

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
HOUSEKEYS, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and HouseKeys, Inc., a California corporation, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

Exhibit D – Notice of Exercise of Option to Extend Agreement

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes

and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

2. TERM OF AGREEMENT

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on November 18, 2020 and terminate on November 30, 2023.
- B. After the initial Term, the City reserves the right, at its sole discretion, to extend the term of the agreement for up to seven (7) additional one-year terms through November 30, 2030 ("Option Periods"), subject to the appropriation of funds. See Exhibit D for Notice of Exercise of Option to Extend Agreement Form.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

4. WARRANTY

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is **Five Hundred Eighty-One Thousand Two Hundred Fifty Dollars (\$581,250)**, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

7. TERMINATION

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.
- B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- 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, Contractor will deliver to City all City information or material that Contractor has in its possession.

8. ASSIGNMENT AND SUBCONTRACTING

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

10. INDEPENDENT CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

11. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

12. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees

to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

14. HOLD HARMLESS/INDEMNIFICATION

- A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of City; the obligation to defend is not similarly limited.
- B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

16. WAIVER

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement

shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: Housing & Community Services Division
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at JVeach@santaclaraca.gov, and
manager@santaclaraca.gov

And to Contractor addressed as follows:

HouseKeys Inc
Attn: Julius Nyanda
358 Digital Dr.
Morgan Hill, CA 95037
and by e-mail at julius@housekeys.org

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and

following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

20. FAIR EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

21. NO USE OF CITY NAME OR EMBLEM

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

22. GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

23. SEVERABILITY CLAUSE

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

24. AMENDMENTS

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

25. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form: _____

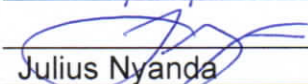
Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

HOUSEKEYS, INC.
a California corporation

Dated: 11/10/2020
By (Signature): 
Name: Julius Nyanda
Title: Founder and CEO
Principal Place of Business Address: 358 Digital Drive
Morgan Hill, CA 95037
Email Address: julius@housekeys.org
Telephone: (415) 846-8004
Fax: (408) 850-7431
"CONTRACTOR"

25. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“CITY”

HOUSEKEYS, INC.
a California corporation

Dated: _____

By (Signature): _____

Name: Julius Nyanda

Title: Founder and CEO

Principal Place of 358 Digital Drive

Business Address: Morgan Hill, CA 95037

Email Address: julius@housekeys.org

Telephone: (415) 846-8004

Fax: (408) 850-7431

“CONTRACTOR”

Exhibit A

Scope of Services

The Services to be performed for the City by the Contractor under this Agreement are set forth below.

1. Background

- 1.1. The City of Santa Clara (hereinafter "City") has operated a Below Market Priced Program since 1995, assisting low- and moderate-income families achieve the goal of ownership and fulfill state mandates for the production of housing for all income levels.
- 1.2. Since 1995 the BMP program has included a variety of Covenant and Resale Restriction programs. From 1995 to 2006 the program included terms that are in effect from 30 to 45 years. Effective 2007 the BMP Program has a 20-year Covenant Agreement that includes a Promissory Note and Deed of Trust equal to the difference between the restricted and market value of the home.

2. General Service Requirements

- 2.1. Contractor shall provide administrative services for the City's BMP program in support of the City's Housing and Community Services Division of the Community Development Department.
- 2.2. Contractor shall provide administrative services in accordance with all federal, state, and City regulations and shall conform to the provisions of the BMP Homeownership Guidelines Manual, as amended and adopted by the City of Santa Clara.
- 2.3. Contractor shall maintain expertise in the areas of first-time homebuyer assistance, underwriting, marketing and outreach, and loan compliance, as outlined herein.
- 2.4. Contractor shall provide the processing of pre-qualified Homebuyers from current BMP Program Administrator for the sale of BMP Program units in the development pipeline that are completed or near completion.
 - 2.4.1. Contractor shall coordinate with current BMP Program Administrator for the receipt of files for applicants who have completed the Orientation/Application Workshop and/or a Homebuyer Education class.
 - 2.4.2. Contractor shall prioritize the processing of existing pre-qualified Homebuyers to facilitate the BMP Sale Application process.

3. BMP Program Set Up Service Requirements

- 3.1. Contractor shall have 90 days from contract kickoff meeting to complete the BMP Program Setup.

3.2. Contractor shall review manual policies and procedures to ensure City's guidelines and requirements are considered in the setup of City's BMP Housing Program. The following are the minimum tasks, but not limited to, Contractor shall complete for setup:

3.2.1. Create web page on Contractor's website to announce City BMP activities, application intake forms and procedures to meet city program requirements.

3.2.2. Create internal file directory and file system for BMP program and applicants.

3.2.3. Develop and/or revise existing intake forms, pre-approval, documentation and application forms, file checklists and necessary title documents.

3.2.4. Create program for orientation workshops for applicants; attendees to obtain attendance certification.

3.2.5. Complete the marketing materials to be used for City BMP program.

3.2.6. Contractor shall provide a roster of staff within Contractor's organization who shall administer the City BMP program that shall include staff experience, training, and billing rate.

3.2.7. Contractor shall establish internal database for the City's existing BMP owners for future program monitoring purposes.

3.2.8. Contractor shall send a letter to existing BMP owners notifying them of new agency contact information for annual compliance certifications within 60 days from completion of Program Setup Service.

3.3. Contractor and City shall conduct testing to ensure the setup is complete and system is operational.

4. BMP Program Administration and Transaction Service Requirements

4.1. City shall not pay any fees for BMP Program Administration until after Program setup is complete, has been tested and is operational.

4.2. Contractor shall provide BMP Program administration and transaction services as specified in the Table A1 and Table A2:

Table A1: BMP Program Administration Services

| Category | Contractor Task(s) |
|---|---|
| BMP Program Homeownership Guidelines Handbook | Review and update, as necessary. City will review recommended changes and approve Manual updates prior to implementation. |
| BMP Unit Compliance *List of BMP units to be provided by City upon contract execution. As of July 1, 2020, this list includes 143 units. | <p>Develop and implement a monitoring plan to include monthly insurance monitoring, annual occupancy certification and report, as approved by the City. Report is due on or before July 31st following the previous fiscal year ending June 30th. The annual report shall include the following:</p> <ul style="list-style-type: none"> • Homeowner name and unit address • Current tenancy status based on homeowner re-certification • Recertification date • Status of monthly homeowner insurance renewal monitoring <p>For non-compliant homeowners, Contractor shall work with homeowner and City staff to cure violations or seek other remedies to ensure continued homeownership compliance.</p> |
| BMP Web Page | Maintain and update web page. Post relevant BMP ownership housing and first-time homebuyer information and application opportunity links to and from City's website. |
| Forms | Review, revise, and create new forms to meet program requirements, as necessary. All forms must be approved by City staff prior to implementing. |
| Lender Referrals | <p>Refer BMP Program interested homebuyers to City preferred lenders for lender pre-approval.</p> <ul style="list-style-type: none"> • Review program with existing preferred lenders with the goal of having three preferred lenders available at any time. |
| Wait List | <p>Establish and maintain an application waitlist of pre-approved prospective buyers, including required information, for audit purposes.</p> <p>Provide an annual update of waitlist to remove prospective buyers no longer interested in the program, or prospect has moved and no longer able to contact, or prospect is no longer eligible for the program. Annually, provide summary of updated waitlist to City. Annually, send summary of BMP Program to applicants on the waitlist.</p> |

| Category | Contractor Task(s) |
|-----------------------------|--|
| Marketing Collateral | Develop project specific marketing collateral. All collateral must be approved by the City prior to distribution. Contractor shall provide City with invoice for reimbursement for any City-approved costs in excess of budget, including but not limited to printing and postage. City approval required prior to incurring additional costs to BMP program. |
| Homebuyer Education | Coordinate with HUD-certified nonprofits that provide HUD-approved homebuyer education classes conducted in person or an on-line. Refer pre-qualified prospective buyers to partner agencies for attendance to obtain a certificate for the required 8-hour homebuyer education class. |
| Program Evaluation | Administer annual client and program evaluation survey of existing BMP homeowners and previous year applicants. Submit report to City for review. |
| Other Administrative Duties | <p>Contractor shall:</p> <ul style="list-style-type: none"> • Schedule on-going bi-monthly meetings with City staff • Annually provide list of active Board Members • Annually provide updated list of agency organization chart, including name, position and contact information • Post on website and marketing collateral BMP Program contact information, including name, title and contact information • Provide contract administration contacts, including contract manager, program manager, and finance staff. • Provide quarterly reports of BMP buyers that have purchased with the vendor to include the following: AMI category, development name, qualified buyer names and contact information, household size, gross income, bedrooms and bathrooms in the home, development name and phase of development, site address, unit number, type of home (condo, townhome, single family) and dates of the following: application, class attendance, loan approval, notification of eligibility for program, and lottery ranking; date of purchase, final application review date, date of signing of BMP documents, close of escrow date. Provide BMP Note amount and purchase price. |

| Category | Contractor Task(s) |
|------------------------------------|--|
| BMP Homeowner Financial Assistance | Contractor to refer existing home owners who request financial assistance or are experiencing a financial hardship to City staff for assessment of owner's financial situation and recommend measures to assist homeowner. |

Table A2: BMP Program Transaction Services

| Category | Contractor Task(s) |
|---|---|
| Marketing and Outreach | <p>Developer or City shall notify Contractor no less than 180 days prior to estimated occupancy of new BMP units, including availability, location, number of units, unit size and sales price, amenities, and targeted income mix.</p> <p>Contractor shall:</p> <ul style="list-style-type: none"> • Develop project-specific marketing collateral • Respond to inquiries from prospective homebuyers and deliver BMP Program summary • Coordinate and administer homebuyer information workshops on a regular basis throughout the year (minimum of 6 annual classes) • Administer preferred lender training and screening • Email campaign to preferred lenders • Email campaign to BMP waitlist |
| Eligibility Screening and Pre-Qualification of Potential Homebuyers | <ul style="list-style-type: none"> • Conduct program activities to build a potential pool of qualified homebuyers • Provide pre-qualification applications to interested prospects • Evaluate and process pre-qualification applications - collect required supporting documentation, including first lender pre-approval to ensure application completeness • Underwrite for program eligibility as outlined in BMP Homeownership Guideline Manual • Add to waitlist registry • Provide pre-qualified applicants with a Program Letter of Eligibility • Evaluate pre-qualified applicants by City's priority ranking • Issue a Notice of Adverse Action to ineligible applicants • Update documents and information as necessary. |

| Category | Contractor Task(s) |
|-----------------------------------|--|
| | <ul style="list-style-type: none"> Refer to City staff any exception and appeal requests from applicants for review and recommendation for further action by Contractor. |
| BMP Sale Application Coordination | <p>After Developer and/or City notification of BMP unit availability and unit details, Contractor shall:</p> <ul style="list-style-type: none"> Notify the pre-qualified waitlist based on priority ranking of open application period Conduct one-on-one pre-purchase counseling with selected prospective homebuyer who apply during application period Notify City preferred lender and developer of selected buyer Assist with scheduling the execution of Purchase Agreement between developer sales staff and selected buyer Collect and review application and required purchase documents to ensure application completeness Facilitate closing process with title company and City Staff to include escrow instructions and delivery of BMP documents to title company Prepare BMP documents for City review and execution Issue a Notice of Adverse Action to ineligible applicants Send City staff the following documents prior to close of escrow for each selected Buyer to include: <ul style="list-style-type: none"> all Contractor application documents and fee payments; preferred lender loan application forms and applicant qualifying information; and correspondence between applicants, Contractor staff, lender and title company relevant to application and qualification process. |
| BMP Re-sale Coordination | <p>Facilitate the resale of a price restricted BMP unit. Contractor shall:</p> <ul style="list-style-type: none"> Work with City staff to assess the program re-sale requirements, review home inspections and repairs, and seller disclosures Perform updated title search and current property valuation |

| Category | Contractor Task(s) |
|----------------------------------|---|
| | <ul style="list-style-type: none"> • Work with City Staff on prescribed BMP property calculation to determine current restricted sales price • Develop unit-specific marketing collateral • Notify pre-qualified waitlist of unit availability, sales price, income and program eligibility requirements, and interest notice deadline • If no potential buyers on waitlist, Contractor shall conduct a pre-qualification and application process, as outlined above, for the specific resale home. • Collect required supporting qualifying documentation, including loan documents and first lender pre-approval for applicant(s) • Coordinate execution of a purchase agreement and mandatory disclosures between seller and selected buyer • Assist with opening escrow with selected title company to ensure all documents and reports are obtained and reviewed by all parties in the transaction • Facilitate the closing process with City staff, seller, buyer, and title company • Prepare the escrow instructions and BMP documents for execution by the City |
| BMP Ranking/Lottery Coordination | <ul style="list-style-type: none"> • Rank applications pursuant to the City's Priority Criteria • If necessary, Contractor shall administer a lottery if more than one applicant meets the program eligibility criteria • Select a "Designated Buyer" and two "Alternate Buyers" • Notify highest ranked applicant and selected preferred lender and developer of ranking • Provide guidance to homebuyer in the application update process • Applicant shall receive a reasonable "date certain" deadline to obtain required financing • If Designated Buyer is unable to obtain financing at an affordable cost or is unable to meet program requirements to purchase the BMP unit, the next highest ranked Alternate Buyer will be offered the unit. If the first Alternate is unable to purchase |

| Category | Contractor Task(s) |
|------------------------------|--|
| | the unit, the second Alternate Buyer will be offered the opportunity to purchase the unit. |
| BMP Refinance /Subordination | <p>Existing BMP homeowners wishing to refinance their first mortgage on a BMP unit, Contractor shall:</p> <ul style="list-style-type: none"> • Refer BMP homeowners to City staff for processing, loan review, and issuing a subordination agreement, if applicable |

Exhibit B
Schedule of Fees

1. Maximum Compensation

The maximum amount payable for all products and services provided under this Agreement shall not exceed **Five Hundred Eighty-One Thousand Two Hundred Fifty Dollars (\$581,250)** during the Initial Term, subject to the appropriation of funds. Any additional services or materials requested by the City that would exceed the preceding amount will be addressed in an Amendment to the Agreement. The annual compensation is specified in Table B1 below:

Table B1: Annual Compensation

| Description | Initial Term | | |
|---|-------------------------------------|-----------------------------------|-----------------------------------|
| | Year 1* (11/18/20 - 11/30/21) | Year 2 (12/1/21 - 11/30/22) | Year 3 (12/1/22 - 11/30/23) |
| Program Setup Fee (One Time Fee) | \$15,000 | | |
| Program Administration Fees ¹ | \$56,250 | \$75,000 | \$75,000 |
| Transaction Fees ² | \$120,000 | \$120,000 | \$120,000 |
| Annual Total | \$191,250 | \$195,000 | \$195,000 |
| Total Maximum Not-to-Exceed Compensation | \$581,250 | | |

¹Program administration fees for Year 1 are for 9 months. HouseKeys has 3 months for program setup.

²The transaction fees are estimates based on approximately 8 sales per year.

2. Program Setup Fee

2.1. Contractor has 90 days from contract kickoff meeting to complete the BMP program setup.

2.2. City will pay Contractor a program setup fee as specified in Table B2 below:

Table B2: Program Setup Fee

| Description | Cost |
|-------------------|----------|
| Program Setup Fee | \$15,000 |

2.3. After program setup is complete, tested, and operational Contractor will invoice City in accordance for the program setup fee. City will pay Contractor within thirty (30) days of City's receipt of an approved invoice.

3. Program Administration Fee

- 3.1. After program setup is complete, tested, and operational the City will pay Contractor a monthly program administration fee as specified in Table B3 below:

Table B3: Program Administration Fee

| Description | Cost |
|----------------------------|---------------|
| Program Administration Fee | \$6,250/Month |

- 3.2. Contractor will invoice City monthly for the program administration fee. City will pay Contractor within thirty (30) days of City's receipt of an approved invoice.

4. Transaction Fees

- 4.1. All transaction fees will be reimbursed after unit sale or resale. Application and subordination fees are paid by applicant. Per sale fees not-to-exceed \$15,000 per unit.
- 4.2. Transaction fees for existing files of applicants from previous Contractor are as specified in Table B4 below:

Table B4: Transaction Fees for Existing Interest List of Applicants

| Transaction Fee Description | Price |
|---|---|
| Processing of Pre-Qualified Clients Referred from Current BMP Administrator | \$1,000/Existing File |
| Pre-Qualification Fee | \$750/Household (To Contractor) |
| New or Resale Fee | \$500 Collected by Contractor and Paid Directly to City by the Applicant |
| BMP Sale Application Processing Fee | \$2,500/Household to Contractor |
| BMP Ranking/Lottery Coordination Fee | \$2,500/Offering |
| BMP Resale Coordination Fee | \$7,500/Resale |

4.3. Transaction fees for new applicants are as specified in Table B5 below:

Table B5: Transaction Fees for New Applicants

| Transaction Fee Description | Price |
|--------------------------------------|---|
| Marketing and Outreach Fee | \$7,500 /New BMP Unit |
| Pre-Qualification Fee | \$750 /Household (To Contractor) |
| New or Resale Fee | \$500 Collected by Contractor and Paid Directly to City by the Applicant |
| BMP Sale Application Processing Fee | \$2,500 /Household to Contractor |
| BMP Ranking/Lottery Coordination Fee | \$2,500 /Offering |
| BMP Resale Coordination Fee | \$7,500 /Resale |

5. Pricing and Option Renewals

- 5.1. All pricing is firm fixed for the Initial Term of this Agreement.
- 5.2. After the Initial Term, the City reserves the right to extend this Agreement for an additional seven (7) one-year option terms pursuant to Section 2.B of this Agreement, subject to the appropriation of funds.
- 5.3. Contractor may request adjustments to the compensation rates prior to any one-year option to renew this Agreement after the Initial Term. Contractor will notify the City of any changes to the compensation rates for any Option Period at least sixty (60) days prior to the start of the option term. Any increase to the unit prices may not exceed 3% per Option Period over the prior year's fees, subject to City's approval.

Exhibit C

Insurance Requirements

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
 - \$1,000,000 Each Occurrence
 - \$2,000,000 General Aggregate
 - \$2,000,000 Products/Completed Operations Aggregate
 - \$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other

insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

- a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of

complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara [*insert City department name here]

P.O. Box 100085 – S2

or 1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

Exhibit D
Notice of Exercise of Option to Extend Agreement

| | |
|-------------------------|--|
| AGREEMENT TITLE: | |
| CONTRACTOR: | |
| DATE: | |

Pursuant to Section ___ of the Agreement referenced above, the City of Santa Clara hereby exercises its option to extend the term under the following provisions:

| | |
|-------------------|---------------|
| OPTION NO. | # of # |
|-------------------|---------------|

NEW OPTION TERM

| | |
|-------------|--|
| Begin date: | |
| End date: | |

☐ **CHANGES IN RATE OF COMPENSATION**

| | |
|--|--|
| Percentage change in CPI upon which adjustment is based: | |
|--|--|

Pursuant to Section ___ of the Agreement the rates of compensation are hereby adjusted as follows:
(use attachment if necessary)

| | |
|--|--|
| MAXIMUM COMPENSATION for New Option Term: | |
|--|--|

For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of Santa Clara hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

Dated: _____

Approved as to Form: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771