate and exchange ideas.

## **C. COUNTY'S RESPONSIBILITIES**

### **C.1 Sheriff agrees to:**

- C.1.1** Provide CONTRACTOR staff with orientation training and cleared access to the Facilities as necessary to perform work under this Agreement, upon successful completion of Sheriff's background check per Section E.20.
- C.1.2** Designate the Inmate Program's Coordinator as the primary contact to coordinate with CONTRACTOR.
- C.1.3** Provide adequate instructor workspace, furnishings and equipment including access to: internet, fax, copier and telephones.
- C.1.4** Provide safety, security and dress code training to CONTRACTOR staff.
- C.1.5** Retain full responsibility for care of inmates.
- C.1.6** Coordinate multidisciplinary meetings.
- C.1.7** Provide program support and access to inmates to meet CONTRACTOR minimum student-to-teacher ratios.
- C.1.8** Hold regular program meetings to exchange ideas.
- C.1.9** Retain the right to terminate any CONTRACTOR staff member's jail clearance at Sheriff's discretion.
- C.1.10** Make every effort not to cancel regularly scheduled class meetings in order for CONTRACTOR to meet its minimum number of instructional minutes as required by State law for public schools.

## **D. JOINT RESPONSIBILITIES**

### **D.1 CONTRACTOR and Sheriff agree to:**

- D.1.1** Mutually agree on the levels of service and the number of staff required.
- D.1.2** Collaborate to identify and implement services to be provided to the inmate population.
- D.1.3** Limit participation in CONTRACTOR classes to inmates without a high school diploma.
- D.1.4** Add or reduce the number of classes based upon the number of inmates participating with a maximum number of inmate per class of 25. Should the number of eligible inmates exceed capacity, waiting lists will be created.
- D.1.5** Mutually understand that as a public school, CONTRACTOR must track enrollment for purposes of reporting to the State. Attendance for inmates completing courses through independent study contracts can only be claimed once an inmate completes the work assigned.
- D.1.6** Ensure the minimum student daily attendance requirement is satisfied whether by classroom instruction or by independent study.
- D.1.7** Mutually develop an action plan for enrollment/attendance should reportable ADA drop below 1:21 per instructor.

## **E. GENERAL CONTRACT REQUIREMENTS**

### **E.1 Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

### **E.2 Legality and Severability**

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**E.3 Representation of the County**

In the performance of this Contract, CONTRACTOR, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

**E.4 Relationship of the Parties**

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

**E.5 Primary Point of Contact**

CONTRACTOR will designate an individual to serve as the primary point of contact for the Contract. CONTRACTOR or designee must respond to County inquiries within two (2) business days. CONTRACTOR shall not change the primary contact without written acknowledgement to the County. CONTRACTOR will also designate a back-up point of contact in the event the primary contact is not available.

**E.6 Change of Address**

CONTRACTOR shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

**E.7 Subcontracting**

CONTRACTOR agrees not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from the County. Any subcontracting shall be subject to the same terms and conditions as CONTRACTOR. CONTRACTOR shall be fully responsible for the performance and payments of any subcontractor's Contract.

**E.8 Agreement Assignability**

Without the prior written consent of the County, the Contract is not assignable by CONTRACTOR either in whole or in part.

**E.9 Agreement Modification**

CONTRACTOR agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of CONTRACTOR and County.

**E.10 Duration of Terms**

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

**E.11 Time of the Essence**

Time is of the essence in performance of this Contract and of each of its provisions.

**E.12 Strict Performance**

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

**E.13 Mutual Covenants**

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

**E.14 Contract Exclusivity**

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the CONTRACTOR will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

**E.15 Notification Regarding Performance**

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under the Contract, CONTRACTOR shall notify the County within one (1) working day, in writing and by telephone.

**E.16 Attorney's Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

**E.17 Venue**

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

**E.18 Choice of Law**

This Contract shall be governed by and construed according to the laws of the State of California.

**E.19 Licenses, Permits and/or Certifications**

CONTRACTOR shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. CONTRACTOR shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. CONTRACTOR will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

**E.20 Background Checks**

Sheriff will perform background checks on CONTRACTOR's employees as a condition of granting them access to Facilities. Sheriff shall have the sole discretion to determine security acceptability of all CONTRACTOR's personnel at any time during the term of this Contract. Personnel found to be unacceptable security risks will be denied access to Facilities.

**E.20.1** All CONTRACTOR staff, subcontractors, and agents performing services under this MOU shall undergo and pass a background investigation to the satisfaction of the County as a condition of beginning and continuing to perform services under this MOU.

**E.20.2** Background investigations may include, but shall not be limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice. The fees associated with the background investigation shall be at the expense of the Contractor.

**E.20.3** If a member of CONTRACTOR staff does not pass the background, County may request that the CONTRACTOR employee be immediately removed from performing services under this MOU.

**E.20.4** County will not provide to CONTRACTOR, or CONTRACTOR staff, any information obtained through the County background investigation.

**E.20.5** CONTRACTOR having successfully completing the background investigation shall complete Volunteer Orientation training prior to having access to the Facilities.

**E.21 Conflict of Interest**

CONTRACTOR shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. CONTRACTOR shall make a reasonable effort to prevent employees, CONTRACTOR, or members of its governing body from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom CONTRACTOR's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

In addition, Superintendent shall make all reasonable efforts to ensure that its officers, employees or subcontractors do not violate any applicable state or federal conflict of interest laws or regulations. If such a violation occurs, in addition to any other available remedies, this contract may be immediately terminated and Superintendent may be required to reimburse the County for any payments made under this Contract.

**E.22 Improper Consideration**

CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded. CONTRACTOR shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from CONTRACTOR. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

**E.23 Former County Administrative Officials**

CONTRACTOR agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent CONTRACTOR. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of CONTRACTOR. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Chief Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**E.24 Improper Influence**

CONTRACTOR shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the CONTRACTOR or officer or employee of the CONTRACTOR.

**E.25 Material Misstatement/Misrepresentation**

If during the course of the administration of this Contract, the County determines that CONTRACTOR has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

**E.26 Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Contract or CONTRACTOR's relationship with County may be made or used without prior written notice to the County.

**E.27 Damage to County Property**

CONTRACTOR shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of CONTRACTOR or its employees or agents. Such repairs shall be made immediately after CONTRACTOR becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the CONTRACTOR fails to make timely repairs, the County may make any necessary repairs. CONTRACTOR, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand.

**E.28 Air, Water Pollution Control, Safety and Health**

CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

**E.29 Drug and Alcohol Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this Contract, CONTRACTOR agrees that CONTRACTOR and CONTRACTOR's employees, while performing service for the County, on County property, or while using County equipment:

**E.29.1** Shall not be in any way impaired because of being under the influence of alcohol or a drug.

**E.29.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.

**E.29.3** Shall not sell, offer, or provide alcohol or a drug to another person.

This 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.

CONTRACTOR shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

**E.30 Environmental Requirements**

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires CONTRACTOR to use recycled paper for any printed or photocopied material created as a result of this Contract. CONTRACTOR is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the County in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), CONTRACTOR must be able to annually report the County's environmentally preferable purchases. Services providers are asked to report on environmentally preferable goods and materials used in the provision of their service to the County.

**E.31 Employment Discrimination**

During the term of the Contract, Contractor shall not willfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**E.32 Debarment and Suspension**

CONTRACTOR certifies that neither it nor its principals or subcontracts is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549.

**E.33 Informal Dispute Resolution**

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**E.34 Iran Contracting Act**

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), CONTRACTOR certifies that at the time the Contract is signed, CONTRACTOR signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

CONTRACTOR is cautioned that making a false certification may subject CONTRACTOR to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

**E.35 County Representative**

The Sheriff or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by CONTRACTOR. The County of San Bernardino Board of Supervisors must approve all amendments to this Contract.



### **E.36 Records**

CONTRACTOR shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to CONTRACTOR's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. If applicable, fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

### **E.37 Disclosure of Criminal and Civil Proceedings**

The County reserves the right to request the information described herein from CONTRACTOR. Failure to provide the information may result in a disqualification from the award of contract to CONTRACTOR. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. CONTRACTOR also may be requested to provide information to clarify initial responses. Negative information discovered may result in disqualification of award of contract.

CONTRACTOR is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein) directly working in the county jail, within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, CONTRACTOR will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, CONTRACTOR is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, CONTRACTOR will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

CONTRACTOR shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this Contract, except for statistical information not identifying any participant. CONTRACTOR shall not use or disclose any identifying information for any other purpose other than carrying out the CONTRACTOR's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

**F. TERM OF CONTRACT**

This Contract is effective as of July 1, 2021 through June 30, 2024 but may be terminated earlier in accordance with provisions of this Contract. The Contract term may be extended for two additional one-year periods or by one additional two-year period by mutual agreement of the parties.

The County and CONTRACTOR each reserve the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to CONTRACTOR for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice CONTRACTOR shall promptly discontinue services unless the notice directs otherwise. CONTRACTOR shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

**G. FISCAL PROVISIONS**

**G.1** CONTRACTOR will provide services at no cost to the County. CONTRACTOR shall collect revenue such as Average Daily Attendance (ADA). Costs of the programs include, but are not necessarily limited to the following:

- G.1.1** Salaries and benefits of instructional staff
- G.1.2** Salaries and benefits of administrative staff
- G.1.3** Salaries and benefits of classified support staff
- G.1.4** CONTRACTOR overhead costs
- G.1.5** Instructional materials and supplies
- G.1.6** Office supplies and materials
- G.1.7** Mileage for teacher's business miles
- G.1.8** Professional development

**G.2** CONTRACTOR will finance its assigned educational services at Facilities during the length of its Academic School Year through funding generated by ADA apportionment.

**H. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**H.1 Indemnification**

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by the County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract resulting from the negligent acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim therefor except where such indemnification is prohibited by law.

The County agrees to indemnify, defend (with counsel reasonably approved by CONTRACTOR) and hold harmless CONTRACTOR, and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract resulting from the negligent acts, errors or omissions of the County, its authorized officers, employees, agents or volunteers and for any costs or expenses incurred by CONTRACTOR on account of any claim therefor except where such indemnification is prohibited by law.

In the event that CONTRACTOR and/or the County are determined to be comparatively at fault for any claim, action, loss or damage, which results from their respective obligations under this Agreement, the County and/or the CONTRACTOR shall indemnify the other to the extent of its comparative fault.

**H.2 Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions, and Professional Liability policies, shall contain endorsements naming the COUNTY and its officers, employees, agents, and

volunteers as additional named insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

**H.3 Waiver of Subrogation Rights**

CONTRACTOR shall require the carriers of the above required coverages to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, contractors, and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the CONTRACTOR and CONTRACTOR's employees or agents from waiving the right of subrogation prior to a loss or claim. The CONTRACTOR hereby waives all rights of subrogation against the COUNTY.

**H.4 Policies Primary and Non-Contributory**

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

**H.5 Severability of Interests**

The CONTRACTOR agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the CONTRACTOR and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

**H.6 Proof of Coverage**

CONTRACTOR shall furnish Certificates of Insurance to the Sheriff's Department to the address referenced in Section K. or third-party contractor working on behalf of the COUNTY, evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and CONTRACTOR shall maintain such insurance from the time CONTRACTOR commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of the contract, the CONTRACTOR shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

**H.7 Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".

**H.8 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**H.9 Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the COUNTY has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the COUNTY will be promptly reimbursed by the CONTRACTOR or COUNTY payments to the CONTRACTOR will be reduced to pay for COUNTY purchased insurance.

**H.10 Insurance Review**

Insurance requirements are subject to periodic review by the COUNTY. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not

available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the COUNTY.

## **H.11 Insurance Specifications**

The CONTRACTOR agrees to provide insurance set forth in accordance with the requirements herein. If the CONTRACTOR uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the CONTRACTOR shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

**H.11.1 Workers' Compensation Liability** – A program of Workers' Compensation insurance or a state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons including volunteers providing services on behalf of the CONTRACTOR and all risks to such persons under this contract.

**H.11.2 Commercial/General Liability Insurance** – The CONTRACTOR shall carry General Liability Insurance covering all operations performed by or on behalf of the CONTRACTOR providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

**H.11.3 Automobile Liability Insurance** – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage per occurrence.

If the CONTRACTOR is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the CONTRACTOR owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**H.11.4** Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

**H.11.5** Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000)

or

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion

## **H.12 Abuse/Molestation Insurance**

Contractor shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured, including negligent employment, investigation and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) with a two million dollars (\$2,000,000) aggregate limit.

## **H.13 Cyber Liability Insurance**

Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

## **I. RIGHT TO MONITOR AND AUDIT**

**I.1** The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of CONTRACTOR in the delivery of services provided under this Contract. CONTRACTOR shall give full cooperation, in any auditing or monitoring conducted. CONTRACTOR shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

**I.2** All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

**J. CORRECTION OF PERFORMANCE DEFICIENCIES**

- J.1** Failure by CONTRACTOR to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- J.2** In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Afford CONTRACTOR thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
  - b. Withhold funds pending duration of the breach; and/or
  - c. Terminate this Contract with 30 days advance written notice.

**K. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

**County of San Bernardino**

San Bernardino County Sheriff's Department  
Bureau of Administration - Contracts Unit  
655 East Third Street  
San Bernardino, CA 92415-0061

**Five Keys Charter School**

Five Keys Charter School  
70 Oak Grove Street  
San Francisco, CA 94107

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**L. ENTIRE AGREEMENT**

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

- L.1** If applicable, due to and for the duration of the COVID-19 pandemic, pursuant to the Uniform Electronic Transaction Act (Cal. Civ. Code §§ 1633.1 to 1633.17), and the San Bernardino County Board of Supervisors Resolution No. 2020-030, the parties hereto authorize the use of electronic, facsimile, and/or digital signatures in the execution of this Contract and any of its subsequent amendments. Such signatures shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

\*\*\*\*\*END OF SECTION\*\*\*\*\*

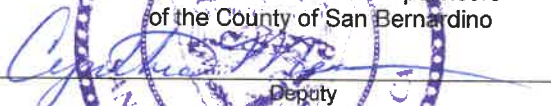
IN WITNESS WHEREOF, the County of San Bernardino and CONTRACTOR have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

COUNTY OF SAN BERNARDINO

►   
Curt Hagman, Chairman, Board of Supervisors

Dated: JUN 22 2021

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By   
Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino  
Deputy



Five Keys Charter School  
(Print or type name of corporation, company, contractor, etc.)

By   
(Authorized signature – sign in blue ink)


Name Steve Good  
(Print or type name of person signing contract)

Title President/CEO  
(Print or Type)

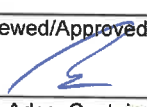
Dated: 6/2/21

Address 70 Oak Grove Street  
San Francisco, CA 94107

**FOR COUNTY USE ONLY**

Approved as to Legal Form  
►   
Richard D. Luczak, Deputy County Counsel  
Date 6/4/2021

Reviewed for Contract Compliance  
► \_\_\_\_\_  
Date \_\_\_\_\_

Reviewed/Approved by Department  
►   
John Ades, Captain  
Date 6/4/2021