

FIRST AMENDMENT TO SERVICE AGREEMENT

THIS FIRST AMENDMENT TO SERVICE AGREEMENT (Amendment) entered into effective upon execution by both parties (the Effective Date), amends the Service Agreement (Agreement) between the CITY OF FRESNO (the City), and MENTAL HEALTH SYSTEMS DBA TURN BEHAVIORAL HEALTH (Service Provider), entered into on July 11, 2023, to provide funding to operate the emergency shelter and professional triage center support services for unhoused individuals at Fresno HOME located 2550 W. Clinton Avenue, Fresno, CA 93705 (Fresno HOME).

RECITALS

- A. Pursuant to the Agreement, the City provided funding to the Service Provider for emergency shelter and professional triage center support services for unhoused individuals at the Fresno HOME funded through the HOMELESS HOUSING, ASSISTANCE, AND PREVENTION (HHAP) program for a total fee of \$1,449,183.89.
- B. The initial term of the Agreement is effective through June 30, 2024, for a total fee amount of \$1,449,183.89.
- C. The City and Service Provider desire to extend the term of the Agreement to June 30, 2025, and to increase funding by \$1,492,659.40 using HHAP program funds for a total award of \$2,941,843.29.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration hereby acknowledged, the parties agree that the Agreement shall be amended as follows:

- 1. The term of the Agreement is extended up to and including June 30, 2025.
- 2. The Service Provider's sole compensation for satisfactory performance of all services required or rendered pursuant to the Agreement shall be increased by \$1,492,659.40 and shall be paid using HHAP funds for a total fee of \$2,941,843.29.
- 3. In the event of any conflict between the body of this Amendment and any Exhibit or Attachment hereto, the terms and conditions of the body of this Amendment shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the Parties, provided for within the body of this Amendment, shall be null and void.
- 4. Except as otherwise provided herein, the Agreement entered into by the City and the Service Provider on July 11, 2023, remains in full force and effect.

[Signatures follow on the next page.]

IN WITNESS WHEREOF, the Parties have executed this Amendment at Fresno, California, the day, and year first above written.

CITY OF FRESNO,
A California municipal corporation

By: _____
Georgeanne A. White Date
City Manager

APPROVED AS TO FORM:
ANDREW JANZ

City Attorney
DocuSigned by:
By: Tricia Herrera 5/8/2024
6D03E4AD28E0466... Date
Tricia Herrera
Deputy City Attorney

ATTEST:
TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

Attachments:

1. Agreement with Mental Health Systems

MENTAL HEALTH SYSTEMS DBA
TURN BEHAVIORAL HEALTH,
a California Corporation

DocuSigned by:
By: James C. Callaghan Jr.
F3F491510811480...

Name: James C. Callaghan Jr.

Title: Chief Executive Officer / President
(If corporation or LLC., Board Chair,
Pres. or Vice Pres.)

DocuSigned by:
By: David Tanner
40304AD761784E3...

Name: David Tanner

Title: VP of Corporate Finance
(If corporation or LLC., CFO., Treasurer,
Secretary or Assistant Secretary)

SERVICE AGREEMENT CITY OF FRESNO, CALIFORNIA

THIS AGREEMENT is made and entered into, effective on 7/11/2023 (Effective Date), by and between the CITY OF FRESNO, a California municipal corporation (City), and Mental Health System dba TURN Behavioral Health, a California Corporation (Service Provider).

RECITALS

WHEREAS, City desires to obtain professional triage center and/or shelter operations services for Fresno HOME at 2550 W. Clinton Ave, Fresno CA 93705 (Project) funded through the Homeless Housing, Assistance and Prevention (HHAP) Program; and

WHEREAS, Service Provider is engaged in the business of furnishing such services as a triage center. The agreement will be to operate 50 shelter beds and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, Service Provider acknowledges that this Agreement is subject to the requirements of Fresno Municipal Code Section 4-107; and

WHEREAS, this Agreement will be administered for City by its Planning Development Director (Administrator) or designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. Service Provider shall perform to the satisfaction of City the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.
2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above (Effective Date) and shall continue in full force and effect through June 30, 2024, subject to any earlier termination in accordance with this Agreement. The Parties may extend this Agreement for up to one year, subject to a written agreement approved by the City Council. The services of Service Provider as described in **Exhibit A** are to commence upon the Effective Date and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**.
3. Compensation.
 - (a) Service Provider's sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee not to exceed \$1,449,183.89, paid on the basis of the rates set forth herein or in the schedule of fees and expenses contained in **Exhibit A**. Such fee includes all expenses incurred by Service Provider in performance of the services.

- (b) Detailed statements shall be rendered monthly for services performed in the preceding month and will be payable in the normal course of City business. City shall not be obligated to reimburse any expense for which it has not received a detailed invoice with applicable copies of representative and identifiable receipts or records substantiating such expense.
- (c) Service Provider agrees to render actual monthly income and expense reports relating to the management and operation of the Property in Service Provider's standard format approved by City on the twenty-fifth (25th) calendar day after the expiration of each calendar month, and an annual income and expense report in Service Provider's standard format approved of by City, within forty-five (45) days after the expiration of each calendar year. At City's election (to be exercised by prior written notice to Service Provider), Service Provider shall deliver, concurrently with the delivery of each monthly income and expense report, copies of checks evidencing payments and collections and supporting invoices, internal allocations, and other back-up data as may be reasonably requested for the expenses and disbursements shown on the previous month's income expense report.
- (d) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to Service Provider's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. Service Provider shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies, and Force Majeure.

- (a) This Agreement shall terminate without any liability of City to Service Provider upon the earlier of : (i) Service Provider's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against Service Provider; (ii) seven calendar days' prior written notice with or without cause by City to Service Provider; (iii) City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.
- (b) Immediately upon any termination or expiration of this Agreement, Service Provider shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to City any and all unearned payments and all properties and materials in the possession of Service Provider that are owned by City. Subject to the terms of this Agreement, Service Provider shall be paid compensation for services satisfactorily performed prior to the effective date of termination. Service Provider shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.
- (c) In the event of termination due to failure of Service Provider to satisfactorily perform in accordance with the terms of this Agreement, City may withhold

an amount that would otherwise be payable as an offset to, but not in excess of, City's damages caused by such failure. In no event shall any payment by City pursuant to this Agreement constitute a waiver by City of any breach of this Agreement which may then exist on the part of Service Provider, nor shall such payment impair or prejudice any remedy available to City with respect to the breach.

- (d) Upon any breach of this Agreement by Service Provider, City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.
- (e) Service Provider shall provide City with adequate written assurances of future performance, upon Administrator's request, in the event Service Provider fails to comply with any terms or conditions of this Agreement.
- (f) Service Provider shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of Service Provider and without its fault or negligence such as, acts of God or the public enemy, acts of City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Service Provider shall notify Administrator in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership of Documents.

- (a) Any reports, information, or other data prepared or assembled by Service Provider pursuant to this Agreement shall not be made available to any individual or organization by Service Provider without the prior written approval of the Administrator. During the term of this Agreement, and thereafter, Service Provider shall not, without the prior written consent of City, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of City, including but not limited to business plans, marketing plans, financial information, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in City.
- (b) Any and all writings and documents prepared or provided by Service Provider pursuant to this Agreement are the property of City at the time of preparation and shall be turned over to City upon expiration or termination

of the Agreement. Service Provider shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.

- (c) If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall cause each subcontractor to also comply with the requirements of this Section 5.
 - (d) This Section 5 shall survive expiration or termination of this Agreement.
6. Level of Skill. It is further mutually understood and agreed by and between the parties hereto that inasmuch as Service Provider represents to City that Service Provider and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said industry necessary to perform the services agreed to be done by it under this Agreement, City relies upon the skill of Service Provider and its subcontractors, if any, to do and perform such services in a skillful manner and Service Provider agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by City shall not operate as a release of Service Provider or any subcontractors from said industry and professional standards.
7. Indemnification. To the furthest extent allowed by law, Service Provider shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses, and costs to enforce this agreement) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Service Provider, its principals, officers, employees, agents, or volunteers in the performance of this Agreement.

If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. Insurance.
- (a) Throughout the life of this Agreement, Service Provider shall pay for and maintain in full force and effect all insurance as required in Exhibit B, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by City's Risk Manager or designee at any time and in its sole discretion. The required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum

limits specified therein or the full limit of any insurance proceeds to the named insured.

- (b) If at any time during the life of the Agreement or any extension, Service Provider or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Service Provider shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve Service Provider of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.
- (c) The fact that insurance is obtained by Service Provider shall not be deemed to release or diminish the liability of Service Provider, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Service Provider. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Service Provider, its principals, officers, agents, employees, or persons under the supervision of Service Provider, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

9. Conflict of Interest and Non-Solicitation.

- (a) Prior to City's execution of this Agreement, Service Provider shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in Exhibit C. During the term of this Agreement, Service Provider shall have the obligation and duty to immediately notify City in writing of any change to the information provided by Service Provider in such statement.
- (b) Service Provider shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state, and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of City, Service Provider shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Service Provider and the respective subcontractor(s) are in full compliance with all laws and regulations. Service Provider shall take, and require its subcontractors to take,

reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, Service Provider shall immediately notify City of these facts in writing.

- (c) In performing the work or services to be provided hereunder, Service Provider shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.
 - (d) Service Provider represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit, or procure this Agreement or any rights/benefits hereunder.
 - (e) Service Provider and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, Service Provider shall remain responsible for complying with Section 9(a), above.
 - (f) If Service Provider should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, Service Provider shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.
 - (g) This Section 9 shall survive expiration or termination of this Agreement.
10. Recycling Program. In the event Service Provider maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, Service Provider at its sole cost and expense shall:
- (a) Immediately establish and maintain a viable and ongoing recycling program, approved by City's Solid Waste Management Division, for each office and facility. Literature describing City recycling programs is available from City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
 - (b) Immediately contact City's Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
 - (c) Cooperate with and demonstrate to the satisfaction of City's Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.
11. General Terms.
- (a) Except as otherwise provided by law, all notices expressly required of City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Administrator or designee.

- (b) Records of Service Provider's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of seven years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of Service Provider pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to City until such action is resolved, or until the end of said time period whichever shall later occur. If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall cause each subcontractor to also comply with the requirements of this paragraph. This Section 11(b) shall survive expiration or termination of this Agreement.
 - (c) Prior to execution of this Agreement by City, Service Provider shall have provided evidence to City that Service Provider is licensed to perform the services called for by this Agreement (or that no license is required). If Service Provider should subcontract all or any portion of the work or services to be performed under this Agreement, Service Provider shall require each subcontractor to provide evidence to City that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.
12. Nondiscrimination. To the extent required by controlling federal, state and local law, Service Provider shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, Service Provider agrees as follows:
- (a) Service Provider will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.
 - (b) Service Provider will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Service Provider shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical

disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to Service Provider's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Service Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

- (c) Service Provider will, in all solicitations or advertisements for employees placed by or on behalf of Service Provider in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.
- (d) Service Provider will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of Service Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall cause each subcontractor to also comply with the requirements of this Section 12.

13. Independent Contractor.

- (a) In the furnishing of the services provided for herein, Service Provider is acting solely as an independent contractor. Neither Service Provider, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner, or associate of City for any purpose. City shall have no right to control or supervise or direct the manner or method by which Service Provider shall perform its work and functions. However, City shall retain the right to administer this Agreement so as to verify that Service Provider is performing its obligations in accordance with the terms and conditions thereof.
- (b) This Agreement does not evidence a partnership or joint venture between Service Provider and City. Service Provider shall have no authority to bind City absent City's express written consent. Except to the extent otherwise provided in this Agreement, Service Provider shall bear its own costs and expenses in pursuit thereof.
- (c) Because of its status as an independent contractor, Service Provider and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to City employees. Service Provider shall be solely liable and responsible for all payroll and tax

withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, Service Provider shall be solely responsible, indemnify, defend and save City harmless from all matters relating to employment and tax withholding for and payment of Service Provider's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in City employment benefits, entitlements, programs and/or funds offered employees of City whether arising by reason of any common law, de facto, leased, or co- employee rights or other theory. It is acknowledged that during the term of this Agreement, Service Provider may be providing services to others unrelated to City or to this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.
15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives.
16. Assignment.
 - (a) This Agreement is personal to Service Provider and there shall be no assignment by Service Provider of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by Service Provider, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.
 - (b) Service Provider hereby agrees not to assign the payment of any monies due Service Provider from City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). City retains the right to pay any and all monies due Service Provider directly to Service Provider.
17. Compliance With Law. In providing the services required under this Agreement, Service Provider shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

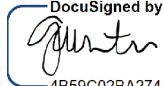
18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.
20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.
21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.
22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.
23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.
24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.
25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.
26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
27. No Third-Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and Service Provider.
29. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement.

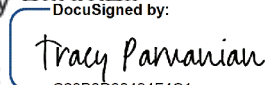
[SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

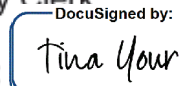
CITY OF FRESNO,
a California municipal corporation

DocuSigned by:

By: 4B59C02BA274430...
Georgeanne A. White,
City Manager

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

DocuSigned by:

By: C20B3D38494F4C1... 6/13/2023
Tracy N. Parvanian Date
Supervising Deputy City Attorney

ATTEST:
TODD STERMER, CMC
City Clerk

DocuSigned by:

By: 6CA1388820964E3... 7/11/2023
Date
Deputy

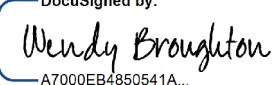
Addresses:

CITY:
City of Fresno
Attention: Joe Pasillas, Housing and
Neighborhood Revitalization Manager
2600 Fresno Street, CH3N
Fresno, CA 93721
Phone: (559) 621-8053
FAX: (559) [#]

Attachments:

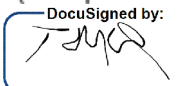
1. Exhibit A - Scope of Services
2. Exhibit B - Insurance Requirements
3. Exhibit C - Conflict of Interest Disclosure Form

Mental Health Systems dba TURN
Behavioral Health,
a California Corporation

DocuSigned by:

By: A7000EB4850541A...

Name: Wendy Broughton

Title: Chief Operation Officer
(If corporation or LLC., Board Chair,
res.)

DocuSigned by:

By: 3E4756281FD247F...

Name: Tracey McDermott

Title: Chief Financial Officer
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

Service Provider: Mental Health
Systems dba TURN Behavioral Health
Attention: James C. Callaghan Jr.
Chief Executive Officer
9465 Farnham Street,
San Diego, CA 92123
Phone: 858-573-2600
FAX:

EXHIBIT A

SCOPE OF SERVICES

Service Agreement between City of Fresno

and Mental Health Systems Inc., dba TURN Behavioral Health

Triage Center for the Homeless Housing, Assistance and Prevention (HHAP) Program

Scope of Work:

Mental Health Systems dba TURN Behavioral Health (MHS) shall provide Triage Center Emergency Shelter services, including 24-hour emergency shelter that offers low-barrier access to dormitory or private accommodations with on-site, housing-focused services including diversion pre-screening, case management, housing search and placement, connection to community resources, and stabilization of health issues. MHS will provide 50 emergency shelter beds to people experiencing homelessness. The Triage Center is intended to provide a safe, supportive environment where residents will be provided with wraparound services to attain permanent housing by rebuilding their support network and addressing the issues that led to the episode of homelessness.

TARGET POPULATIONS

The target population of Triage Center Emergency Shelter services are individual adults or families in the City of Fresno currently experiencing homelessness, or at imminent risk of homelessness, regardless of sexual orientation, marital status, or gender identification.

DATA COLLECTION

The program will be a CES Access Site, creating an opportunity for each person accessing shelter to be entered into CES through the administration of the Vulnerability Index-Service Prioritization Decision Assistance Tool (VI-SPDAT).

- Service Provider is required to collect and report client-level data in accordance with Housing and Urban Development (HUD) Office of Special Needs Assistance Programs (SNAPS) Homeless Management Information System (HMIS) Data Standards, to the local HMIS operated by the Housing Authorities of the City and County of Fresno through a Memorandum of Understanding with the Fresno Madera Continuum of Care or comparable databases are required for use by providers of services for victims of domestic violence, as described in the Violence Against Women Act (VAWA). Reporting into the HMIS database or allowed comparable database is a requirement of State funding. Service Provider reporting must be consistent in format and data element structure with the Fresno Housing Authority HMIS Program Policies and Procedures Manual and the HUD HMIS Data Standards and Data Dictionary current at the execution of this Agreement. The comparable database will be maintained by the Service Provider and used to collect data and report on outputs and outcomes as required by HUD.

TRIAGE CENTER EMERGENCY SHELTER SERVICES

Emergency Shelter: MHS will operate 50 emergency shelter beds for individuals and families impacted by homelessness within the City of Fresno. Basic shelter services provided will include meals. The maximum length of stay will be 90 days, subject to exceptions for documented situations. MHS may approve an one, 30-day extension, for a total of 120 days with written notification to the City within seven days of extension approval.

Case Management: Provide intensive case management services that focus on helping participants develop a housing plan and overcome barriers to attaining permanent housing. Participants that have been connected to a permanent housing intervention may be referred to a Bridge Housing program to prepare to enter permanent housing.

Housing Search and Placement: Provide services and activities necessary to assist program participants in locating, obtaining, and retaining safe permanent housing.

Diversion Pre-Screening: Assess all people who present for homeless services at the Triage Center for potential Diversion services and if deemed eligible, refer immediately to a Diversion program.

Stabilizing Health Intervention: Provide services for stabilization of participant health issues, including substance use and mental health disorders.

CONTRACTOR RESPONSIBILITIES

Adhere to a low-barrier shelter policy. Shelter beds must be open to all who desire the service regardless of sexual orientation, marital status, or gender identification. Guests must be allowed to enter shelter with their partners, possessions, and pets.

All services provided must be in compliance or otherwise aligned with the core components of Housing First, pursuant to California Welfare and Institutions Code section 8255, subdivision (b).

Register all guests and require their agreement to services provided by the Triage Center.

Allow for 24-hour guest access and not exclude people because of intoxication or mental illness.

Maintain membership in the Fresno Madera Continuum of Care (FMCoC) and participate in the Coordinated Entry System (CES)

Accept self-referrals, FMCoC CES referrals and, where appropriate, law enforcement referrals.

The Triage Center will be a Coordinated Entry assessment site, that conducts homeless services pre-screening using the Vulnerability Index – Service Prioritization Decision Assistance Tool (VI-SPDAT) or other FMCoC designated assessment tool.

In the event the number of referrals exceeds the number of available beds, MHS will prioritize referrals using the following criteria: unsheltered homelessness, length of homelessness, composition of household, medical conditions, and any other relevant factors.

The Triage Center must be staffed 24 hours a day, 7 days a week.

Maintain a minimum staff-to-client ratio of 1:20 during daytime hours.

Provide on-site office space for Diversion program staff.

Enter guest information into the Homeless Management Information System (HMIS) in compliance with HHAP and HUD data collection, management, and reporting standards.

Adhere to a "Good Neighbor" policy, whereby Mental Health System will secure and maintain the perimeter of the Triage Center facility, keeping clear of any nuisances and code violations.

Comply with all shelter and housing habitability standards as identified in 24 CFR 576.403

The following criteria will be used to determine eligibility for client entry:

1. All guests must meet the definition of homelessness as per State or Federal definitions.
2. All guests will receive a pre-screening for diversion services to determine if diversion is a more appropriate intervention. Anyone deemed eligible for diversion services will be immediately referred to the funded Diversion Services provider.
3. Anyone exhibiting behavior that threatens the safety of themselves or others will not be admitted. If someone is in need of an ambulance or assessment for medical mental health emergency intervention. MHS staff will call emergency services on their behalf.
4. Upon determination of program eligibility, all guests will be registered and will sign a participation agreement that outlines the program policies and their agreement to the services provided by MHS.

STAFFING

All staff will be trained in Mental Health First Aid, as well as Pro-Act, so that they are equipped to maintain safety of staff and program guests when working with and admitting person who are intoxicated or exhibiting symptoms of serious mental illness, while maintaining the safety and dignity of intoxicated or symptomatic guests. Additionally, staff will be trained in harm reduction strategies, NARCAN (Naloxone) administration to aid in the event a participant is suffering from an opioid overdose, and the procedure for connecting participants to the needle exchange service in the City of Fresno.

MHS staffing of Fresno Home as follows:

0.65 FTE Program Manager
1.00 FTE Case Manager (Bilingual)
2.00 FTE Case Manager
1.00 FTE Housing Coordinator
1.00 FTE Housing Specialist
0.60 FTE Building Custodian
0.65 FTE Overnight Monitor (Bilingual)
1.30 FTE Overnight Monitor
0.03 FTE Compliance Specialist
0.10 FTE Vice President of Clinical Services
0.01 FTE Director of Housing
0.12 FTE Program Financial Analyst

Fresno Home will be staffed 24-hours a day and guests will not be required to leave the facility for any portion of the day.

PERFORMANCE OUTCOMES

1. MHS shall provide complete and accurate quarterly activity reports to the City of Fresno generated from HMIS.

Mental Health Services shall meet the following outcomes:

2. A minimum of 90% bed utilization, as measured by HMIS.

3. Provide Triage Center emergency shelter services for a minimum of 200 participants annually.

4. A minimum of 65% of participants will be connected to a safe exit, meaning all positive temporary exit destinations excluding places not meant for human habitation, or instances where client exit destination was not identified.

5. A minimum of 40% of those discharged to a safe exit will be exited to permanent housing destinations, as measured in HMIS.

6. Participants will be placed in permanent housing (or other safe exit) within 78 days of program entry.

DOCUMENTATION AND RECORDKEEPING

MHS is to record client information in HMIS for all its housing and bridge housing programs. During guest intake, consent is obtained to enter their information in HMIS. MHS will make sure all data is entered into HMIS within three days of entry to the program. MHS is also responsible for documenting all case notes in the guest's file. The case notes will contain information on goal completion, progress toward goals, successes, and information regarding any incidents at the program. Every guest that leaves with staff knowledge prior to departure will meet with a Case Manager to participate in an exit interview where destination will be documented, any change in income, and an exit survey will be offered.

FISCAL ADMINISTRATION

MHS assures that it possesses the capacity in staffing to provide the proposed services. MHS will work with the City of Fresno as it relates to program and financial monitoring and evaluation.

RESIDENT SELECTION PLAN

It is the policy of the City of Fresno to promote equal opportunity in compliance with, but not limited to, all federal, state and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

Fresno Home will operate in accordance with federal, state and local fair housing and civil rights laws.

MHS shall not discriminate with respect to sex (gender), sexual orientation, gender identity, gender expression, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), genetic information, marital status, military and veteran status, and denial of medical and family care leave of pregnancy disability leave.

PET POLICY

By executing this Agreement, MHS acknowledges that the Pet Friendly Housing Act of 2017 (Health and Safety Code, 50466) requires each housing development, if it is financed on or after January 1, 2018, pursuant to Division 31 of Health and Safety Code, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident's dwelling unit, subject to applicable state laws and local governmental ordinances related to public health, animal control, and animal anticruelty.

REPORTING

MHS will provide a client census, including unique HMIS client ID, client demographic data, date of program entry and exit, and exit destinations on a monthly basis.

MHS will provide a cumulative program performance report on a quarterly basis, beginning October 1, 2023.

MHS will provide a bi-annual report on client housing stability, reflecting whether clients that exited to permanent housing remain housed after 6 months. Data may be drawn from HMIS or collected from the clients directly.

MEETINGS

MHS shall meet with City not less than quarterly to discuss the status of the management, operation, and service coordination of the Property and Project (Meetings). It is agreed that Meetings may be conducted via a digital platform, unless otherwise requested by City. Upon the request of the City and upon reasonable advance written notice, MHS shall arrange to meet City and or City's Representative at the Property.

EXHIBIT B

INSURANCE REQUIREMENTS

Service Agreement between City of Fresno (City) and Mental Health Systems Inc., dba TURN Behavioral Health (Service Provider)

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."
2. The most current version of ISO Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability (Abuse & Molestation) Insurance that insures against liability arising out of the bodily injury, personal injury, and third-party property damage occurring because of the wrongful or negligent acts attributable to the institution. This coverage should protect against a wide range of potential claims, including but not limited to athletics, alcohol, assault, verbal or physical abuse, campus crime, sexual molestation and other sexual misconducts.

MINIMUM LIMITS OF INSURANCE

SERVICE PROVIDER, or any party the SERVICE PROVIDER subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY:**
 - (i) \$1,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$1,000,000 per occurrence for personal and advertising injury;

- (iii) \$2,000,000 aggregate for products and completed operations; and,
 - (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.
- 2. **COMMERCIAL AUTOMOBILE LIABILITY:**
\$1,000,000 per accident for bodily injury and property damage.
- 3. **WORKERS' COMPENSATION INSURANCE** as required by the State of California with statutory limits.
- 4. **EMPLOYER'S LIABILITY:**
 - (i) \$1,000,000 each accident for bodily injury;
 - (ii) \$1,000,000 disease each employee; and,
 - (iii) \$1,000,000 disease policy limit.
- 5. **Professional Liability** (Abuse & Molestation):
 - (i) \$1,000,000 per claim/occurrence; and,
 - (ii) \$2,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event SERVICE PROVIDER purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

SERVICE PROVIDER shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and SERVICE PROVIDER shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to on the Certificate of Insurance, and approved by, the CITY'S Risk Manager or his/her designee. At the option of the CITY'S Risk Manager or his/her designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and volunteers; or
- (ii) SERVICE PROVIDER shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds. SERVICE PROVIDER shall establish additional insured status for the City and for all operations by use of ISO Form CG 20 10 04 13 or CG 20 26 04 13 or by an executed manuscript insurance company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 04 13 or CG 20 26 04 13.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.
3. For any claims relating to this Agreement, SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents and volunteers shall be excess of SERVICE PROVIDER'S insurance and shall not contribute with it. SERVICE PROVIDER shall establish primary and non-contributory status by using ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 01 04 13.
4. Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: SERVICE PROVIDER and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and volunteers.

If the Professional Liability (Abuse & Molestation) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by SERVICE PROVIDER.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by SERVICE PROVIDER,

SERVICE PROVIDER must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.

4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. SERVICE PROVIDER is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, SERVICE PROVIDER shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, SERVICE PROVIDER shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

Should any of the required policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by any defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

The fact that insurance is obtained by SERVICE PROVIDER shall not be deemed to release or diminish the liability of SERVICE PROVIDER, including, without limitation, liability under the indemnity provisions of this Agreement. The policy limits do not act as a limitation upon the amount of indemnification to be provided by SERVICE PROVIDER. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of SERVICE PROVIDER, its principals, officers, agents, employees, persons under the supervision of SERVICE PROVIDER, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

VERIFICATION OF COVERAGE

SERVICE PROVIDER shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, SERVICE PROVIDER shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

SUBCONTRACTORS - If SERVICE PROVIDER subcontracts any or all of the services to be performed under this Agreement, SERVICE PROVIDER shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, SERVICE PROVIDER will be solely responsible for ensuring that it's subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

EXHIBIT C

DISCLOSURE OF CONFLICT OF INTEREST

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2	Do you represent any firm, organization, or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4	Are you or any of your principals, managers, or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5	Are you or any of your principals, managers, or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

☐ Additional page(s) attached.

DocuSigned by:

Wendy Broughton

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Signature

6/9/2023

Date

Wendy Broughton

Name

MHS dba TURN BHS

Company

9465 Farnham St.

Address

San Diego, CA 92123

City, State, Zip