

**AGREEMENT**  
BY AND BETWEEN  
**THE CITY OF FRESNO AND**  
**Marjaree Mason Center, Inc.**  
FOR THE ADMINISTRATION OF  
**CORONAVIRUS HEARTH EMERGENCY SOLUTIONS GRANT FUNDS**  
**(E-20-MW-06-0001)**

THIS AGREEMENT is made and entered into effective upon execution by both parties, by and between the CITY OF FRESNO (the CITY), and **Marjaree Mason Center, Inc** (the SUBRECIPIENT), for operation of a Temporary Emergency Shelter.

**RECITALS**

WHEREAS, the United States Department of Housing and Urban Development (HUD has provided an allocation of HEARTH Emergency Solutions Grant-Coronavirus (HESG or ESG) funds to the CITY under Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136) to protect the health and safety of people experiencing homelessness and reduce the spread of the COVID-19 outbreak; and

WHEREAS, the SUBRECIPIENT will operate a Temporary Emergency Shelter for the purpose of helping people experiencing homelessness and reduce the spread of the COVID-19 outbreak by providing safe and isolation friendly housing and daily meals on site; and

WHEREAS, the SUBRECIPIENT hereby represents that it desires to and is professionally and legally capable of operating the Temporary Emergency Shelter to homeless persons in manner consistent with HUD and CITY requirements; and

WHEREAS, this Agreement will be administered for the City by its City Manager through the Planning and Development Department, Division of Housing and Community Development or other designee of the City Manager.

**AGREEMENT**

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

**ARTICLE 1**

DEFINITIONS. Wherever used in this Agreement or any of the contract documents, the following words shall have the meaning herein given, unless the context requires a different meaning.

- A. “ACT” – 24 CFR Part 576 et seq. as revised by the Emergency Solutions Grant and Consolidated Plan Conforming Amendments Interim Rule, published in the Federal Register on December 5, 2011 (76 Fed. Reg. 75954).
- B. “Administrator” and “Contract Administrator” shall mean the Manager of the

Housing and Community Development Division of the Planning and Development Department of CITY or other designee of the City Manager.

C. "Budget" shall mean SUBRECIPIENT's Cost Proposal submitted with the Bid Proposal.

D. "CARES ACT" shall mean Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136)

E. "City Manager" shall mean the City Manager of the CITY.

F. "Contract" or "Contract Documents" shall mean and refer to this Agreement including its exhibits.

G. "ESG" or "HESG" shall mean the HEARTH Emergency Solutions Grant as set forth in the ACT.

H. "ESG-CV" shall mean the Emergency Solutions Grant provisions as set forth in the CARES ACT.

I. "HMIS" means the Homeless Management Information System. HMIS is the information system designated by the local Continuum of Care (CoC) to comply with the requirements of CoC Program interim rule 24 CFR 578. It is a locally-administered data system used to record and analyze client, service, and housing data for individuals and families who are homeless or at risk of homelessness.

J. "Program" shall mean services provided under the Federal funding source.

K. "Program Component" shall mean the five program components of: Street Outreach, Emergency Shelter, Rapid Rehousing, Homelessness Prevention, and HMIS as more fully described at 24 CFR 576.101 through 576.107. Administration of the program is an activity and not a Program Component.

L. "Program income" for the specific purpose of this Agreement shall be as defined in the ACT. Unless otherwise provided for in the ACT, program income shall include any and all gross income earned by or accruing to SUBRECIPIENT in its pursuit hereof provided that the term program income does not include rebates, credits, discounts or refunds realized by SUBRECIPIENT in its pursuit hereof.

M. "Progressive Expenditure Deadlines" for the specific purpose of this Agreement, 100% of the grant award shall be expended by March 31, 2022. Failure to meet these deadlines will result in the recapture of an amount equal to the difference between the required expenditure by the applicable deadline and the actual expenditure by the applicable deadline.

N. "Progressive Reimbursement Request Deadlines" for the specific purpose of this Agreement, the SUBRECIPIENT's requests for reimbursement of eligible ESG-CV expenditures shall be made within 30 days of the respective Progressive Expenditure Deadlines. The Progressive Reimbursement Deadlines are: in an amount not less than 100% of the grant award's allowed cost shall be made by April 30, 2022.

O. "Project" shall mean the SUBRECIPIENT'S operating name for distinct ESG Program Component.

P. "Recapture" shall mean the CITY may recapture up to 100% of SUBRECIPIENT's total ESG-CV award if SUBRECIPIENT has not requested reimbursement of 100% of

allowed ESG-CV costs through March 31, 2022, by April 30, 2022.

Q. "Scope of Services or Services" shall mean those services submitted with SUBRECIPIENT's bid proposal to be offered in fulfillment of the Program and included in **Exhibit A**.

R. Subaward shall mean an award of City funds provided by the SUBRECIPIENT to a Subrecipient (2 CFR 200.330(a)) of the SUBRECIPIENT in order to carry out a part of SUBRECIPIENT's administration of the Scope of Work.

S. Subcontract shall mean a SUBRECIPIENT's agreement, with a vendor or subcontractor, which is selected in accordance with the SUBRECIPIENT's board-approved procurement policy and Federal procurement and contracting requirements at 2 CFR 200.318 through 200.326.

T. Subrecipient shall mean an entity that receives a Subaward from the SUBRECIPIENT to carry out a part of the program, program component and/or project, but shall not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other grant awards directly from the CITY.

1. **Contract Administration**. This Agreement including all the Contract Documents shall be administered according to the order of precedence set forth herein for CITY by Administrator who shall be SUBRECIPIENT's point of contact and to whom SUBRECIPIENT shall report.

2. **Scope of Services**. SUBRECIPIENT shall provide the Program in conformance with the Contract Documents and perform to the satisfaction of CITY those services set forth in **Exhibit A** and services necessarily related or incidental thereto even though not expressly set forth therein.

3. **Effective Date and Term of Agreement**. It is the intent of the Parties that this Agreement be effective as of the date first set forth above as to all terms and conditions of the Agreement. Services of SUBRECIPIENT shall commence on January 1, 2022, through March 31, 2022, followed by a 30-day invoice and data submission period which may be extended another 30 days for the SUBRECIPIENT to have the opportunity to correct invoice documentation and accomplishment data errors or deficiencies. The CITY will conduct its final close-out monitoring by or before November 30, 2022.

4. **Compensation and Method of Payment**. CITY shall pay SUBRECIPIENT the aggregate sum not to exceed Three Hundred Thousand Dollars and Zero Cents (300,000) for satisfactory performance of the services rendered therefore and as set forth in **Exhibit B** attached hereto and incorporated herein. Compensation is based on actual expenditures, supported by properly executed payrolls, time records, invoices, contracts, vouchers, orders, or any other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified and submitted by the SUBRECIPIENT to the CITY with each request for reimbursement. The SUBRECIPIENT's request for reimbursement shall also be in accordance with the Budget set forth in **Exhibit B**, the Progressive Expenditure Deadlines and Recapture Provisions set forth in **Exhibit A**, and the Spending Plan by Expenditure Deadline as set forth in **Exhibit C**. It is understood that all expenses incidental to SUBRECIPIENT's performance of services under this Agreement shall be borne by the SUBRECIPIENT. If SUBRECIPIENT should fail to comply with any

provisions of this Agreement, including but not limited to the Progressive Expenditure Deadlines or Progressive Reimbursement Request Deadlines. CITY shall be relieved of its obligation for further compensation. Notwithstanding any payment provisions herein, SUBRECIPIENT's failure to timely and properly submit required records and reports set forth in this Agreement may be cause for CITY to suspend or delay reimbursement payments to SUBRECIPIENT.

Payments shall be made by the CITY to SUBRECIPIENT in arrears for services provided during the preceding month. Such payment by CITY shall be made in the normal course of business, generally within thirty (30) days after the date of receipt by CITY of a correctly completed and supported invoice in accordance with the provisions of this paragraph, and shall be for the actual expenditures incurred by SUBRECIPIENT in accordance with **Exhibit B**. Payments shall be made after receipt and verification of actual expenditures. All invoices are to be submitted CITY at the address given for notices on the signature page hereof or at such address the CITY may from time to time designate by written notice. The Administrator may, in his or her sole discretion, agree in writing to revise the payment schedule in subsection (a), above, upon SUBRECIPIENT's showing that such will facilitate delivery of the services; provided, however, that total payments under this Agreement shall not exceed the total amount provided for in subsection and the revision will not adversely impact the Progressive Expenditure Deadline and result in a return of funds to HUD.

a. Any funds paid by CITY hereunder which remain unearned at the expiration or earlier termination of the Agreement shall be, and remain in trust, the property of CITY and shall be remitted to CITY within 10 days of expiration or earlier termination of this Agreement. Any interest thereon must be credited to or returned to CITY. All funds advanced pursuant to this Agreement and not expended shall be returned to CITY.

b. CITY will not be obligated to make any payments under this Agreement if the request for payment is received by the CITY more than 30 days after the date of termination of this Agreement or the date of expiration of this Agreement, whichever occurs first.

c. SUBRECIPIENT understands and agrees that the availability of ESG-CV Funding hereunder is subject to the control of HUD and should the ESG-CV funding be encumbered, withdrawn, or otherwise made unavailable to CITY whether earned or promised to SUBRECIPIENT and/or should CITY in any fiscal year hereunder fail to appropriate said funds, CITY shall not provide said funds to SUBRECIPIENT unless and until they are made available for payment to CITY by HUD and CITY receives and appropriates said Funds. No other funds owned or controlled by CITY shall be obligated under this Agreement to the project(s). Should sufficient funds not be appropriated, the Services provided may be modified, or this Agreement terminated, at any time by the CITY as provided in section 8 below.

d. SUBRECIPIENT shall use the funds provided by CITY solely for the purpose of providing the services required under Section 2 of this Agreement.

**5. Loss of Third-Party Funding.** In the event any funding provided by a party other than CITY for the Program or services being performed by SUBRECIPIENT is suspended, reduced or withdrawn, then Administrator may suspend this Agreement immediately upon its receipt of notice thereof, or terminate this Agreement as provided

in Section 8 below. SUBRECIPIENT shall notify CITY in writing within 7 days if any of the following events occur:

a. Suspension, reduction or withdrawal of SUBRECIPIENT'S funding by other funding source(s).

b. The CITY, in its sole discretion, may stay such suspension of the Agreement for a period not to exceed 30 days to allow SUBRECIPIENT to either (i) submit a new service or funding plan for evaluation by the CITY who may accept or reject in its sole discretion, or (ii) complete an orderly phase out of services. If the CITY accepts such new service or funding plan, then such plan will be subject to the requirements in Section 13 below.

**6. Disposition of Program Income.** Absent the CITY's written consent, any program income generated hereunder shall be used to reduce the CITY's reimbursement obligations hereunder, or in the absence thereof promptly remitted entirely to the CITY.

**7. Events of Default.** When in the opinion of CITY, there is an occurrence of any one or more of the following provisions it will represent an *Event of Default* for purposes of this Agreement.

a. An illegal or improper use of funds.

b. A failure to comply with any term, covenant or condition of this Agreement. Report(s) are submitted to CITY which are incorrect or incomplete in any material respect.

c. The services required hereunder are incapable of or are improperly being performed by SUBRECIPIENT.

d. Refusal of SUBRECIPIENT to accept change under Section 18

e. SUBRECIPIENT fails to maintain any required insurance.

f. There is a loss of third-party funding (see Section 5 above).

g. SUBRECIPIENT's breach of any other material condition, covenant, warranty, promise or representation contained in this Agreement not otherwise identified within this Section.

**8. Termination and Remedies.** Upon the occurrence of an Event of Default, CITY shall give written notice to SUBRECIPIENT of the Event of Default by specifying (1) the nature of the event or deficiency giving rise to the default, (2) the action required to cure the deficiency, if, in the sole discretion of CITY, any action to cure is possible, and (3) if the Event of Default is curable, a date, which shall not be less than thirty (30) calendar days from the date of the notice, by which such deficiency must be cured, provided, however that if such failure cannot be remedied in such time, SUBRECIPIENT shall have an additional thirty (30) days to remedy such failure so long as SUBRECIPIENT is diligently and in good faith pursuing such remedy.

a. This Agreement shall terminate without any liability of CITY to SUBRECIPIENT upon the earlier of: (i) the happening of an Event of Default by SUBRECIPIENT and a failure to cure said Event of Default within the time specified in the notice of Event of Default; (ii) 7 calendar days prior written notice without cause by CITY to SUBRECIPIENT; (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 services provided by SUBRECIPIENT; or (iv) expiration of this Agreement.

b. Immediately upon any termination or expiration of this Agreement, SUBRECIPIENT 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 SUBRECIPIENT that are owned by CITY. Subject to the terms of this Agreement, SUBRECIPIENT shall be paid compensation for services satisfactorily performed prior to the effective date of termination. SUBRECIPIENT shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

c. Upon any breach of this Agreement by SUBRECIPIENT, 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.

d. In no event shall any payment by CITY pursuant to this Agreement constitute a waiver by CITY of any breach of this Agreement or any default which may then exist on the part of SUBRECIPIENT, nor shall such payment impair or prejudice any remedy available to CITY with respect to the breach or default.

e. CITY expressly reserves the right to demand of SUBRECIPIENT the repayment to CITY of any funds disbursed to SUBRECIPIENT under this Agreement which, in the judgment of CITY, were not expended in accordance with the terms of this Agreement, and SUBRECIPIENT agrees to promptly refund any such funds within 10 days of CITY'S written demand.

#### **9. Level of Skill; Subcontractors.**

a. SUBRECIPIENT may, at its sole discretion, subcontract any of the services required under this Agreement, in compliance with the terms of this Agreement. It is further mutually understood and agreed by and between the parties hereto that inasmuch as SUBRECIPIENT represents to City that SUBRECIPIENT 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 SUBRECIPIENT and its subcontractors, if any, to do and perform such services in a skillful manner and SUBRECIPIENT 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 SUBRECIPIENT or any subcontractors from said industry and professional standards.

b. City reserves the right to hire additional contractors to perform the services required under this Agreement, and offset any future payment to SUBRECIPIENT accordingly, so long as such hiring and associated offset is memorialized in an Addendum executed by the parties, setting forth the amount of the offset.

c. If SUBRECIPIENT subcontracts any or all of the services to be performed under this Agreement where the subcontract is for a total of \$250,000 or greater during any calendar year, SUBRECIPIENT 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, SUBRECIPIENT will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

d. To the full extent required by applicable federal and state law, each party and its contractors and agents shall comply with the Davis-Bacon Act, as amended, California Labor Code Section 1720 et seq., and the regulations adopted pursuant thereto ("Prevailing Wage Laws"), if so required, and shall be solely responsible for carrying out the requirements of such provisions. Each party shall indemnify, defend and hold the other and its elected and appointed officers, officials, employees, agents, consultants, and contractors harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors, or third party claimants pursuant to Labor Code sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including, but not limited to the Prevailing Wage Laws, or any act or omission of that party related to the payment or requirement of payment of prevailing wages.

**10. Indemnification.** To the furthest extent allowed by law, SUBRECIPIENT 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 and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of SUBRECIPIENT, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If SUBRECIPIENT should subcontract all or any portion of the services to be performed under this Agreement, SUBRECIPIENT 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.

11. **Insurance.** The SUBRECIPIENT shall comply with all of the insurance requirements in **Exhibit E** to this Agreement.

12. **On-Site Monitoring.** Authorized representatives of HUD and/or the CITY shall have the right to monitor the SUBRECIPIENT's performance under this Agreement. Such monitoring may include inspection activities, review of records, and attendance at meetings: SUBRECIPIENT shall reasonably make its facilities, books, records, reports and accounts available for CITY's inspection in pursuit hereof.

This section 12 shall survive termination or expiration of this Agreement.

13. **Records, Reports and Inspection.** SUBRECIPIENT shall establish and maintain records in accordance with all requirements prescribed by CITY, HUD and generally accepted accounting principles, with respect to all matters covered by this Agreement. As applicable, SUBRECIPIENT shall comply with all applicable requirements of CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including the provision of a single audit (generally applicable where funding from all federal sources in any fiscal year exceeds \$750,000), and to such extent shall submit to the CITY any applicable auditor's reports and audited financial statements no later than three (3) months after the SUBRECIPIENT's fiscal year end. SUBRECIPIENT shall be responsible for determining the applicability of the foregoing.

On a quarterly basis the SUBRECIPIENT shall submit a report utilizing and completing the form attached as **EXHIBIT D – ESG Quarterly Report**. The report shall be submitted within thirty days of the close of each quarter of the fiscal year for the duration of the Agreement. SUBRECIPIENT shall ensure the ESG grant funds provided by GRANTEE are clearly identified as a subaward and include the following information:

- Subrecipient Name: Marjaree Mason Center, Inc.
- Subrecipient ID (DUNS #): 173284605
- Federal Award Identification Number (ESG-CV Grant # E-20-MW-06- 0001)
- Federal Award Date: April 8, 2021
- Period of Performance: January 01, 2022- March 31, 2022
- Federal Funds Obligated by this Agreement: Yes
- Total Federal Funds Obligated to SUBRECIPIENT: \$300,000
- Total Amount of the Federal Award: \$10,948,953.00
- Federal Award project description: ESG-CV MMC –Temporary Emergency Shelter
- Name of Federal awarding agency: Department of Housing Urban Development
- Name of pass-through entity: City of Fresno, California
- Award Official Contact Information: Jennifer Clark, Director, Dept. of Planning and Development, 2600 Fresno, St., Fresno CA 93721
- CFDA Number: 14.231
- CFDA Name: HEARTH Emergency Solutions Grant – Coronavirus 2<sup>nd</sup> Tranche
- Identification of R&D: No
- Indirect cost rate for the Federal award: Up to the greater of a di minimus



10% indirect cost rate.

i. Annually, SUBRECIPIENT shall submit a report on clients served and activities assisted with ESG funds by uploading HMIS data within 10 days of receipt of the HUD Sage hyperlink into the Sage HMIS Reporting Repository.

ii. SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR 576.500

iii. SUBRECIPIENT shall retain such records for a period of five (5) years after receipt of the final payment under this Agreement or the earlier termination of this Agreement, whichever occurs later. The records retention period may be extended whenever:

a. any litigation, claim, or audit is started before the expiration of the five-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

b. the SUBRECIPIENT is notified in writing by the CITY to extend the retention period.

This Section shall survive expiration or termination of this Agreement.

**14. Subawards.** The SUBRECIPIENT shall not enter into an Agreement making a Subaward to a Subrecipient for any work contemplated under the Agreement without first obtaining the CITY's written approval of the Subaward Agreement. An executed copy of every such Subaward Agreement approved by the Administrator shall be provided to CITY prior to implementation for retention in CITY's files.

a. SUBRECIPIENT is responsible to CITY for the proper performance of any subcontract. No such subcontract shall relieve SUBRECIPIENT of its obligations under this Agreement.

b. Any subcontract shall be subject to all the terms and conditions of this Agreement.

c. No officer or director of SUBRECIPIENT shall have any direct or indirect financial interest in any subcontract made by SUBRECIPIENT or in any loan, purchase of property, or any other arrangement made by SUBRECIPIENT, by whatever name known.

**15. Conflict of Interest and Non-Solicitation.**

a. Prior to CITY'S execution of this Agreement, SUBRECIPIENT shall complete a CITY of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit F**. During the term of this Agreement, SUBRECIPIENT shall have the obligation and duty to immediately notify CITY in writing of any change to the information provided by SUBRECIPIENT in such statement.

b. SUBRECIPIENT shall comply, and require its subcontractors to comply, with all applicable 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, SUBRECIPIENT shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, SUBRECIPIENT and the respective subcontractor(s) are in full compliance with all laws and regulations. SUBRECIPIENT 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, SUBRECIPIENT shall immediately notify CITY of these facts in writing.

c. In performing the work or services to be provided hereunder, SUBRECIPIENT 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 or within one year of their termination therefrom. This requirement may be waived in writing by the CITY Manager, if no actual or potential conflict is involved.

d. SUBRECIPIENT 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.

## **ARTICLE 2 FEDERAL REQUIREMENTS**

SUBRECIPIENT warrants, covenants and agrees, for itself and its contractors and subcontractors of all tiers, that it shall comply with all applicable requirements of the Lead-Based Paint Poisoning Prevention Act of 42 U.S.C. 4821 et seq., 24 CFR Part 35 and 24 CFR 982.401(j). In this regard SUBRECIPIENT shall be responsible for all inspection, testing and abatement activities.

a. The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856) and implementing regulations at

24 CFR Part 35. In addition, the following requirements relating to inspection and abatement of defective lead-based paint surfaces must be satisfied: (1) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and (2) Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

b. The SUBRECIPIENT agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as amended and HUD implementing regulation 24 CFR Part 8.

c. SUBRECIPIENT agrees to comply with the federal requirements set forth in 24 CFR Part 5, except as explicitly modified below, and use of emergency shelter grant amounts must comply with the following requirements: (a) Nondiscrimination and equal opportunity. The nondiscrimination and equal opportunity requirements at 24 CFR Part 5 are modified as follows:

i. Rehabilitation Act requirements. HUD's regulations at 24 CFR Part 8 implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as amended. For purposes of the emergency shelter grants program, the term *dwelling units* in 24 CFR Part 8 shall include sleeping accommodations.

ii. SUBRECIPIENT shall make known that use of the facilities and Services are available to all on a nondiscriminatory basis. If the procedures

that the SUBRECIPIENT intends to use to make known the availability of the facilities and Services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such facilities and Services, the SUBRECIPIENT must establish additional procedures that will ensure that such persons are made aware of the facilities and Services. The SUBRECIPIENT must also adopt procedures which will make available to interested persons, information concerning the location of Services and facilities that are accessible to persons with disabilities.

iii. The SUBRECIPIENT shall be responsible for complying with the policies, guidelines, and requirements of 24 CFR Part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87, as they relate to the acceptance and use of ESG funding by CITY, and Nos. A-110 and A-122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.

The SUBRECIPIENT will be responsible for all aspects project contract award and management including the advertising for bids and shall award the contract to the lowest responsible and responsible bidder. The SUBRECIPIENT shall verify with the Labor Relations and Equal Opportunity Division of the HUD Area Office that the low bidder has not been debarred or suspended from participating in federal projects.

d. SUBRECIPIENT warrants, covenants and agrees that it shall perform the Services in a manner that does not engage in inherently religious activities and that does not engage in any prohibited activities described in 24 CFR 576.23. Without limitation, SUBRECIPIENT shall not unlawfully discriminate on the basis of religion and shall not provide religious instruction or counseling, conduct religious services or worship, engage in religious proselytizing, or exert other religious influence in pursuit hereof. Subject to the foregoing, SUBRECIPIENT does not intend to utilize ESG funding to construct, rehabilitate or convert facilities owned primarily by religious organizations or to assist primarily religious organizations in acquiring or leasing facilities to the extent prohibited in 24 CFR 576.23.

e. SUBRECIPIENT shall perform the Services in compliance with, and not to cause or permit the Services to be in violation of, any existing or future environmental law, rule, regulation, ordinance, or statute. SUBRECIPIENT agrees that, if CITY has reasonable grounds to suspect any such violation, SUBRECIPIENT shall be entitled to thirty (30) day notice and opportunity to cure such violation. If the suspected violation is not cured, CITY shall have the right to retain an independent consultant to inspect and test the subject facilities for such violation. If a violation is discovered, SUBRECIPIENT shall pay for the cost of the independent consultant.

f. The 2 CFR 200 Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards referenced in this Agreement are available at <https://ecfr.io/Title-02/pt2.1.200>

## **16. Relocation.**

a. SUBRECIPIENT shall assure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of this project and the Services rendered in pursuit thereof.

b. A displaced person must be provided relocation assistance at the

levels described in, and in accordance with, 49 CFR Part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

**17. Further Assurances.**

a. This Agreement, when executed and delivered, shall constitute the legal, valid, and binding obligations of SUBRECIPIENT enforceable against SUBRECIPIENT in accordance with its respective terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, or other similar laws of general applicability affecting the enforcement of creditors' rights generally and (b) the application of general principles of equity without the joinder of any other party.

b. SUBRECIPIENT represents and warrants as of the date hereof that SUBRECIPIENT has obtained and, to the best of SUBRECIPIENT's knowledge, is in compliance with all federal, state, and local governmental reviews, consents, authorizations, approvals, and licenses presently required by law to be obtained by SUBRECIPIENT for the Services as of the date hereof.

c. In the performance of this Agreement, SUBRECIPIENT shall promptly and faithfully comply with, conform to and obey the ACT and all amendments thereto, and shall maintain all facilities hereunder in compliance with building, health and safety codes.

d. SUBRECIPIENT shall be solely responsible and liable for any recapture or repayment obligation imposed by HUD due to any act or omission of SUBRECIPIENT in pursuit hereof.

e. SUBRECIPIENT acknowledges that SUBRECIPIENT, not the CITY, is responsible for determining applicability of and compliance with the ACT and all other applicable local, state, and federal laws including, but not limited to, any applicable provisions of the California Labor Code, Public Contract Code, and Government Code. The CITY makes no express or implied representation as to the applicability or inapplicability of any such laws to this Agreement or to the Parties' respective rights or obligations hereunder including, but not limited to, competitive bidding, prevailing wage subcontractor listing, or similar or different matters. SUBRECIPIENT further acknowledges that the CITY shall not be liable or responsible at law or in equity for any failure by SUBRECIPIENT to comply with any such laws, regardless of whether the CITY knew or should have known of the need for such compliance, or whether the CITY failed to notify SUBRECIPIENT of the need for such compliance.

f. SUBRECIPIENT agrees to comply with the CITY's Fair Employment Practices and shall not employ discriminatory practices in the provision of the Services, employment of personnel, or in any other respect on the basis of race, color, creed, religion, sex, sexual preference, national origin, ancestry, ethnicity, age, marital status, status as a veteran with disabilities or veteran of the Vietnam era, medical condition, or physical or mental disability. During the performance of this Agreement, SUBRECIPIENT agrees as follows:

g. SUBRECIPIENT will comply with all laws and regulations, as applicable. No person in the United States shall, on the grounds of race, color, creed,

religion, sex, sexual preference, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability 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.

SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual preference, national origin, ancestry, ethnicity, age, marital status, and status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability. SUBRECIPIENT shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, creed, religion, sex, sexual preference, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability. Such action shall include, 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. SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

h. SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, sexual preference, national origin, ancestry, ethnicity, age, marital status, status as a disabled veteran or veteran of the Vietnam era, medical condition, or physical or mental disability.

i. SUBRECIPIENT 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 SUBRECIPIENT's commitment under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

### **ARTICLE 3 GENERAL PROVISIONS**

**18. Amendment.** This Agreement shall not be modified except by written amendment approved by the CITY Council and signed by the parties. Where it is determined by the Administrator that there is a need to make any change in the Program, services to be performed, fiscal procedures and system, or the terms and conditions of this Agreement (including, without limitation, any changes necessary to comply with changes in federal, state, or local laws or regulations), refusal by SUBRECIPIENT to accept the change is grounds for termination of this Agreement. Notwithstanding the foregoing, approval of the CITY Council is not required for (i) insubstantial adjustments in line items within the total approved budget, not affecting the total approved budget amount, approved by the Administrator in his/her sole discretion; (ii) insubstantial changes in the nature or scope of services specified in this Agreement approved by the Administrator in his/her sole discretion; and (iii) changes to the insurance requirements specified in **Exhibit E** approved by CITY's Risk Manager in his or her sole discretion.

**19. Public Information.** SUBRECIPIENT shall disclose all of its funding

sources to CITY which, thereafter, will be public information.

**20. Copyrights/Patents.**

a. If this Agreement results in a book or other copyrightable material, the author may seek any available copyright protection for the work unless a work for hire. CITY reserves a royalty-free, nonexclusive, irrevocable and assignable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.

b. Any discovery or invention arising out of or developed in the course of work aided by this Agreement, shall promptly and fully be reported to CITY for determination by CITY as to whether patent protection on such invention or discovery, including rights thereto under any patent issued thereon (reserved henceforth onto CITY), shall be imposed and administered, in order to protect the public interest.

**21. Political Activity Prohibited.** None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any political activity, or to further the election or defeat of any ballot measure or candidate for public office.

**22. Lobbying Prohibited.** None of the funds provided under this Agreement shall be used for publicity, lobbying or propaganda purposes designed to support or defeat legislation pending before any legislative body.

**23. 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. It is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

**24. Nondiscrimination.** To the extent required by controlling federal, state and local law, SUBRECIPIENT 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, SUBRECIPIENT agrees as follows:

a. SUBRECIPIENT 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. SUBRECIPIENT 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. SUBRECIPIENT 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 SUBRECIPIENT'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. SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT 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.

c. SUBRECIPIENT 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 SUBRECIPIENT'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**25. Independent Contractor.**

a. In the furnishing of the services provided for herein, SUBRECIPIENT is acting as an independent contractor. Neither SUBRECIPIENT, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venture, 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 SUBRECIPIENT shall perform its work and functions. However, CITY shall retain the right to administer this Agreement so as to verify that SUBRECIPIENT is performing its obligations in accordance with the terms and conditions thereof.

b. This Agreement does not evidence a partnership or joint venture between SUBRECIPIENT and CITY. SUBRECIPIENT shall have no authority to bind CITY absent CITY'S express written consent. Except to the extent otherwise provided in this Agreement, SUBRECIPIENT shall bear its own costs and expenses in pursuit thereof.

c. Because of its status as an independent contractor, SUBRECIPIENT and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to CITY employees. SUBRECIPIENT shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, SUBRECIPIENT shall be solely responsible and save CITY harmless from all matters relating to payment of SUBRECIPIENT'S employees, including, without limitation, compliance with Social Security withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, SUBRECIPIENT may be providing services to others unrelated to CITY or to this Agreement.

**26. 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.

**27. Binding.** 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.

**28. Assignment.**

a. This Agreement is personal to SUBRECIPIENT and there shall be no assignment by SUBRECIPIENT of its rights or obligations under this Agreement without the prior written approval of the Administrator. Any attempted assignment by SUBRECIPIENT, its successors or assigns, shall be null and void unless approved in writing by the Administrator.

b. SUBRECIPIENT hereby agrees not to assign the payment of any monies due SUBRECIPIENT 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 SUBRECIPIENT directly to SUBRECIPIENT.

**29. Compliance with Law.** In providing the services required under this Agreement, SUBRECIPIENT 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 life of this Agreement.

**30. 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.

**31. 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 SUBRECIPIENT, California.

**32. 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.

**33. 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.

**34. 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 any Party, but rather by construing the terms in accordance with their generally accepted meaning.

**35. 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.

**36. Exhibits.** Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

**37. Precedence of Documents.** The order of precedence of documents shall be: (1) Rules and Regulations of Federal Agencies relating to the source of funds for this project; (2) Permits from other agencies as may be required by law; (3) Supplemental Agreements or this Agreement the one dated later having precedence over another dated earlier; (4) ESG Policies and Procedures (5) General Conditions.

Whenever any conflict appears in any portion of the Contract, it shall be resolved by application of the order of precedence.

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, are null and void.

**38. 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.

**39. 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.

[SIGNATURES APPEAR ON NEXT PAGE]

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

CITY OF FRESNO,  
A California municipal corporation

Marjaree Mason Center, INC.

By: \_\_\_\_\_  
Thomas Esqueda,  
City Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By: \_\_\_\_\_  
Tracy N. Parvanian                      Date  
Senior Deputy City Attorney

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:  
TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy

Addresses:  
CITY:  
City of Fresno, Planning and  
Development, Housing and Community  
Development  
Attention: Karen Jenks, Manager  
2600 Fresno Street, CH3N 3065,  
Fresno CA 93721  
Phone: (559) 621-8507

Recipient:

Marjaree Mason Center, INC.  
Attention: Nicole Linder  
Executive Director  
1600 M Street, Fresno, CA 93721  
Phone: (559) 237-4706

Attachments:

1. Exhibit A – Scope of Services
2. Exhibit B – Budget Summary
3. Exhibit C - Spending Plan
4. Exhibit D – ESG Quarterly Report
5. Exhibit E – Insurance Requirements
6. Exhibit F – Conflict of Interest Certification Form

## **EXHIBIT A**

### **SCOPE OF SERVICES**

#### **Agreement Between CITY OF FRESNO and Marjaree Mason Center, INC.**

1600 M Street, Fresno, CA 93721

#### **Scope of Work**

Marjaree Mason Center (MMC) will provide temporary emergency shelter services for adults and their children made homeless and/or at risk of homelessness due to domestic violence that have been impacted by COVID-19.

#### **TARGET POPULATION**

The target population is adults and their children impacted by COVID-19 and domestic violence, and experiencing a multitude of barriers. Many are experiencing housing insecurities and/or homelessness due to domestic violence and do not have the means or ability to access or utilize resources to leave an abusive relationship.

#### **MMC – Temporary Emergency Shelter**

##### **1. Temporary Emergency Shelter**

- a.** Safe housing will be provided to 300 individuals (125 adults and 175 children)
- b.** 24/7 emergency hotline and crisis intervention,
- c.** Safety planning,
- d.** Risk assessment,
- e.** Daily Meals,
- f.** Clothing,
- g.** Case management,
- h.** Advocacy,
- i.** Individual and group counseling,
- j.** Legal advocacy,
- k.** Children's services,

Long-term permanent housing assistance and referrals to community programs.

#### **Record Retention and Reporting Requirements**

The SUBRECIPIENT must retain records in accordance 24 CFR Subpart F – Grant Administration, §576.500, Recordkeeping and Reporting Requirements.

HUD requires recipients to report the uses of ESG-CV funding in their Consolidated Annual Performance and Evaluation Report (CAPER) and through submission of project data into the SAGE Homeless Management Information System (HMIS) Repository. Quarterly reporting from the SUBRECIPIENT to the City is mandatory to meet this requirement.

The CITY's quarterly reporting requirements are described within this Agreement and the report form is attached as Exhibit D.

## **Monitoring**

The SUBRECIPIENT must monitor any and all subawards to subrecipients in accordance with U.S. Department of Housing and Urban Development requirements. The SUBRECIPIENT is further encouraged to use HUD CPD Monitoring Handbook - 6509.2 REV-7, CHG-1. In conducting their monitoring reviews

The SUBRECIPIENT acknowledges that the CITY is required to periodically monitor the SUBRECIPIENT's delivery of the subject ESG-CV funding. The CITY will utilize the guidance in HUD CPD Monitoring Handbook - 6509.2 REV-7, CHG-1 as well as 24 CFR 756, 2 CFR 200 and this Agreement when conducting on-site and desk monitoring reviews.

## **Progressive Expenditure Deadlines and Recapture Provisions**

To ensure ESG-CV funds are spent quickly on eligible activities to address the public health and economic crises caused by coronavirus, HUD is requiring that the CITY complete eligible reimbursement draw-downs from the U.S. Treasury within 90 days of the last day of the applicable progressive expenditure deadline cycle. To ensure that the CITY meets this HUD requirement, the CITY has set forth a Spending Plan by Progressive Expenditure Deadline, which is included in EXHIBIT C to this AGREEMENT, and a reimbursement request and accomplishment data processing schedule that may be found in TABLE 1 below and more fully described in subsequent narrative.

**TABLE 1**

A. Progressive Expenditure Deadline - Percentage of Grant Award	B. Expenditure Cycle Ending:	C. Request for Reimbursement Packet and Accomplishment Data Submitted by SUBRECIPIENT to CITY By/Before	D. SUBRECIPIENT Reimbursement and Data Packet Deficiencies Cured By/Before:	E. CITY Uploads Accomplishment Data into HUD Reporting System By/Before	F. CITY Completes HUD IDIS Drawdown By/Before:
100%	Mar 31, 2022	Apr. 30, 2022	May 31, 2022	Apr. 30, 2022	Jun. 15, 2022

Consistent with Table 1 and HUD and CITY requirements, the City will recapture: recapture the expenditure shortfall up to 100 percent of the SUBRECIPIENT's total ESG-CV award should the SUBRECIPIENT not request by April 30, 2022 reimbursement for eligible and allowed costs for at least 100% of expended eligible and allowed costs under the ESG-CV award for the expenditure cycle ending March 31, 2022; The period and reimbursement request due dates are summarized in Table 1, Columns A, B, and C, above

In the event, the CITY determines that a reimbursement request or portions thereof are eligible for reimbursement, but inadequately supported, the CITY may provide the SUBRECIPIENT additional time to correct and cure the reimbursement request defect by providing additional supporting documentation. The period for curing documentation defects for draws in a particular expenditure deadline cycle shall expire on the respective dates provided in Column D of Table 1 in this Exhibit. Shall

the defect not be fully cured by the cure expirations date, the costs associated with the defect will be disallowed. In the event the disallowed costs results in the total reimbursement for the expenditure cycle falling short of the amount required for the meeting the cycle's progressive expenditure deadline amount as provided in EXHIBIT C, the CITY will recapture the amount of the expenditure shortfall for the cycle.

Accomplishment data defects must also be cured by the respective dates provided in Column D Table 1 in this Exhibit A. Accomplishment data defects not corrected by the applicable dates may result in the suspension of reimbursement request processing and the making of reimbursement payments until such time as the data defect is cured by the SUBRECIPIENT. In the event that a suspension results in the failure to achieve an expenditure deadline requirement, the CITY will recapture the entire amount associated with the expenditure deadline cycle.

**EXHIBIT B**

**BUDGET SUMMARY**  
**Agreement Between CITY OF FRESNO and**  
**Marjaree Mason Center**  
Coronavirus Emergency Solutions Grant  
(ESG-CV)

**EXHIBIT B**

**SOURCE OF CITY FUNDS**

<b>Program Year (PY)</b>	<b>Program</b>	<b>Award Amount</b>
2020	HUD ESG-Coronavirus (ESG-CV)	\$300,000
2020	<b>TOTAL CITY ESG-CV</b>	<b><u>\$300,000</u></b>

**USE OF CITY ESG FUNDS**

<b>Use of Funds</b>	<b>Amount</b>	
Implementation of Program Services in accordance with the subject CITY AND SUBRECIPIENT Emergency Shelter Agreement and Scope of Work, EXHIBIT A to this Agreement	<b>\$300,000</b>	
<b>TOTAL NOT TO EXCEED</b>	<b><u>\$300,000</u></b>	

**SPENDING PLAN BY EXPENDITURE DEADLINES**  
**AGREEMENT BETWEEN CITY OF FRESNO and Marjaree Mason Center**

Grant	Use	ESG-CV Award		Expected Invoice Submission by May 31, 2021 for 4 Months Ending:	Expected Invoice Submission by June 30, 2021 for Month Ending:	Expected Invoice Submission by July 31, 2021 for Month Ending:	Expected Invoice Submission by August 30 2021 for Month Ending:	Expected Invoice Submission by September 30, 2021 for Month Ending:	Expected Invoice Submission by October 31, 2021 for Month Ending:	Sum of Invoice Submissions for Meeting 20% Deadline (Sum of Column F thru Column K)
		\$ 300,000.00		30-Apr-2021	31-May-2021	30-Jun-2021	31-Jul-2021	30-Aug-2021	30-Sep-2021	
Initial Award			Actual Invoice	\$ -	\$ -	\$ -				\$ -
			Cummulative Actual Expended	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
			Cummulative % Expended	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
20% Shortfall	\$ -		Budgeted Cumulative Expenditure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Award - 20% Adjust.	\$ -		Cummulative % Expended	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
80% Shortfall	\$ -								20% of Grant	\$ -
Adjusted Award - 80% Adjust.	\$ -								20% Cycle Surplus (Deficit)	\$ -
100% Shortfall Reduction	\$ -								20% Cycle Actual Surplus (Deficit)	\$ -
				Expected Invoice Submission by November 30, 2021 for Month Ending:	Expected Invoice Submission by December 31, 2021 for Month Ending:	Expected Invoice Submission by January 31, 2022 for Month Ending:	Expected Invoice Submission by February 28, 2022 for Month Ending:	Expected Invoice Submission by March 31, 2022 for Month Ending:	Expected Invoice Submission by April 30, 2022 for Month Ending:	Sum of Invoice Submissions for Meeting 80% Deadline (Sum of Column F thru Column K)
				31-Oct-2021	30-Nov-2021	31-Dec-2021	31-Jan-2022	28-Feb-2022	31-Mar-2022	
Adjusted Grant Award	\$ -						\$ 100,000.00	\$ 100,000.00	\$ 100,000.00	300,000
			Actual Invoice	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
			Cummulative Actual Expended	\$ -	\$ -	\$ -	\$ 100,000.00	\$ 200,000.00	\$ 300,000.00	\$ 300,000.00
			Cummulative % Expended	0.0%	0.0%	0.0%	33%	67%	100%	100.0%
			Budgeted Cumulative Expenditure	\$ -	\$ -	\$ -	\$ 100,000.00	\$ 200,000.00	\$ 300,000.00	300,000
			Budgeted Cummulative % Expended	0.0%	0.0%	0.0%	33.3%	66.7%	100.0%	100.0%
									80 % of Adjusted Grant	\$ -
									80% Cycle Surplus (Deficit)	300,000.00

**EXHIBIT D**  
**QUARTERLY REPORT**  
**AGREEMENT BETWEEN CITY OF FRESNO AND Marjaree Mason**  
**Center, INC. THE CITY OF FRESNO**  
Coronavirus Emergency Solutions Grant (ESG-CV)

Note: Below are snapshots of the Excel worksheets making up the ESG Quarterly Report. Contact Erika Lopez at [Erika.Lopez@fresno.gov](mailto:Erika.Lopez@fresno.gov) to receive the Report in Excel. The entire report should be completed and submitted quarterly in Excel to [HCDD@fresno.gov](mailto:HCDD@fresno.gov) with a copy to Erika Lopez

Project Sponsor Name :	Marjaree Mason Center	Project Sponsor ID (DUNS #)	173284605
Federal Award Identification Number (ESG Grant #):	E-20-MW-06-0001	Federal Award Date:	4/8/2021
Federal Funds Obligated by This Agreement:	\$ 300,000.00	Federal Funds Obligated to Project Sponsor:	\$ 300,000.00
Total Amount of the Federal Award for this Activity	\$ 300,000.00	Name of Federal Awarding Agency	Department of Housing and Urban Development (HUD)
Name of Pass-Through Entity:	City of Fresno, CA	Award Official Contact Person:	Erika Lopez erika.lopez@fresno.gov
CDFA Name:	Emergency Solutions Grant Program, 14.231	Award Official Address:	2600 Fresno St., CHN 3065, Fresno CA 93721
Identification of R & D:	None	Maximum Indirect Cost Rate for the Federal Award	Not to Exceed 10.0% di minimus indirect rate or indirect rate approved by cognizant agency
Date of Contract Execution (mm/dd/xx)	0/01/2022	Accomplishment Year (HUD Program Year)	2021
Period of Performance Start Date (mm/dd/xx)	01/01/22	Period of Performance End Date (mm/dd/xx)	03/31/22
Action Plan Year / IDIS	2020/	Activity	ESG-CV
Project ID Number			
<b>Project Description, Goals and Objectives: (Maximum 500 characters)</b>			
<b>Activity Accomplishment Narrative: (Maximum 500 characters)</b>			
Total ESG Funds Expended (PYTD)	\$ -	Percent of ESG Award Expended	0
Total Funds Expended			
Indirect Cost (PYTD)	\$ -		
Report prepared by:		Date report prepared:	01/00/00
For City Used Only:	IDIS Activity ID #:	Reviewed by:	Date of review:



**EXHIBIT E**  
**Agreement Between CITY OF FRESNO and Marjaree Mason Center, INC.**  
**Coronavirus Emergency Solutions Grant (ESG-CV)**  
**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 \*Commercial 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). If personal automobile coverage is used, the CITY, its officers, officials, employees, agents, and volunteers are to be listed as additional insureds.
3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.
4. Professional Liability (Errors and Omissions) insurance appropriate to SUBRECIPIENT’s profession. Architect’s and engineer’s coverage is to be endorsed to include contractual liability.

**MINIMUM LIMITS OF INSURANCE**

SUBRECIPIENT, or any party the SUBRECIPIENT 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** (Errors and Omissions):

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 policy aggregate.

**UMBRELLA OR EXCESS INSURANCE**

In the event SUBRECIPIENT 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**

SUBRECIPIENT shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and SUBRECIPIENT 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 designee. At the option of the CITY's Risk Manager or 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) SUBRECIPIENT shall provide a financial guarantee, satisfactory to CITY's Risk Manager or 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. SUBRECIPIENT shall establish additional insured status for the City and for all ongoing and completed operations by use of ISO Form CG 20 10 11 85 or both

CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript insurance company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

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, SUBRECIPIENT'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 SUBRECIPIENT's insurance and shall not contribute with it. SUBRECIPIENT 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.

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

If the Professional Liability (Errors and Omissions) 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 SUBRECIPIENT.
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 SUBRECIPIENT, SUBRECIPIENT 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. SUBRECIPIENT 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, SUBRECIPIENT 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, SUBRECIPIENT 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 SUBRECIPIENT shall not be deemed to release or diminish the liability of SUBRECIPIENT, 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 SUBRECIPIENT. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of SUBRECIPIENT, its principals, officers, agents, employees, persons under the supervision of SUBRECIPIENT, vendors, suppliers, invitees, consultant, sub-consultant, subcontractors, or anyone employed directly or indirectly by any of them.

**SUBCONTRACTORS** - If SUBRECIPIENT subcontracts any or all of the services to be performed under this Agreement, SUBRECIPIENT 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, SUBRECIPIENT will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

### **VERIFICATION OF COVERAGE**

SUBRECIPIENT 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, SUBRECIPIENT 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.

**EXHIBIT F**  
**AGREEMENT BETWEEN CITY OF FRESNO AND Marjee Mason Center**  
Coronavirus Emergency Solutions Grant (ESG-CV)  
No Conflict of Interest Certification (HUD Programs)

Subrecipient or Applicant acknowledges and understands that, under HUD conflict of interest rules at 24 CFR 92.356 (HOME), 24 CFR 570.611 (CDBG), 24 CFR 574.625 (HOPWA), or 24 CFR 576.404 (ESG), and OMB rules at 2 CFR 112 and 2 CFR 318 (C)(1)], an employee, agent, consultant, officer, or elected or appointed official of the subrecipient, applicant or City of Fresno who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG, HOME, ESG or HOPWA funds or who is in a position to participate in a decision making process or gain inside information with regard to these activities (each "Covered Person"), may not obtain a financial interest or benefit from a CDBG, HOME, ESG or HOPWA-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

**(SELECT ONLY THE CERTIFICATION THAT APPLIES TO THIS AGREEMENT OR APPLICATION. DO NOT SIGN BOTH.)**

- ☐ Subrecipient or Applicant hereby certifies that no "covered person" in its agency or corporation is currently a Covered Person and has not been a Covered Person for a period of at least one (1) calendar year prior to the date of this agreement or application.

_____	_____	_____
Name	Signature	Date

**OR**

- ☐ Subrecipient or Applicant hereby certifies that subrecipient/applicant organization includes a Covered Person as defined above, or because subrecipient/applicant has a family or business relationship with a Covered Person.

_____	_____	_____
Name	Signature	Date

Please provide a separate certification for each "covered person" and select the type of covered person.

- ☐ Employee    ☐ Agent    ☐ Consultant    ☐ Officer    ☐ Elected Official    ☐ Appointed Official

The Covered Person is:

- ☐ Subrecipient/Applicant "covered person"
- ☐ Family member-name: \_\_\_\_\_ (please print clearly)
- ☐ Business associate-name: \_\_\_\_\_ (please print clearly)

A Covered Person does not automatically disqualify an entity from participating in a HUD assisted program. If a covered person is identified, the Senior Management Analyst or Project Manager will assist you with the additional steps that must be taken before the organization's agreement or application can be funded.

A person may become a "covered person" at any time during the implementation process and this will include beneficiaries receiving assistance provided through this agreement or application who are or have a relationship with a covered person of the applicant or of City of Fresno. A new certification is required each time a covered person is identified.