

C7 L A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, PURSUANT TO SECTION 2-366(C)(2) OF THE CITY CODE FOR EXEMPT PROFESSIONAL SERVICES IN ACCORDANCE WITH FLORIDA STATUTE 287.057, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT THE RENEWAL OF THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND THE SUNDARI FOUNDATION, INC. DBA LOTUS HOUSE SHELTER FOR EMERGENCY SHELTER BED SERVICES, IN THE AMOUNT OF \$125,000.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: October 30, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, PURSUANT TO SECTION 2-366(C)(2) OF THE CITY CODE FOR EXEMPT PROFESSIONAL SERVICES IN ACCORDANCE WITH FLORIDA STATUTE 287.057, THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY AND THE SUNDARI FOUNDATION, INC. OBA LOTUS HOUSE SHELTER FOR EMERGENCY SHELTER BED SERVICES, IN AN AMOUNT NOT TO EXCEED \$125,000 WITH A ONE (1) YEAR RENEWAL PERIOD AT THE CITY'S OPTION; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

RECOMMENDATION

The Administration recommends approving the Resolution to authorize pursuant to Section 2-366(c)(2) of the City code for exempt professional services in accordance with Florida Statute 287.057, the Professional Services Agreement between the City of Miami Beach and Sundari Foundation, Inc. dba Lotus House Shelter for emergency shelter bed services at the rate of \$42.50 per bed, per day for a term of one (1) year, in an amount not to exceed \$125,000 with a one (1) year renewal period at the City's option, and further authorizing the City Manager to execute the Agreement.

BACKGROUND/HISTORY

The Lotus House specializes in evidence-based trauma counseling and resolution, health and wellness programming, and education advancement for women and children.

On April 8, 2022, to further address the needs of the women and children in our community, the City executed an agreement with the Lotus House for four (4) emergency shelter beds at the rate of \$42.50 per bed, per day, in an amount not to exceed \$49,410.00.

October 6, 2022, Amendment No. 1 was executed to extend the Agreement's term to December 31, 2022, to ensure continuity of service while awaiting Mayor and City Commission (City Commission) approval for a renewal term that would surpass the City Manager's purchasing authority limit of \$100,000 as specified in the City's code.

On December 14, 2022, the City Commission adopted Resolution No. 2022-32429, approving Amendment No. 2 to the Agreement, authorizing the renewal term for a period of nine (9) months, from January 1, 2023, to September 30, 2023, and increasing the contract amount from \$49,410.00 to an amount not to exceed \$119,025.00.

The City continued its partnership with the Lotus House and further executed the FY 2024 Agreement on October 10, 2023, for the provision of six (6) emergency shelter beds at the rate of \$42.50 per bed, per day, in an amount not to exceed \$93,330.00. Following further negotiations with Lotus House, the FY 2024 Agreement was amended on August 23, 2024, to increase the

total amount of shelter beds from six (6) to eight (8) at the existing rate of \$42.50 per bed, per day, and to increase the not-to-exceed amount to \$98,515.00 until the Agreement's expiration on September 30, 2024.

On September 26, 2024, the City Commission adopted Resolution No. 2024-33294, adopting the Final Budgets for the General Funds for FY 2025. At the time of budget preparation, the City's Agreement with the Lotus House included six (6) emergency shelter beds at the rate of \$42.50 per bed, per day, hence the allocation of \$93,075.00 in the FY 2025 budget for six (6) beds. The City has since amended the Agreement to include eight (8) emergency shelter beds and the Administration has identified additional funds within the approved FY 2025 budget to cover the difference in cost of \$31,925.00. No additional enhancements will be requested or required for the term of the Agreement.

Per Florida Statute 287.057, section (f)(8), family placement services are not subject to competitive solicitation requirements. The Administration has considered the ability of the vendor, past performance, willingness to meet time requirements, and price, as outlined in the statute, and recommends the renewal of the service agreement.

ANALYSIS

Since the execution of the original agreement, Lotus House has consistently provided shelter beds and specialized care with wrap-around services to women and children that experience homelessness in Miami Beach. The Administration drafted the FY 2025 agreement to include eight (8) shelter beds to address and reduce homelessness amongst women and children in Miami Beach at the rate of \$42.50 per bed, per day, in an amount not to exceed \$125,000. Service deliverables will include Case Management services with an emphasis on obtaining stability, entitlements, and housing.

Service	Unit of Service	Description of Service
Emergency Housing	8 shelter beds per day, with additional beds if requested and available	Attendance Roster
Meals	3 meals per day/ per client placed	Attendance Roster
Bed Roster Report	1 Report Daily	Attendance Roster

The Administration is seeking City Commission's approval of the FY 2025 Professional Services Agreement with Lotus House for the provision of eight (8) shelter beds at the rate of \$42.50 per bed, per day, from October 1, 2024 to September 30, 2025, in an amount not to exceed \$125,000 with a one (1) year renewal period at the City's option.

SUPPORTING SURVEY DATA

According to the 2023 Miami Beach Community Survey, 29 percent of survey responders cited efforts to address homelessness as one of the major categories of City services most important for the City to provide. Additionally, the Mayor and City Commission identified the need to address

homelessness by continuously evolving and innovating services to help those wishing to end their personal homelessness as a key management objective in the City's 2019 Strategic Plan Through the Lens of Resilience.

FISCAL IMPACT STATEMENT

\$125,000

Does this Ordinance require a Business Impact Estimate?

(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

011-0560-000349-23-405-575-00-00-00-

CONCLUSION

The Administration recommends approving the execution of the Professional Services Agreement pursuant to Section 2-366(c)(2) of the City code for exempt professional services in accordance with Florida Statute 287.057, with the Sundari Foundation, Inc. Dba Lotus House Shelter in an amount not to exceed \$125,000, with a one (1) year renewal period at the City's option and authorizing the City Manager to execute the Agreement.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Housing and Community Services

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

Approve PSA w/ Lotus House Shelter, Emergency Shelter Bed Services. (Fernandez) HCS

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH
AND
THE SUNDARI FOUNDATION, INC. D/B/A LOTUS HOUSE
A/K/A LOTUS HOUSE WOMEN’S SHELTER
FOR EMERGENCY SHELTER SERVICES**

This Professional Services Agreement (“Agreement”) is entered into this ____ day of _____, 20____, with an effective date of October 1, 2024 (“Effective Date”), between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (the “City”), and **SUNDARI FOUNDATION, INC. (LOTUS HOUSE SHELTER)** whose address is 217 NW 15th Avenue, Florida 33136 (“Consultant”).

**SECTION 1
DEFINITIONS**

Agreement:	This Agreement between the City and Consultant, including any exhibits and amendments thereto.
City Manager:	The chief administrative officer of the City.
City Manager’s Designee:	The City staff member who is designated by the City Manager to administer this Agreement on behalf of the City. The City Manager’s designee shall be the Office of Housing and Community Services Department Director.
Consultant:	For the purposes of this Agreement, Consultant shall be deemed to be an independent contractor, and not an agent or employee of the City.
Services:	All services, work and actions by the Consultant performed or undertaken pursuant to the Agreement.
Fee:	Amount paid to the Consultant as compensation for Services.
Risk Manager:	The Risk Manager of the City, with offices at 1700 Convention Center Drive, Third Floor, Miami Beach, Florida 33139; telephone number (305) 673-7000, Ext. 6435; and fax number (305) 673-7023.

**SECTION 2
SCOPE OF SERVICES**

2.1 In consideration of the Fee to be paid to Consultant by the City, Consultant shall provide the work and services described in Exhibit “A” hereto (the “Services”).

Although Consultant may receive a schedule of the available hours to provide its Services, the City shall not control nor have the right to control the hours of the Services performed by the Consultant; where the Services are performed (although the City will provide Consultant with the appropriate location to perform the Services); when the Services are performed, including how many days a week the Services are performed; how the Services are performed, or any other aspect of the actual manner and means of accomplishing the Services provided. Notwithstanding the foregoing, all Services provided by the Consultant shall be performed in accordance with the terms and conditions set forth in Exhibit "A" and to the reasonable satisfaction of the City Manager. If there are any questions regarding the Services to be performed, Consultant should contact the following person:

City of Miami Beach
Office of Housing & Community Services
Attention: Alba Ana Tarre, Department Director
1700 Convention Center Drive
Miami Beach, Florida 33139

2.2 Consultant's Services, and any deliverables incident thereto, shall be completed in accordance with the timeline and/or schedule in Exhibit **[A]** hereto.

SECTION 3

TERM

The term of this Agreement ("Term") shall commence upon execution of this Agreement by all parties hereto (the Effective Date set forth on p. 1 hereof) and shall end on September 30, 2025.

Notwithstanding the Term provided herein, Consultant shall adhere to any specific timelines, schedules, dates, and/or performance milestones for completion and delivery of the Services, as same is/are set forth in the timeline and/or schedule referenced in Exhibit **A** hereto.

SECTION 4

FEE

4.1 In consideration of the Services to be provided, Consultant shall be compensated on a fixed fee basis, in the amount of **\$42.50 per bed, per day**, for a total annual amount not to exceed **\$125,000.00**.

4.2 Contractor shall be compensated for the Services, as more specifically set forth in Exhibit A for the provision of eight (8) beds per night from the initial date of this agreement. Additional beds may be purchased at the same rate per day, per bed, if requested by City and available.

4.3 Contractor shall submit a monthly invoice, which includes a description of the Services provided including the number of beds provided and clients served.

4.4 INVOICING

Upon receipt of an acceptable and approved invoice, payment(s) shall be made within forty-five (45) days for that portion (or those portions) of the Services satisfactorily rendered (and referenced in the particular invoice).

Invoices shall include a detailed description of the Services (or portions thereof) provided, and shall be submitted to the City at the following address:

City of Miami Beach
Office of Housing & Community Services
Attention: Alba Tarre, Interim Department Director
1700 Convention Center Drive
Miami Beach, Florida 33139

SECTION 5 **TERMINATION**

5.1 TERMINATION FOR CAUSE

If the Consultant shall fail to fulfill in a timely manner, or otherwise violates, any of the covenants, agreements, or stipulations material to this Agreement, the City, through its City Manager, shall thereupon have the right to terminate this Agreement for cause. Prior to exercising its option to terminate for cause, the City shall notify the Consultant of its violation of the particular term(s) of this Agreement, and shall grant Consultant ten (10) days to cure such default. If such default remains uncured after ten (10) days, the City may terminate this Agreement without further notice to Consultant. Upon termination, the City shall be fully discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City for any breach of the Agreement by the Consultant. The City, at its sole option and discretion, shall be entitled to bring any and all legal/equitable actions that it deems to be in its best interest in order to enforce the City's rights and remedies against Consultant. The City shall be entitled to recover all costs of such actions, including reasonable attorneys' fees.

5.2 TERMINATION FOR CONVENIENCE OF THE CITY

THE CITY MAY ALSO, THROUGH ITS CITY MANAGER, AND FOR ITS CONVENIENCE AND WITHOUT CAUSE, TERMINATE THE AGREEMENT AT ANY TIME DURING THE TERM BY GIVING WRITTEN NOTICE TO CONSULTANT OF SUCH TERMINATION; WHICH SHALL BECOME EFFECTIVE WITHIN THIRTY (30) DAYS FOLLOWING RECEIPT BY THE CONSULTANT OF SUCH NOTICE. ADDITIONALLY,

IN THE EVENT OF A PUBLIC HEALTH, WELFARE OR SAFETY CONCERN, AS DETERMINED BY THE CITY MANAGER, IN THE CITY MANAGER'S SOLE DISCRETION, THE CITY MANAGER, PURSUANT TO A VERBAL OR WRITTEN NOTIFICATION TO CONSULTANT, MAY IMMEDIATELY SUSPEND THE SERVICES UNDER THIS AGREEMENT FOR A TIME CERTAIN, OR IN THE ALTERNATIVE, TERMINATE THIS AGREEMENT ON A GIVEN DATE. IF THE AGREEMENT IS TERMINATED FOR CONVENIENCE BY THE CITY, CONSULTANT SHALL BE PAID FOR ANY SERVICES SATISFACTORILY PERFORMED UP TO THE DATE OF TERMINATION; FOLLOWING WHICH THE CITY SHALL BE DISCHARGED FROM ANY AND ALL LIABILITIES, DUTIES, AND TERMS ARISING OUT OF, OR BY VIRTUE OF, THIS AGREEMENT.

5.3 TERMINATION FOR INSOLVENCY

The City also reserves the right to terminate the Agreement in the event the Consultant is placed either in voluntary or involuntary bankruptcy or makes an assignment for the benefit of creditors. In such event, the right and obligations for the parties shall be the same as provided for in Section 5.2.

SECTION 6 INDEMNIFICATION AND INSURANCE REQUIREMENTS

6.1 INDEMNIFICATION

Consultant agrees to indemnify, defend and hold harmless the City of Miami Beach and its officers, employees, agents, and contractors, from and against any and all actions (whether at law or in equity), claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees and costs, for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Consultant, its officers, employees, agents, contractors, or any other person or entity acting under Consultant's control or supervision, in connection with, related to, or as a result of the Consultant's performance of the Services pursuant to this Agreement. To that extent, the Consultant shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals. The Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Consultant shall in no way limit the Consultant's responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The parties agree that one percent (1%) of the total compensation to Consultant for performance of the Services under this Agreement is the specific consideration from the City to the Consultant for the Consultant's indemnity agreement. The provisions of this Section 6.1 and of this indemnification shall survive termination or expiration of this Agreement.

6.2 INSURANCE REQUIREMENTS [NOTE: INSURANCE TYPES AND LIMITS BELOW SHOULD ALWAYS BE SAME AS WHAT WAS SPECIFIED IN BID DOCUMENTS]

The Consultant shall maintain and carry in full force during the Term, the following insurance:

1. Consultant General Liability, in the amount of \$1,000,000;
2. Consultant Professional Liability, in the amount of \$200,000; and
3. Workers Compensation & Employers Liability, as required pursuant to Florida Statutes.

The insurance must be furnished by insurance companies authorized to do business in the State of Florida. All insurance policies must be issued by companies rated no less than "B+" as to management and not less than "Class VI" as to strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent.

Timely renewal certificates will be provided to the City as coverage renews. The insurance certificates for General Liability shall include the City as an additional insured and shall contain a waiver of subrogation endorsement. Consultant's insurance shall be primary and not contributory for direct claims arising out of the Agreement under the Commercial General Liability policy. If the Professional Liability coverage is provided on a claims made basis, then such insurance shall continue for (3) years following the expiration or termination of the Agreement.

Original certificates of insurance must be submitted to the City's Risk Manager for approval (prior to any work and/or services commencing) and will be kept on file in the Office of the Risk Manager. The City shall have the right to obtain from the Consultant specimen copies of the insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage.

The Consultant is also solely responsible for obtaining and submitting all insurance certificates for any sub-consultants.

Compliance with the foregoing requirements shall not relieve the Consultant of the liabilities and obligations under this section or under any other portion of this Agreement.

The Consultant shall not commence any work and or services pursuant to this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the City's Risk Manager.

SECTION 7

LITIGATION JURISDICTION/VENUE/JURY TRIAL WAIVER

This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. By entering into this Agreement, Consultant and the City expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement.

SECTION 8

LIMITATION OF CITY'S LIABILITY

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action, for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$10,000.

Consultant hereby expresses its willingness to enter into this Agreement with Consultant's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$10,000.

Accordingly, and notwithstanding any other term or condition of this Agreement, Consultant hereby agrees that the City shall not be liable to the Consultant for damages in an amount in excess of \$10,000 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement.

Nothing contained in this section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability, as set forth in Section 768.28, Florida Statutes.

SECTION 9

DUTY OF CARE/COMPLIANCE WITH APPLICABLE LAWS/PATENT RIGHTS; COPYRIGHT; AND CONFIDENTIAL FINDINGS

9.1 DUTY OF CARE

With respect to the performance of the Services contemplated herein, Consultant shall exercise that degree of skill, care, efficiency and diligence normally exercised by reasonable persons and/or recognized professionals with respect to the performance of comparable work and/or services.

9.2 COMPLIANCE WITH APPLICABLE LAWS

In its performance of the Services, Consultant shall comply with all applicable laws, ordinances, and regulations of the City, Miami-Dade County, the State of Florida, and the federal government, as applicable.

9.3 PATENT RIGHTS; COPYRIGHT; CONFIDENTIAL FINDINGS

Any work product arising out of this Agreement, as well as all information specifications, processes, data and findings, are intended to be the property of the City and shall not otherwise be made public and/or disseminated by Consultant, without the prior written consent of the City Manager, excepting any information, records etc. which are required to be disclosed pursuant to Court Order and/or Florida Public Records Law.

All reports, documents, articles, devices, and/or work produced in whole or in part under this Agreement are intended to be the sole and exclusive property of the City, and shall not be subject to any application for copyright or patent by or on behalf of the Consultant or its employees or sub-consultants, without the prior written consent of the City Manager.

SECTION 10

GENERAL PROVISIONS

10.1 AUDIT AND INSPECTIONS

Upon reasonable verbal or written notice to Consultant, and at any time during normal business hours (i.e. 9AM – 5PM, Monday through Fridays, excluding nationally recognized holidays), and as often as the City Manager may, in his/her reasonable discretion and judgment, deem necessary, there shall be made available to the City Manager, and/or such representatives as the City Manager may deem to act on the City's behalf, to audit, examine, and/ or inspect, any and all other documents and/or records relating to all matters covered by this Agreement. Consultant shall maintain any and all such records at its place of business at the address set forth in the "Notices" section of this Agreement.

10.2 INSPECTOR GENERAL AUDIT RIGHTS

- (A) Pursuant to Section 2-256 of the Code of the City of Miami Beach, the City has established the Office of the Inspector General which may, on a random basis, perform reviews, audits, inspections and investigations on all City contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the City.
- (B) The Office of the Inspector General is authorized to investigate City affairs and empowered to review past, present and proposed City programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor City projects and programs. Monitoring of an existing City project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Consultant, its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption. Pursuant to Section 2-378 of the City Code, the City is allocating a percentage of its overall annual contract expenditures to fund the activities and operations of the Office of Inspector General.
- (C) Upon ten (10) days written notice to the Consultant, the Consultant shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Consultant its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.
- (D) The Inspector General shall have the right to inspect and copy all documents and records in the Consultant's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original

estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

- (E) The Consultant shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this Agreement, for examination, audit, or reproduction, until three (3) years after final payment under this Agreement or for any longer period required by statute or by other clauses of this Agreement. In addition:
 - i. If this Agreement is completely or partially terminated, the Consultant shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
 - ii. The Consultant shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.
- (F) The provisions in this section shall apply to the Consultant, its officers, agents, employees, subcontractors and suppliers. The Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Consultant in connection with the performance of this Agreement.
- (G) Nothing in this section shall impair any independent right to the City to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the City by the Consultant or third parties.

10.3 ASSIGNMENT, TRANSFER OR SUBCONSULTING

Consultant shall not subcontract, assign, or transfer all or any portion of any work and/or service under this Agreement without the prior written consent of the City Manager, which consent, if given at all, shall be in the Manager's sole judgment and discretion. Neither this Agreement, nor any term or provision hereof, or right hereunder, shall be assignable unless as approved pursuant to this section, and any attempt to make such assignment (unless approved) shall be void.

10.4 PUBLIC ENTITY CRIMES

Prior to commencement of the Services, the Consultant shall file a State of Florida Form PUR 7068, Sworn Statement under Section 287.133(3)(a) Florida Statute on Public Entity Crimes with the City's Procurement Division.

10.5 NO DISCRIMINATION

In connection with the performance of the Services, the Consultant shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.

Additionally, Consultant shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

10.6 CONFLICT OF INTEREST

Consultant herein agrees to adhere to and be governed by all applicable Miami-Dade County Conflict of Interest Ordinances and Ethics provisions, as set forth in the Miami-Dade County Code, as may be amended from time to time; and by the City of Miami Beach Charter and Code, as may be amended from time to time; both of which are incorporated by reference as if fully set forth herein.

Consultant covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of the Services. Consultant further covenants that in the performance of this Agreement, Consultant shall not employ any person having any such interest. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising therefrom.

10.7 CONSULTANT'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW

- (A) Consultant shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.
- (B) The term "public records" shall have the meaning set forth in Section 119.011(12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.
- (C) Pursuant to Section 119.0701 of the Florida Statutes, if the Consultant meets the definition of "Contractor" as defined in Section 119.0701(1)(a), the Consultant shall:
 - (1) Keep and maintain public records required by the City to perform the service;
 - (2) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
 - (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Agreement if the Consultant does not transfer the records to the City;
 - (4) Upon completion of the Agreement, transfer, at no cost to the City, all public

records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

(D) REQUEST FOR RECORDS; NONCOMPLIANCE.

- (1) A request to inspect or copy public records relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Consultant of the request, and the Consultant must provide the records to the City or allow the records to be inspected or copied within a reasonable time.
- (2) Consultant's failure to comply with the City's request for records shall constitute a breach of this Agreement, and the City, at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/or (3) avail itself of any available remedies at law or in equity.
- (3) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. [119.10](#).

(E) CIVIL ACTION.

- (1) If a civil action is filed against a Consultant to compel production of public records relating to the City's contract for services, the court shall assess and award against the Consultant the reasonable costs of enforcement, including reasonable attorneys' fees, if:
 - a. The court determines that the Consultant unlawfully refused to comply with the public records request within a reasonable time; and
 - b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Consultant has not complied with the request, to the City and to the Consultant.
- (2) A notice complies with subparagraph (1)(b) if it is sent to the City's custodian of public records and to the Consultant at the Consultant's address listed on its contract with the City or to the Consultant's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
- (3) A Consultant who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

(F) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

CITY OF MIAMI BEACH
ATTENTION: RAFAEL E. GRANADO, CITY CLERK
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139
E-MAIL: RAFAELGRANADO@MIAMIBeachFL.GOV
PHONE: 305-673-7411

10.8 FORCE MAJEURE

- (A) A "Force Majeure" event is an event that (i) in fact causes a delay in the performance of the Consultant or the City's obligations under the Agreement, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prepared for by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, inclement weather, or failure to secure any of the required permits pursuant to the Agreement.
- (B) If the City or Consultant's performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.
- (C) No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Agreement due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.
- (D) Obligations pursuant to the Agreement that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably

possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.

- (E) Notwithstanding any other provision to the contrary herein, in the event of a Force Majeure occurrence, the City may, at the sole discretion of the City Manager, suspend the City's payment obligations under the Agreement, and may take such action without regard to the notice requirements herein. Additionally, in the event that an event of Force Majeure delays a party's performance under the Agreement for a time period greater than thirty (30) days, the City may, at the sole discretion of the City Manager, terminate the Agreement on a given date, by giving written notice to Consultant of such termination. If the Agreement is terminated pursuant to this section, Consultant shall be paid for any Services satisfactorily performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement. In no event will any condition of Force Majeure extend this Agreement beyond its stated term.

10.9 E-VERIFY

- (A) To the extent that Consultant provides labor, supplies, or services under this Agreement, Consultant shall comply with Section 448.095, Florida Statutes, "Employment Eligibility" ("E-Verify Statute"), as may be amended from time to time. Pursuant to the E-Verify Statute, commencing on January 1, 2021, Consultant shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees during the Term of the Agreement. Additionally, Consultant shall expressly require any subconsultant performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subconsultant during the contract Term. If Consultant enters into a contract with an approved subconsultant, the subconsultant must provide the Consultant with an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of such affidavit for the duration of the contract or such other extended period as may be required under this Agreement.
- (B) **TERMINATION RIGHTS.**
 - (1) If the City has a good faith belief that Consultant has knowingly violated Section 448.09(1), Florida Statutes, which prohibits any person from knowingly employing, hiring, recruiting, or referring an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States, the City shall terminate this Agreement with Consultant for cause, and the City shall thereafter have or owe no further obligation or liability to Consultant.
 - (2) If the City has a good faith belief that a subconsultant has knowingly violated the foregoing Subsection 10.9(A), but the Consultant otherwise complied with such subsection, the City will promptly notify the Consultant and order the Consultant to immediately terminate the contract with the subconsultant. Consultant's failure to terminate a subconsultant shall be an event of default under this Agreement, entitling City to terminate the Consultant's contract for cause.
 - (3) A contract terminated under the foregoing Subsection (B)(1) or (B)(2) is not in breach of contract and may not be considered as such.
 - (4) The City or Consultant or a subconsultant may file an action with the Circuit or County Court to challenge a termination under the foregoing Subsection (B)(1) or

- (B)(2) no later than 20 calendar days after the date on which the contract was terminated.
- (5) If the City terminates the Agreement with Consultant under the foregoing Subsection (B)(1), Consultant may not be awarded a public contract for at least 1 year after the date of termination of this Agreement.
- (6) Consultant is liable for any additional costs incurred by the City as a result of the termination of this Agreement under this Section 10.9.

SECTION 11

NOTICES

All notices and communications in writing required or permitted hereunder, shall be delivered personally to the representatives of the Consultant and the City listed below or may be mailed by U.S. Certified Mail, return receipt requested, postage prepaid, or by a nationally recognized overnight delivery service.

Until changed by notice, in writing, all such notices and communications shall be addressed as follows:

TO CONSULTANT: SUNDARI Foundation, Inc (Lotus House Shelter)
Attention: Beatrice Gonzalez, Director
217 NW 15th St. Miami, Florida 33136
305.438.0556

TO CITY: City of Miami Beach, Florida
Office of Housing and Community Services
Attn: Alba Tarre, Interim Department Director
1700 Convention Center Drive
Miami Beach, Florida 33139
(305) 673-7491

Notice may also be provided to any other address designated by the party to receive notice if such alternate address is provided via U.S. certified mail, return receipt requested, hand delivered, or by overnight delivery. In the event an alternate notice address is properly provided, notice shall be sent to such alternate address in addition to any other address which notice would otherwise be sent, unless other delivery instruction as specifically provided for by the party entitled to notice.

Notice shall be deemed given on the date of an acknowledged receipt, or, in all other cases, on the date of receipt or refusal.

SECTION 12

MISCELLANEOUS PROVISIONS

12.1 CHANGES AND ADDITIONS

This Agreement cannot be modified or amended without the express written consent of the parties. No modification, amendment, or alteration of the terms or conditions contained herein

shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12.2 SEVERABILITY

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.3 WAIVER OF BREACH

A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A party's waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

12.4 JOINT PREPARATION

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12.5 ENTIRETY OF AGREEMENT

The City and Consultant agree that this is the entire agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

FOR CITY:

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By: _____
Rafael E. Granado, City Clerk

Eric T. Carpenter, City Manager

Date: _____

FOR CONSULTANT:

SUNDARI FOUNDATION,INC. dba Lotus House

ATTEST:

By: _____

Print Name and Title

Print Name and Title

Date: _____

EXHIBIT "A"

"SCOPE OF SERVICES"

The Contractor agrees to provide the following services to individuals and families referred for emergency shelter placement:

Service	Units of Service	Documentation of Service
Bed Roster Report	1 Report Daily	Attendance Roster
Emergency Housing	8 beds per day, with additional beds if requested and available	Attendance Roster
Meals	3 meals per day/ per client placed	Attendance Roster

Related Definitions: The City's goal is to reduce homelessness by providing emergency shelter to homeless persons as a means of transitioning them to stability and, ultimately, permanent housing. The City adheres to a strengths-based client engagement strategy that seeks to utilize a client's strengths to devise plans that incorporate these natural strengths to overcome existing service gaps or personal barriers. We seek to adhere to cultural competency standards and engage the client at his/her level of comprehension.

In order to achieve this and ensure that finite public resources are used efficiently, the City will expect the following:

Intake & Consent — The Intake provides prospective clients with an overview of shelter services and the benefits and expectations of program participation. Client consents required for program participation are executed by the City enabling the provision of further services by the City and Contractor.

Assessment — An assessment documents the natural supports and needs of the client and his/her family. The assessment also indicates the client's number in the Homeless Management Information System (HMIS). This will be done by the City.

Care Plan (Provided by the City) — The *Care Plan* outlines the specific strategies and steps to be taken by the client to address personal and family stability and the subsequent goal of obtaining permanent housing. The plan identifies the issues to be addressed and the respective community-based agencies or resources that will be harnessed in response. The *Care Plan* should evolve to guide clients to permanent housing and independent living.

Care Plan Contact/Progress Update — Scheduled monthly meeting to discuss client progress and needs.

Client Termination — The Contractor may terminate clients for failure to adhere to shelter rules. The Contractor will notify the City in writing of any terminations and the reasons for such termination.

Service Deliverables

The City expects that the following services to be provided, as appropriate:

1. Clients will receive case management services from the Contractor with an emphasis on obtaining stability, entitlements, and housing. This includes:
 - a. Referrals for specialized health, substance abuse, mental health screening and treatment will be made for clients based on need or their request;
 - b. Referral to other entitlement services including, but not limited to, Veterans Administration, SNAP and Medicaid;
 - c. Referral to educational and vocational training;
 - d. Create and maintain client resume on file;
 - e. Referral for employment; and
 - f. Referral to permanent housing, among other services
3. Clean clothing and hygiene products, if available.
4. Random drug and alcohol tests may be conducted at shelter staff's discretion with test results included in client's case file.
5. The City reserves the right to conduct periodic audits of client files to ensure adherence to service benchmarks.

Employee/ Contractor File Review

The following documentation must be included in the employee/Contractor file for those employees/Contractors' providing services under this contract. The following must be included in the employee files: Employment Application

- Evidence of degree/credentials
- Job Description Signed by Employee
- Evidence of Required Experience
- Florida Background Criminal Screening
- Proof of Knowledge of Policies & Procedures
- Confidentiality Agreement Re: Client Information
- Documentation of Agency Training/In-Service Training
- Evidence of completion of mandatory inclusion training provided by Pridelines
- I-9 Verification on File

The City reserves the right to inspect employee/Contractor files with due notice (at least forty-eight (48) hours in advance of planned site visit) to ensure adherence to contractual expectations.

Reporting Requirements

The Contractor will provide the City with a reimbursement request and appropriate backup documentation by 5:00 PM on the fifth (5th) of the following month. In the event that the fifth of the month lands on a Saturday, Sunday or holiday, the report must be submitted the following business day.

Monthly reimbursement requests will be submitted via any of the following methods:

- Electronic mail
- Standard mail
- Hand delivery

Monitoring & Performance Reviews

The City reserves the right to inspect, monitor and/or audit the Contractor to ensure contractual compliance. This includes, but is not limited to:

- Review of on-site service delivery
- Inspection and review of client, budgetary and employee files (for those employees providing services under this contract)

The City will provide the Contractor a minimum of two (2) business days' notice prior to a monitoring visit.

Service Benchmarks

Service	Benchmark(s)
Daily Bed Vacancy Report	Beds available for client placement including vacancies created through client discharge and termination
Termination	Client Destination after discharge and/or reason for program termination as reported through the Daily Bed Report

Service Documentation

Services will be deemed as provided when the following documentation is provided within the noted timeframes:

Service	Documentation	Timeframe
Daily Bed Vacancy Report	Bed Roster	By 9am weekdays, excluding holidays
Termination	Client destination after discharge and/or reason for program termination as reported through the Daily Bed Report	Within 24 hours of contact and/or service provision

Additional Documentation

The following documentation must be submitted with this executed agreement:

- All required insurance certificates
- Copy of current audit
- Copy of required business licenses and permits

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, PURSUANT TO SECTION 2-366(C)(2) OF THE CITY CODE FOR EXEMPT PROFESSIONAL SERVICES IN ACCORDANCE WITH FLORIDA STATUTE 287.057, THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY AND THE SUNDARI FOUNDATION, INC. DBA LOTUS HOUSE SHELTER FOR EMERGENCY SHELTER BED SERVICES, IN AN AMOUNT NOT TO EXCEED \$125,000 WITH A ONE (1) YEAR RENEWAL PERIOD AT THE CITY'S OPTION; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, on April 8, 2022, the City executed a Professional Services Agreement (Agreement) with the Sundari Foundation In., dba Lotus House, for four (4) daily emergency shelter beds to address the needs of the women and children in our community; and

WHEREAS, said Agreement had an initial term ending on September 30, 2022, with one (1) renewal term, at the discretion of the City Manager, in an amount not to exceed \$49,410.00; and

WHEREAS, October 6, 2022, Amendment No. 1 was executed to extend the Agreement's term to December 31, 2022 to ensure continuity of service while awaiting City Commission approval for a renewal term that would surpass the City Manager's purchasing authority limit of \$100,000 as specified in the City's code, and

WHEREAS, On December 14, 2022, the Mayor and City Commission adopted Resolution No. 2022-32429, approving Amendment No. 2 to the Agreement, authorizing the renewal term for a period of nine (9) months, from January 1, 2023, to September 30, 2023, and increasing the contract amount from \$49,410.00 to an amount not to exceed \$119,025.00; and

WHEREAS, on October 10, 2023, the City executed the FY 2024 Agreement with the Lotus House for the provision of six (6) emergency shelter beds at the rate of \$42.50 per bed, per day, in an amount not to exceed \$93,330.00; and

WHEREAS, at the time of the Department's FY 2025 budget preparation, the City's Agreement with the Lotus House included six (6) emergency shelter beds at the rate of \$42.50 per bed, per day, hence the allocation of \$93,075.00 for shelter beds at the Lotus House; and

WHEREAS, following further negotiations with Lotus House and the identification of unutilized funds within the Department's existing budget, the FY 2024 Agreement was amended on August 23, 2024, to increase the total amount of shelter beds from six (6) to eight (8) at the existing rate of \$42.50 per bed, per day, and to increase the not-to-exceed amount to \$98,515.00; and,

WHEREAS, on September 26, 2024, the Mayor and City Commission adopted Resolution No. 2024-33294, adopting the Final Budgets for the General, G.O. Debt Service, City Center, RDA Ad Valorem Taxes, North Beach CRA Ad Valorem Taxes, Enterprise, Internal Service, and Special Revenue Funds for FY 2025, inclusive of \$93,075.00 for shelter beds at the Lotus House; and

WHEREAS, the Administration has identified additional funds within the Office of Housing and Community Services' approved FY 2025 operating budget to cover the difference of in cost of \$31,925.00 to maintain eight (8) emergency shelter beds at the Lotus House; and

WHEREAS, the City Manager recommends continuing the City's partnership with the Lotus House and approving the Professional Services Agreement for FY 2025 for the provision of eight (8) emergency shelter beds at a rate of \$42.50 per bed, per day, in an amount not to exceed \$125,000 for one (1) year, with a one (1) year renewal period at the City's option.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve, pursuant to Section 2-366(c)(2) of the City Code for exempt professional services in accordance with Florida Statute 287.057, the Professional Services Agreement between the City and the Sundari Foundation, Inc. dba Lotus House Shelter for Emergency Shelter Bed Services, in an amount not to exceed \$125,000 with a one (1) year renewal period at the City's option; and further authorize the City Manager to execute the Agreement.

PASSED and ADOPTED this _____ day of _____, 2024.

ATTEST:

STEVEN MEINER, MAYOR

RAFAEL E. GRANADO, CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *DH* Date 10/20/2024