

**CONTRACT FOR PROFESSIONAL SERVICES**

**between**

**GOVERNMENT OF THE VIRGIN ISLANDS  
DEPARTMENT OF PROPERTY AND PROCUREMENT  
on behalf of the**

**DEPARTMENT OF HUMAN SERVICES  
1303 Hospital Ground  
Knud Hansen Complex, Building A  
Charlotte Amalie, St. Thomas, VI 00802**

**and**

**SUNRISE COMMUNITY, INC.  
9040 Sunset Drive, Miami, Florida 33173**

P036DHST18

## CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT FOR PROFESSIONAL SERVICES (hereinafter, this "AGREEMENT") is made this 29<sup>th</sup> day of August, 2018, in the Territory of the Virgin Islands, by and between the **Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Department of Human Services**, 1303 Hospital Ground, Knud Hansen Complex Bldg. A, St. Thomas, VI 00802 (hereinafter referred to as "Government") and **Sunrise Community, Inc.**, of 9040 Sunset Drive, Miami, Florida 33173 (hereinafter referred to as "Contractor").

### WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to provide residential care services to eleven (11) individuals with intellectual and developmental disabilities in the state of Florida who are being transitioned from Comprehensive Transitional Education Programs, owned and operated by Carlton Palms Educational Center, Inc. and Orange Villas Educational Center, Inc. in Mount Dora, Florida and Eustis, Florida, which duties and responsibilities are more particularly described in *Addendum I (Scope of Services)* attached hereto;

WHEREAS, the Florida Agency for Persons with Disabilities has obtained a Court Order appointing a Receiver to operate Carlton Palms Educational Center, Inc., and said facility has been ordered closed by August 15, 2018; and

WHEREAS, the Contractor was selected in accordance with the provisions of Title 31, Section 239(a)(5) of the Virgin Islands Code to provide services to eleven (11) individuals with intellectual and developmental disabilities in the state of Florida who are being transitioned from Carlton Palms Educational Center, Inc. and Orange Villas Educational Center, Inc.; and

WHEREAS, the Contractor represents that it is willing and capable of providing such services;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

### 1. SERVICES

The Contractor will provide the services described in *Addendum I (Scope of Services)* attached hereto and made a part of this Agreement.

### 2. TERM

#### A. Initial Term

This Agreement shall commence upon the execution of this Agreement by the Governor of the Virgin Islands and shall terminate three (3) years thereafter.

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### B. Renewal Term

The Government reserves the right to renew this Agreement for two (2) additional one (1) year terms at the sole discretion of the Government. Any renewal shall be contingent upon satisfactory performance of the Contractor and shall be subject to the availability of local Government funds. The Government shall give written notice to the Contractor of such intent to extend or renew not less than ninety (90) days prior to the expiration of the initial term at the rate indicated in the Terms of Compensation herein.

### 3. COMPENSATION, INCLUDING MEDICAL CARE AND CLIENT TRAVEL EXPENSES

The Government, in consideration of the satisfactory performance of the services described in *Addendum I (Scope of Services)*, for the initial Term of three (3) years agrees to pay Contractor a sum not to exceed **SEVEN MILLION, TWO HUNDRED AND SIXTY-SIX THOUSAND, SIX HUNDRED TWENTY-EIGHT AND 05/100 DOLLARS (\$7,266,628.05)** for Residential Services under this Agreement for the Initial Term. In addition, the Government agrees to reimburse the Contractor for any medical care not covered by a health insurance plan, Medicaid, Medicare, or any other form of health care. Medical Care costs shall not exceed **One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00)** for the Initial Term of three (3) years. Also, the Government agrees to reimburse the Contractor for Client travel expenses that do not include those basic, local travel expenses outlined in *Addendum I- Paragraph A(1)(c)*, that are considered part of the Residential Services and are already included in the related compensation. Client travel costs shall not exceed **Thirty-Three Thousand and 00/100 Dollars (\$33,000.00)** for the Initial Term of three (3) years. In no event, shall the total compensation paid to the Contractor under this Agreement for the Initial Term of three (3) years exceed **SEVEN MILLION, FOUR HUNDRED AND FORTY-NINE THOUSAND, SIX HUNDRED TWENTY-EIGHT AND 05/100 DOLLARS (\$7,449,628.05)**, including medical care and client travel expenses as set forth in *Addendum II, (Terms of Compensation)*, attached hereto and made a part of this Agreement.

### 4. CONTRACTORS TRAVEL EXPENSES

There shall be no travel costs awarded to the Contractor for Contractors travel.

### 5. RECORDS

The Contractor when applicable, will present documented precise records of time and/or money expended under this Agreement upon request with reasonable advanced notice.

### 6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the State of Florida.

### 7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Agreement shall become the property of the Government and shall be turned over to it at the termination of this Agreement, except as otherwise required by law. The above described materials shall not be used by Contractor

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or by any other person or entity except upon the written permission of the Government or as otherwise required by law.

#### **8. LIABILITY OF OTHERS**

Nothing in this Agreement shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

#### **9. ASSIGNMENT**

The Contractor shall not subcontract or assign any part of the services under this Agreement without the prior written consent of the Government.

#### **10. INDEMNIFICATION**

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Agreement and arising from any cause, except the sole negligence of Government. In the event of the sole negligence of Government, Government agrees to indemnify, defend and hold harmless Contractor from and against any and all loss, damage, liability, claims demands, detriments, cost, charges and expense (including attorney's fees) and causes of action as a result of such negligence, to the extent permitted by law.

#### **11. INDEPENDENT CONTRACTOR**

The Contractor shall perform this Agreement as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

#### **12. GOVERNING LAW**

This Agreement shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

#### **13. WAIVERS AND AMENDMENTS**

No waiver, modification or amendment of any term condition or provision of this Agreement shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Agreement, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

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#### 14. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This Agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

#### 15. RIGHT TO WITHHOLD

If work under this Agreement is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

#### 16. CONDITION PRECEDENT

This Agreement shall be subject to the availability and appropriation of funds and to the approval of the Governor.

#### 17. TERMINATION

Either party will have the right to terminate this Agreement with or without cause on ninety (90) days written notice to the other party specifying the date of termination.

#### 18. PARTIAL TERMINATION

The performance of work under this Agreement may be terminated by the Government, in part, whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Agreement are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the ninety (90) day notice.

#### 19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Agreement on account of race, creed, color, sex, religion, disability or national origin.

#### 20. CONFLICT OF INTEREST

(a) Contractor covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

(b) Contractor further covenants that it is:

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(1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

(2) a territorial officer or employee and, as such, has:

- (i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
- (ii) not made, negotiated or influenced this Agreement, in its official capacity;
- (iii) no financial interest in the Agreement as that term is defined in section 1101(1) of said Code chapter.

**21. EFFECTIVE DATE**

The effective date of this Agreement shall be the day of execution of the Agreement by the Governor.

**22. NOTICE**

Any notice required to be given by the Terms of this Agreement shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

**GOVERNMENT:**

Lloyd T. Bough, Jr.  
*Commissioner*  
**Department of Property and Procurement**  
Sub Base, Building No. 1, Third Floor  
St. Thomas, VI 00802

Felicia L. Blyden  
*Commissioner*  
**Department of Human Services**  
1303 Hospital Ground  
Knud Hansen Complex Bldg. A  
St. Thomas, VI 00802

**CONTRACTOR:**

John Kelleher  
*Secretary/Treasurer*  
**Sunrise Community, Inc.**  
9040 Sunset Drive  
Miami, Florida 33173

**23. LICENSURE**

The Contractor covenants that it has obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Florida laws and regulations as set forth in Paragraph 6 herein.

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**24. OTHER PROVISIONS**

*Addendum I, Scope of Services and Addendum II, Compensation*, attached hereto are a part of this Agreement and are incorporated herein by reference.

**25. COMPLIANCE WITH LAWS**

Contractor warrants that it shall not, with respect to this Agreement, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law. Contractor will abide by all applicable state and federal privacy laws, including the Health Insurance Portability and Accountability Act of 1996 and its subsequent amendments (including the HITECH Act and Omnibus Rule).

**26. RESIDENTS**

Government represents that it has the legal authority to place the eleven (11) residents at Sunrise Community Inc. in Florida and shall provide Contractor with Certified Court Orders from the Family Division of the Superior Court of the United States Virgin Islands for each resident placed at Sunrise. If a resident requires a transfer or discharge due to a medical event or a change in condition, appropriateness of alternative placement shall be determined based on the independent medical judgment of a qualified clinician, as applicable. The parties acknowledge that any addition or removal of individuals from the group of eleven (11) in the program contemplated at the time of execution of this Agreement will require an Amendment to address the change in scope of services by Contractor.

**27. INSURANCE**

Contractor agrees to maintain the following insurances at the following levels: commercial general liability (\$1,000,000 per occurrence and \$3,000,000 in the aggregate); for which Government will be named as an additional insured via endorsement; professional liability (\$1,000,000 per occurrence and in the aggregate); automobile insurance (\$1,000,000 per occurrence), and workers' compensation at a statutory limit. Government shall be a certificate holder for all Contractor's insurance policies.

If the policy for any liability insurance described above is on a claims made basis, the policy must remain in force for a period of at least three (3) years after the end of the Contract term and any renewals thereof.

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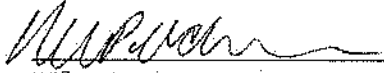
Contract No.: \_\_\_\_\_

Contractor's Initials:

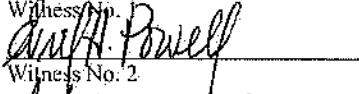
IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

**WITNESSES:**

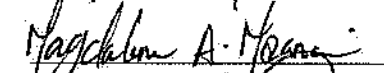
**GOVERNMENT OF THE VIRGIN ISLANDS**



Witness No. 1



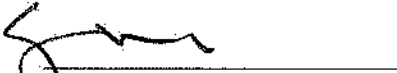
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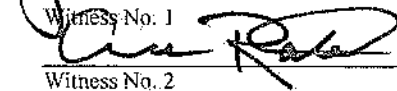
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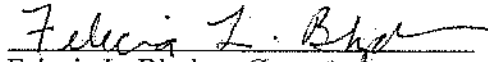
Witness No. 2



Witness No. 1



Witness No. 2

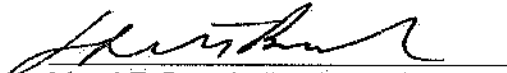


Felecia L. Blyden, *Commissioner*

Department of Human Services

8/17/18

Date



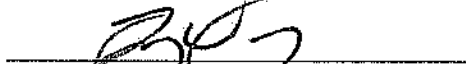
Lloyd T. Bough, Jr., *Commissioner*

Department of Property and Procurement

8/24/18

Date

**CONTRACTOR**



Zachary Wray, *President*

Sunrise Community, Inc.

8/17/18

Date

**APPROVED:**



**Kenneth E. Mapp**

GOVERNOR OF THE VIRGIN ISLANDS

Date: 08-28-18

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY:  Date 08/27/18

PURCHASE ORDER NO.

Contract No.: P036DHS T18

Contractor's Initials: ZW