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Agenda Date: 10/22/2020
Council Meeting

CITY OF FRESNO
CITY CLERK'S OFFICE

FRESNO CITY COUNCIL



Information Packet

ITEM(S)

File ID 20-001406 (1-N)

Actions pertaining to the CARES Act Emergency Solutions Grant Round 2 (ESG-CV2) funding from the United States Department of Housing and Urban Development (HUD):

1. ***RESOLUTION - Adopting and approving submission of Substantial Amendment 2019-05 to the 2019-2020 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) to program \$8,845,443 in Emergency Solutions Grant Round 2 (ESG-CV2) funds to prevent, prepare for, and respond to the Coronavirus (COVID-19) and authorizing the City Manager to sign all necessary implementing documents (Requires 5 affirmative votes) (Subject to Mayor's Veto); and
2. Approve an Amendment to the HEARTH Emergency Solutions Grant (HESG) Agreement with the County of Fresno Department of Social Services in the amount of \$2,100,000 for a total award of \$4,098,334.50 for implementation of the Joint COVID-19 Homeless Response Plan.

Contents of Supplement: Attachments C and D

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for

public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

ATTACHMENT C

Homeless Response Strategies & Spending Plan

Homeless Response Strategies

The City of Fresno shall utilize a portion of its second Coronavirus Aid, Relief, and Economic Security Act Emergency Solutions Grant (ESG-CV2) allocation to continue its investment in COVID-19 prevention and containment, including, but not limited to, shelter services and supplies such as handwashing stations, and enhancements to existing shelter facilities and navigation and rehousing required to see those utilizing COVID-19 homeless response shelters find safe exits to housing, programs or other shelter options.

Joint Spending Plan

The City of Fresno shall plan and allocate with the County of Fresno and the Fresno Madera Continuum of Care its ESG-CV funding from HUD according to the COVID-19 Homeless Response Joint Funding Plan below. Any major reallocations of City resources due to changes in the nature or duration of the pandemic will be brought back to the City Council for reconsideration.

Entity	State Emergency	ESG1	CDBG	CARES	ESG2		
County of Fresno	382,080.00	846,921.00	539,000.00	2,000,000.00	3,371,431.00	7,139,432.00	47%
FMCoC	488,763.00	2,600,000.00				3,088,763.00	20%
City of Fresno	1,012,869.00	1,923,510.00			2,000,000.00	4,936,379.00	33%
	1,883,712.00	5,370,431.00	539,000.00	2,000,000.00	5,371,431.00	15,164,574.00	

COVID-19 Homeless Response Joint Funding Plan - County of Fresno, City of Fresno, and FMCoc***

		Phase I - Initial Launch to July				Phase II - Extension to Sept		Phase III - Extension - Amended to Dec					Phase IV - Extension to Mar				
		1	2	3	4	5	6	7	8	9	9.5		10	11	12		
Contract Term		Month 1 (Mar-Apr)	Month 2 (Apr-May)	Month 3 (May-June)	Month 4 (Jun-Jul)	Month 5 (Jul-Aug)	Month 6 (Aug-Sept)	Month 7 (Sept-Oct)	Month 8 (Oct-Nov)	Month 9 (Nov-Dec)	Dec	END IN DECEMBER	Month 10 (Dec-Jan)	Month 11 (Jan-Feb)	Month 12 (Feb-Mar)	TOTAL	
Beds																	
RH Comm Builders (Agt. No. 20-126)	287	3/16-9/14	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 280,000.00	\$ 236,920.37	\$ 236,920.37	\$ 118,460.19	\$ 2,552,300.93	\$ 236,920.37	\$ 236,920.37	\$ 236,920.37	\$ 3,144,601.85	
Poyerello House (Agt. No. 20-147)	34	3/26-9/21	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 14,500.00	\$ 275,500.00	\$ 29,000.00	\$ 29,000.00	\$ 29,000.00	\$ 348,000.00	
Clarion (Lease Agt. 20-151)	15	3/26-	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 11,250.00	\$ 213,750.00	\$ 22,500.00	\$ 22,500.00	\$ 22,500.00	\$ 270,000.00	
Travelodge (Lease Agt. 20-152)	20	4/5-	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 15,000.00	\$ 285,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 360,000.00	
MMK - Confidential (Lease Agt. 20-150)	40	4/1-	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 15,000.00	\$ 285,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 360,000.00	
Trailers (minimum beds listed)	50			\$ 11,581.92	\$ 11,581.92	\$ 11,581.92	\$ 11,581.92	\$ 11,581.92	\$ 11,581.92	\$ 11,581.92	\$ 5,790.96	\$ 98,446.32	\$ 11,581.92	\$ 11,581.92	\$ 11,581.92	\$ 127,401.12	
Rural Community - Selma	60			\$ 32,900.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 32,500.00	\$ 455,000.00	\$ 65,000.00	\$ 65,000.00	\$ 65,000.00	\$ 617,500.00	
Rural Community - Selma Andrt - meals												\$ 178,750.00	\$ 17,500.00	\$ 17,500.00	\$ 17,500.00	\$ 260,000.00	
Rural Community - Sanger	40											\$ 279,600.00	\$ 46,600.00	\$ 46,600.00	\$ 46,600.00	\$ 396,100.00	
	546		\$ 391,500.00	\$ 403,081.92	\$ 435,581.92	\$ 491,181.92	\$ 547,181.92	\$ 547,181.92	\$ 547,181.92	\$ 504,102.29	\$ 504,102.29	\$ 2,572,051.15	\$ 4,621,347.21	\$ 504,102.29	\$ 504,102.29	\$ 5,881,602.97	
Security																	
Security (Pacific Valley Patrol) - Clarion (Agt. P-20-131)			\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 8,400.00	\$ 159,600.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 201,600.00	
Selma												\$ 27,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 42,000.00	
Security - Travelodge (Added to Agt. P-20-131)			\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 8,400.00	\$ 142,800.00	\$ 16,800.00	\$ 16,800.00	\$ 16,800.00	\$ 184,800.00	
			\$ 16,800.00	\$ 33,600.00	\$ 33,600.00	\$ 33,600.00	\$ 33,600.00	\$ 33,600.00	\$ 33,600.00	\$ 33,600.00	\$ 19,800.00	\$ 329,400.00	\$ 39,600.00	\$ 39,600.00	\$ 39,600.00	\$ 428,400.00	
																116,800.00	
Misc																	
Cleaning/Disinfecting - ScrubCan Inc	All Emergency Shelters		\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 8,225.63	\$ 156,786.88	\$ 16,451.25	\$ 16,451.25	\$ 16,451.25	\$ 197,415.00	
Cleaning/Disinfecting - ScrubCan Inc	At Hotels		\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 5,156.25	\$ 97,968.75	\$ 10,312.50	\$ 10,312.50	\$ 10,312.50	\$ 123,750.00	
Cleaning/Disinfecting - ScrubCan Inc	At Trailers		\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 3,000.00	\$ 51,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 66,000.00	
Linens (RH Comm Builders) - Aramark	Towels & Sheets		\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 2,050.56	\$ 38,960.64	\$ 4,101.12	\$ 4,101.12	\$ 4,101.12	\$ 49,213.44	
Hand Washing Stations (46 multi-spout/14 single spout)			\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 2,501.45	\$ 47,525.56	\$ 5,002.89	\$ 5,002.89	\$ 5,002.89	\$ 60,032.28	
Sanitizing Stations	42 metro Fresno/18 region 39 metro Fresno/4 region		\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 5,237.54	\$ 99,513.26	\$ 10,475.08	\$ 10,475.08	\$ 10,475.08	\$ 125,700.96	
			\$ 46,342.64	\$ 52,342.64	\$ 52,342.64	\$ 52,342.64	\$ 52,342.64	\$ 52,342.64	\$ 52,342.64	\$ 52,342.64	\$ 26,171.32	\$ 491,255.08	\$ 52,342.64	\$ 52,342.64	\$ 52,342.64	\$ 622,111.68	
			\$ 454,642.64	\$ 489,024.56	\$ 521,524.56	\$ 577,324.56	\$ 633,124.56	\$ 639,124.56	\$ 639,124.56	\$ 596,044.93	\$ 596,044.93	\$ 298,022.47	\$ 5,444,002.33	\$ 596,044.93	\$ 596,044.93	\$ 6,934,114.65	
						2,042,516		1,272,249		1,831,214					1,788,135		
												Grand Total	\$ 5,462,076.36			Grand Total	\$ 6,952,188.68

One-Time Costs	
hygiene & food kits	\$ 2,312.37
no touch thermometers	\$ 807.87
digital thermometers	\$ 851.03
gloves	\$ 1,650.00
toilet	\$ 84.54
water bottles	\$ 503.16
sanitizer & wipes	\$ 7,510.74
toilet paper	\$ 4,354.32
Subtotal	\$ 18,074.03

	ALLOCATION	7% or 10% ADMIN	For Services
CoC - State	\$ 488,763.33	\$ -	\$ 488,763.33
CoF - State	\$ 382,080.59	\$ -	\$ 382,080.59
City - State	\$ 1,012,809.44	\$ -	\$ 1,012,809.44
SUBTOTAL	\$ 1,883,713.36	\$ -	\$ 1,883,713.36
City-ESG1	\$ 1,333,310.00	\$ 150,801.00	\$ 1,733,109.00
County CDBG*	\$ 539,000.00	\$ 20,000.00	\$ 519,000.00
FMCoc ESG	\$ 280,000.00	\$ 28,000.00	\$ 252,000.00
SUBTOTAL	\$ 3,589,431.00	\$ 325,043.10	\$ 3,264,387.90

*Allocation is only partially available

**Subject to funding requirements/limitations; funding may move between strategies

***These are budgeted costs, actuals have been coming in lower

\$ 5,473,144.36 \$ 325,043.10 \$ 5,148,101.26

\$ (313,975.10)

**FIRST AMENDMENT TO AGREEMENT BETWEEN CITY OF
FRESNO AND THE COUNTY OF FRESNO, DEPARTMENT OF
SOCIAL SERVICES REGARDING THE IMPLEMENTATION OF
THE JOINT COVID-19 HOMELESSNESS RESPONSE PLAN**

This FIRST AMENDMENT TO AGREEMENT between the CITY OF FRESNO (the City) and the COUNTY OF FRESNO, DEPARTMENT OF SOCIAL SERVICES (the County) regarding the implementation of the Joint Covid-19 Homelessness Response Plan (Amendment) made and entered into as of this ____ day of _____ 2020, amends the Agreement (defined below) previously entered into between the City and the County.

RECITALS

City and County entered into a Coronavirus Hearth Emergency Solutions Grant Funds Agreement regarding the implementation of the Joint Covid-19 Homelessness Response Plan on October 15, 2020, (Agreement) attached hereto as Exhibit "C"; and

The Agreement was funded by the United Sates Department of Housing and Urban Development (HUD) pursuant to the 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

On June 16, 2020, the City received notification of an ESG-CV2 grant from HUD allocating an additional \$8,845,443 to the City to address the Covid-19 pandemic; and

City and County desire to modify the Agreement in order to increase the City's funding as set forth below.

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 acknowledge, the parties agree the aforesaid Agreement be amended as follows:

AMENDMENTS

1. Section 3 of the Agreement (Effective Date and Term of Agreement) is amended to read as follows:

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 County shall commence on June 11, 2020, and shall end on September 30, 2022, which shall be the term of this Agreement, unless terminated earlier as provided herein.

2. The first sentence of Section 4 of the Agreement (Compensation and Method of Payment) is amended to read as follows:

"City shall pay County the aggregate sum not to exceed Four Million, Ninety-Eight Thousand, Three Hundred Thirty-Four Dollars and Fifty Cents (\$4,098,334.50) for the satisfactory performance of the

services rendered under this Agreement attached hereto as set forth in Exhibit A and Exhibit B attached hereto and incorporated herein."

3. Exhibit A (Scope of Work) is deleted in its entirety and replaced with the attached "Revised Exhibit A."

4. Exhibit B (Budget Summary) is deleted in its entirety and replaced with the attached "Revised Exhibit B."

5. 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.

6. Whenever the Agreement is referred to, it shall mean the Agreement as modified by this Amendment. Except as otherwise provided herein, the Agreement entered into between City and County remains in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

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

COUNTY OF FRESNO

By: _____
Wilma Quan
City Manager

By: _____
Ernest Buddy Mendes,
Chairman of the Board of Supervisors of
the County of Fresno

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: Tracy N. Parvanian
Tracy N. Parvanian Date
Senior Deputy City Attorney 10-19-20

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy

Addresses:

CITY:
City of Fresno, Office of Mayor Lee Brand
Attention: H Spees
Director, Strategic Initiatives
2600 Fresno Street, Room 2075
Fresno, CA 93721
Phone: (559) 621-8000

COUNTY:
County of Fresno
Administrative Office
Attention: Sonia de la Rosa
Principal Administrative Analysis
2281 Tulare, Suite 304
Fresno, CA 93721
Phone: (559) 600-1230

Attachments:
Exhibit A - Revised Scope of Work
Exhibit B - Revised Budget Summary
Exhibit C - Original Agreement dated October 15, 2020

REVISED EXHIBIT A

SCOPE OF SERVICES

AGREEMENT BETWEEN CITY OF FRESNO AND COUNTY OF FRESNO CORONAVIRUS HEARTH EMERGENCY SOLUTIONS GRANT FUNDS IMPLEMENTATION OF JOINT COVID-19 HOMELESSNESS RESPONSE PLAN

Scope of Work

County shall invest in COVID-19 prevention and containment efforts for temporary shelters, including, but not limited to, medically indicated services and supplies, such as testing and handwashing stations, and enhancements to existing shelter facilities. The intent is to allow for proper social distancing and isolation to reduce the spread of COVID-19 among the homeless population.

Record Retention and Reporting Requirements

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

At this time, HUD has not issued instructions on beneficiary reporting. It is not known to the City if HUD intends to use the SAGE HMIS reporting system for ESG-CV annual reporting. Once HUD provides beneficiary reporting details to the City and County, the City will issue an addendum to the Scope of Services consistent with the HUD instructions.

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

Monitoring

The County must monitor any and all subawards to subrecipients in accordance with U.S. department of Housing and Urban Development CPD Monitoring Handbook - 6509.2 REV-7, CHG-1.

The County acknowledges that the City is required to periodically monitor the County's delivery of the subject ESG-CV funding. The City will rely on the guidance in CPD Monitoring Handbook - 6509.2 REV-7, CHG-1 in conducting its monitoring review.

Expenditure, Invoice and Draw Deadline

The City is requiring that its ESG-CV funds be fully expended by September 30, 2022. County shall expend 20% or more of the ESG-CV funding on or before September 30, 2021, and shall have 80% of ESG-CV funds expended on or before March 31, 2022. The City is requiring that the final invoice be submitted by June 30, 2022. The City is requiring that request for additional information pertaining to the invoice or any invoice deficiencies be resolved or cured by August 15, 2022. The City anticipates making its final reimbursement draw in the Federal system by no later than September 30, 2022.

REVISED EXHIBIT B

BUDGET SUMMARY

**AGREEMENT BETWEEN CITY OF FRESNO AND COUNTY OF FRESNO
CORONAVIRUS HEARTH EMERGENCY SOLUTIONS GRANT FUNDS
IMPLEMENTATION OF JOINT COVID-19 HOMELESSNESS RESPONSE PLAN**

Implementation of Program Services in accordance with the CITY AND COUNTY JOINT COVID-19 HOMELESSNESS RESPONSE PLAN as further described in Exhibit A, Scope of Work to the Agreement

(ESG-CV1 Funds) \$1,893,159.00

County of Fresno Administration of City of Fresno
COVID-19 Homelessness Program Services (ESG-CV1 Funds) \$105,175.50

Additional funding for Program Services in accordance with
the CITY AND COUNTY JOINT COVID-19 HOMELESSNESS RESPONSE
PLAN as further described in Exhibit A, Scope of Work to the Agreement
(ESG-CV2 Funds) \$2,000,000.00

Additional funding for County of Fresno Administration of City of Fresno
COVID-19 Homelessness Program Services (ESG-CV2 Funds) \$100,000.00

TOTAL NOT TO EXCEED \$4,098,334.50

EXHIBIT C

**AGREEMENT
BY AND BETWEEN
THE CITY OF FRESNO AND
COUNTY OF FRESNO
FOR THE ADMINISTRATION OF
CORONAVIRUS HEARTH EMERGENCY SOLUTIONS GRANT FUNDS
(E-20-MW-06-0001)
IN THE
IMPLEMENTATION OF THE JOINT COVID-19 HOMELESSNESS RESPONSE PLAN**

THIS AGREEMENT is made and entered into effective upon execution by both parties, by and between the CITY OF FRESNO (the CITY), and COUNTY OF FRESNO (the COUNTY), for IMPLEMENTING THE JOINT COVID-19 HOMELESSNESS RESPONSE PLAN.

RECITALS

WHEREAS, the United States Department of Housing and Urban Development (HUD) has provided an allocation of HEARTH Emergency Solutions Grant 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 CITY and the COUNTY has prepared a joint plan for the application of these funds to protect the health and safety of people experiencing homelessness and reduce the spread of the COVID-19 outbreak; and

WHEREAS, the COUNTY hereby represents that it desires to and is professionally and legally capable of performing the homelessness response services; 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 COUNTY'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 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 COUNTY in its pursuit hereof provided that the term program income does not include rebates, credits, discounts or refunds realized by COUNTY in its pursuit hereof.

M. "Project" shall mean the COUNTY'S operating name for distinct ESG Program Component.

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

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

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

Q. Subrecipient shall mean an entity that receives a Subaward from the COUNTY 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 COUNTY's point of contact and to whom COUNTY shall report.

2. Scope of Services. COUNTY 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 COUNTY shall commence on June 11, 2020, and shall end on June 10, 2021, which shall be the term of this Agreement, unless terminated earlier as provided herein.

4. Compensation and Method of Payment. CITY shall pay COUNTY the aggregate sum not to exceed One Million Nine Hundred Ninety-Eight Thousand Three Hundred Thirty-Four Dollars and Fifty Cents (\$1,998,334.50) 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 COUNTY to the CITY with each request for reimbursement. The COUNTY's request for reimbursement shall also be in accordance with the Budget set forth in **Exhibit B**. It is understood that all expenses incidental to COUNTY's performance of services under this Agreement shall be borne by the COUNTY. If COUNTY should fail to comply with any provisions of this Agreement, CITY shall be relieved of its obligation for further compensation. Notwithstanding any payment provisions herein, COUNTY'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 COUNTY.

a. Payments shall be made by the CITY to COUNTY in arrears for services provided during the preceding month. Such payment by CITY shall be made in the normal course of business, generally within forty-five (45) 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 COUNTY 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.

b. The Administrator may, in his or her sole discretion, agree in writing to revise the payment schedule in subsection (a), above, upon COUNTY'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.

c. 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.

d. CITY will not be obligated to make any payments under this Agreement if the request for payment is received by the CITY more than 60 days after the date of termination of this Agreement or the date of expiration of this Agreement, whichever occurs first.

e. COUNTY 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 COUNTY and/or should CITY in any fiscal year hereunder fail to appropriate said funds, CITY shall not provide said funds to COUNTY 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.

f. COUNTY 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 COUNTY 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. COUNTY shall notify CITY in writing within 7 days if any of the following events occur:

a. Suspension, reduction or withdrawal of COUNTY'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 COUNTY 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.
- c. Report(s) are submitted to CITY which are incorrect or incomplete in any material respect.
- d. The services required hereunder are incapable of or are improperly being performed by COUNTY.
- e. Refusal of COUNTY to accept change under Section 15
- f. COUNTY fails to maintain any required insurance.
- g. There is a loss of third party funding (see Section 5 above).
- h. COUNTY'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 COUNTY 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, COUNTY shall have an additional thirty (30) days to remedy such failure so long as COUNTY is diligently and in good faith pursuing such remedy.

a. This Agreement shall terminate without any liability of CITY to COUNTY upon the earlier of: (i) the happening of an Event of Default by COUNTY 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 COUNTY; (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 COUNTY; or (iv) expiration of this Agreement.

b. Immediately upon any termination or expiration of this Agreement, COUNTY 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 COUNTY that are owned by CITY. Subject to the terms of this Agreement, COUNTY shall be paid compensation for services satisfactorily performed prior to the effective date of termination. COUNTY 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 COUNTY, 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 COUNTY, 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 COUNTY the repayment to CITY of any funds disbursed to COUNTY under this Agreement which, in the judgment of CITY, were not expended in accordance with the terms of this Agreement, and COUNTY agrees to promptly refund any such funds within 10 days of CITY'S written demand.

9. Indemnification. City shall indemnify, hold harmless and defend County, State of California 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) incurred by County, State of California, City or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of City or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by city of governmental immunities including California Government Code section 810 et seq.

County shall indemnify, hold harmless and defend City, State of California 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) incurred by the City, State of California, County or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of County or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by County of governmental immunities including California Government Code section 810 et seq.

In the event of concurrent negligence on the part of City or any of its officers, officials, employees, agents, or volunteers, and County or any of its officers, officials, employees, agents, or volunteers, the liability for any and all such claims, demands and actions in

law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

This section shall survive expiration or termination of this Agreement.

10. Insurance. The County shall comply with all of the insurance requirements in **Exhibit D** to this Agreement.

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

This section 11 shall survive termination or expiration of this Agreement.

12. Records, Reports and Inspection.

a. COUNTY 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, COUNTY 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 COUNTY's fiscal year end.

COUNTY shall be responsible for determining the applicability of the foregoing:

i. On a quarterly basis, COUNTY shall submit to CITY, a report utilizing and completing the form attached as **EXHIBIT C – 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. COUNTY shall ensure the ESG grant funds provided by GRANTEE are clearly identified as a subaward and include the following information:

- COUNTY NAME:
- COUNTY ID (DUNS #):
- Federal Award Identification Number (ESG-CV Grant # **E-20-MW-06-0001**)
- Federal Award Date:
- Period of Performance:
- Federal Funds Obligated by this Agreement:
- Total Federal Funds Obligated to COUNTY:
- Total Amount of the Federal Award:

- Federal Award project description:
- Name of Federal awarding agency: Dept. of Housing Urban Development
- Name of pass-through entity: CITY of Fresno, California
- Award Official Contact Information: Name and Address
- CFDA Number: 14.231
- CFDA Name: Emergency Solutions Grant
- Identification of R&D: No
- Indirect cost rate for the Federal award: Up to the de minimus 10% indirect cost rate allowed by CITY of Fresno

ii. Annually, COUNTY 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.

iii. COUNTY shall maintain all records required by the Federal regulations specified in 24 CFR 576.500

iv. COUNTY 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 COUNTY is notified in writing by the CITY to extend the retention period.

v. COUNTY is to prepare written financial statements, and completed ESG Quarterly Report, each in the form attached hereto as **Exhibit C** incorporated herein, each covering matters pertaining to the Scope of Services contained in **Exhibit A**, to be submitted to CITY no later than the thirtieth (30th) of the month following the end of each quarter hereunder for the duration hereof, absent CITY's prior written consent in cases of unusual circumstances as determined in the sole discretion of the CITY.

b. During the life of this Agreement and 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, COUNTY shall, at any time during normal business hours and as often as CITY and/or HUD or the authorized representative of either CITY or HUD may deem necessary, make available to them or any one of them, within the CITY of Fresno, such statements, records, reports, data and information as they may request pertaining to matters covered by this Agreement and permit them or any one of them to audit and inspect all records, invoices, materials, payrolls, records

of personnel, conditions of employment, and other data relating to all matters covered by this Agreement. COUNTY shall also permit and cooperate with on-site monitoring and personal interviews of participants, COUNTY'S staff, and employees by Administrator and other CITY and/or HUD representatives.

c. The COUNTY is required to participate in the Fresno Madera Continuum of Care (FMCoC). Participation is defined as attendance of the Member or the Alternate Member at a minimum of 75% of all FMCoC Director's meetings. COUNTY's attendance shall be confirmed through the Board-approved minutes of the FMCoC Board of Directors' meeting. COUNTY shall attach the most currently available monthly minutes of the FMCoC are to be attached to the ESG Quarterly Report.

d. The COUNTY is required to collect and report client-level data in accordance with HUD Office of Special Needs Assistance Programs (SNAPS) 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 FMCoC 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 ESG funding. COUNTY 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 COUNTY and used to collect data and report on outputs and outcomes as required by HUD.

e. If COUNTY provides legal services or domestic violence victim services requiring client-level information to remain confidential, they will be required to establish a comparable client-level database internal to its organization (e.g. no identifying data shared with the HMIS or the CITY and will provide only aggregate data to the CITY as required). COUNTY will work with the HMIS System Administrator to determine that the alternative database meets the standards for comparable client-level databases, including compliance with the HMIS Data Standards which are acceptable to HUD and the CITY.

f. All data elements specified above in 12(e) must be recorded for each ESG project in HMIS and the fields needed to correctly generate the performance reports are required to be collected in the comparable database.

g. The COUNTY is required to provide housing unit and client data to the CITY of Fresno, or designee, to include in the Point in Time survey as administered by the Fresno-Madera Continuum of Care and as required by the HEARTH Act of 2009.

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

13. Subawards. The COUNTY 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.

a. An executed copy of every such subcontract approved by the

Administrator shall be provided to CITY prior to implementation for retention in CITY's files.

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

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

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

14. Conflict of Interest and Non-Solicitation.

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

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

c. In performing the work or services to be provided hereunder, COUNTY 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. COUNTY 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

15. COUNTY 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 COUNTY 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 COUNTY 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. COUNTY 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. COUNTY shall make known that use of the facilities and Services are available to all on a nondiscriminatory basis. If the procedures that the COUNTY 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 COUNTY must establish additional procedures that will ensure that such persons are made aware of the facilities and Services. The COUNTY 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 COUNTY 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.

d. The COUNTY 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 COUNTY 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.

e. COUNTY 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, COUNTY 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, COUNTY 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.

f. COUNTY 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. COUNTY agrees that, if CITY has reasonable grounds to suspect any such violation, COUNTY shall be entitled to thirty (30) days' 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, COUNTY shall pay for the cost of the independent consultant.

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

16. Relocation.

a. COUNTY 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 COUNTY enforceable against COUNTY in accordance with its respective terms, except as such enforceability may be limited by (a) 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. COUNTY represents and warrants as of the date hereof that COUNTY has obtained and, to the best of COUNTY'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 COUNTY for the

Services as of the date hereof.

c. In the performance of this Agreement, COUNTY 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. COUNTY shall be solely responsible and liable for any recapture or repayment obligation imposed by HUD due to any act or omission of COUNTY in pursuit hereof.

e. COUNTY acknowledges that COUNTY, 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. COUNTY further acknowledges that the CITY shall not be liable or responsible at law or in equity for any failure by COUNTY 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 COUNTY of the need for such compliance.

f. COUNTY 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, COUNTY agrees as follows:

g. COUNTY 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.

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

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

j. COUNTY 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 COUNTY'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 COUNTY 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 D** approved by CITY's Risk Manager in his or her sole discretion.

19. Public Information. COUNTY 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, COUNTY 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, COUNTY agrees as follows:

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

c. COUNTY will, in all solicitations or advertisements for employees placed by or on behalf of COUNTY 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. COUNTY 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 COUNTY'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, COUNTY is acting as an independent contractor. Neither COUNTY, 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 COUNTY shall perform its work and functions. However, CITY shall retain the right to administer this Agreement so as to verify that COUNTY is performing its obligations in accordance with the terms and conditions thereof.

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

c. Because of its status as an independent contractor, COUNTY and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to CITY employees. COUNTY shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, COUNTY shall be solely responsible and save CITY harmless from all matters relating to payment of COUNTY'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, COUNTY 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 COUNTY and there shall be no assignment by COUNTY of its rights or obligations under this Agreement without the prior written approval of the Administrator. Any attempted assignment by COUNTY, its successors or assigns, shall be null and void unless approved in writing by the Administrator.

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

29. Compliance with Law. In providing the services required under this Agreement, COUNTY 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 County, 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.

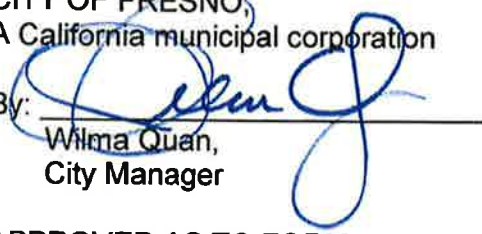
38. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

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.

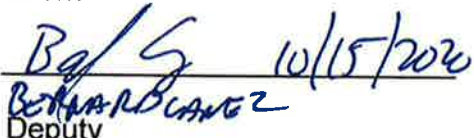
CITY OF FRESNO,
A California municipal corporation

By: 
Wilma Quan,
City Manager

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: 
Tracy N. Parvanian Date
Senior Deputy City Attorney 9.9.20

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

By:  10/15/2020
Barbara Blane
Deputy

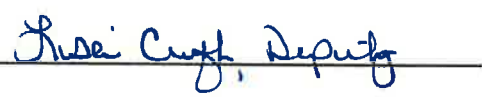
Addresses:

CITY:
City of Fresno, Office of Mayor Lee
Brand
Attention: H. Spees
Director, Strategic Initiatives
2600 Fresno Street, Room 2075
Fresno, CA 93721
Phone: (559) 621-8000

COUNTY OF FRESNO

By: 
Ernest Buddy Mendes,
Chairman of the Board of
Supervisors of the County of
Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: 
Rosei Cruz, Deputy

COUNTY:
COUNTY OF FRESNO Administrative
Office
Attention: Sonia de la Rosa
Principal Administrative Analyst
2281 Tulare, Suite 304
Fresno CA 93721
Phone: (559) 600-1710
FAX: (559) 600-1230

Attachments:

1. Exhibit A – Scope of Services
2. Exhibit B – Budget Summary
3. Exhibit C – ESG Quarterly Report
4. Exhibit D – Insurance Requirements
5. Exhibit E – No Conflict of Interest Certification Form

EXHIBIT A

SCOPE OF SERVICES

Agreement "Between" City of Fresno and County of Fresno

Coronavirus Emergency Solutions Grant (ESG-CV)

Scope of Work

County shall invest in COVID-19 prevention and containment efforts for temporary shelters, including, but not limited to, medically indicated services and supplies, such as testing and handwashing stations, and enhancements to existing shelter facilities. The intent is to allow for proper social distancing and isolation to reduce the spread of COVID-19 among the homeless population.

Record Retention and Reporting Requirements

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

At this time, HUD has not issued instructions on beneficiary reporting. It is not known to the City if HUD intends to use the SAGE HMIS reporting system for ESG-CV annual reporting. Once HUD provides beneficiary reporting details to the City and COUNTY, the City will issue an addendum to the Scope of Services consistent with the HUD instructions.

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

Monitoring

The COUNTY must monitor any and all subawards to subrecipients in accordance with U.S department of Housing and Urban Development CPD Monitoring Handbook - 6509.2 REV-7, CHG-1.

The COUNTY acknowledges that the CITY is required to periodically monitor the COUNTY's delivery of the subject ESG-CV funding. The CITY will rely on the guidance in CPD Monitoring Handbook - 6509.2 REV-7, CHG-1 in conducting its monitoring review.

Expenditure, Invoice and Draw Deadline

The City is requiring that its ESG-CV funds be fully expended by June 10, 2021. The City is requiring that the final invoice be submitted by July 31, 2021. The City is requiring that request for additional information pertaining to the invoice or any invoice deficiencies be resolved or cured by August 31, 2021. The City anticipates making its final reimbursement draw in the Federal system by no later than September 1, 2021.

EXHIBIT B

BUDGET SUMMARY
Agreement "Between" CITY OF FRESNO
and COUNTY OF FRESNO
Coronavirus Emergency Solutions Grant

Implementation of Program Services in accordance with the
CITY AND COUNTY JOINT COVID-19 HOMELESSNESS
RESPONSE PLAN as further described in EXHIBIT A,
Scope of Work, to this Agreement

\$1,893,159.00

County of Fresno Administration of City of Fresno
COVID-19 Homelessness Program Services

\$ 105,175.50

TOTAL NOT TO EXCEED

\$1,998,334.50

EXHIBIT C QUARTERLY REPORT
AGREEMENT BETWEEN CITY OF FRESNO AND COUNTY OF FRESNO
Coronavirus Emergency Solutions Grant (ESG-CV)

Note: Below are 2 snapshots of the 2 Excel worksheets making up the ESG Quarterly Report. Contact Erika Lopez at 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 with a copy to Erika Lopez.

Report to:
Housing and Community Development Division,
Planning and Development Department
of the City of Fresno

EXHIBIT C
ESG Quarterly Report
Grant Administration

ESG_Qrtly Pform Rpt_FINAL1.xlsx
Overview
1 of 1

Project Sponsor Name :		Project Sponsor ID (DUNS #)	
Federal Award Identification Number (ESG Grant #):		Federal Award Date:	
Federal Funds Obligated by This Agreement:	\$ -	Federal Funds Obligated to Project Sponsor:	\$ -
Total Amount of the Federal Award for this Activity	\$ -	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:	Tom Morgan, thomas.morgan@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 minus indirect rate or indirect rate approved by cognizant agency
Date of Contract Execution (mm/dd/xx)	01/00/00	Accomplishment Year (HUD Program Year)	2019
Period of Performance Start Date (mm/dd/xx)	01/00/00	Period of Performance End Date (mm/dd/xx)	01/00/00
Action Plan Year / IDIS Project ID Number	0000/00	Activity	Administration
Project Description, Goals and Objectives: (Maximum 500 characters)			
Activity Accomplishment Narrative: (Maximum 500 characters)			
Total ESG Funds Expended (PYTD)	\$ -	Percent of ESG Award Expended	#DIV/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:

Report to:
Housing and Community Development Division,
Planning and Development Department
of the City of Fresno

EXHIBIT C
ESG Quarterly Report
Project Data

ESG_Qrtly Pform Rpt_FINAL1.xlsx
Project Data
1 of 2

Project Sponsor:		Activity(s):		SO, ES, RRH, HP	
Date of Contract Execution (mm/dd/yyyy)		Accomplishment Year (HUD Program Year)		2019	
Period of Performance Start Date (mm/dd/yyyy)		Period of Performance End Date (mm/dd/yyyy)		01/00/00	
01/00/00		01/00/00			
Accomplishment Narrative: (Maximum 500 characters)					
Number of Persons Engaged					
Number of Persons Contacted Once				0	
Number of Persons 2- 5 Contacts				0	
Number of Persons 6-9 Contacts				0	
Number of Persons 10 + Contacts				0	
Total Persons Engaged				0	
Number of Persons Served					
Total Number of Persons Served				0	
Number of Adults (Age 18 or Over)				0	
Number of Children (Under Age 18)				0	
Number of Persons with Unknown Age				0	
Total Persons Served				0	
Persons Fleeing Domestic Violence Upon Entry					
Yes, Fleeing Domestic Violence				0	
Not Fleeing Domestic Violence				0	
Number of Veterans Served		Without Children	With Children and Adults	Total	
Chronically Homeless Veteran	0	0	0	0	
Non-Chronically Homeless Veteran	0	0	0	0	
Total Veterans Served		0			
Number of Stayovers from Prior Reporting Period					
Number of Stayovers from Prior Report Period				0	
Number of Leavers					
Number of Leavers				0	
Number of Adult Leavers				0	
Number of Adult and Head of Household Leavers				0	
Total Number of Leavers				0	

Report to:
Housing and Community Development Division,
Planning and Development Department
of the City of Fresno

EXHIBIT C
ESG Quarterly Report
Project Data

ESG_Qrtly Pform Rpt_FINAL1.xlsx
Project Data
2 of 2

Number of Stayers at End of Reporting Period			
Number of Stayers		0	
Number of Adult Stayers		0	
Total Number of Stayers		0	
Length of Participation		Leavers	Stayers
0 to 7 days		0	0
8 to 14 days		0	0
15 to 21 days		0	0
22 to 30 days		0	0
31 to 60 days		0	0
61 to 90 days		0	0
91 to 180 days		0	0
181 to 365 days		0	0
366 to 730 days (1-2 Yrs)		0	0
731 to 1,095 days (2-3 Yrs)		0	0
1,096 to 1,460 days (3-4 Yrs)		0	0
1,461 to 1,825 days (4-5 Yrs)		0	0
More than 1,825 days (> 5 Yrs)		0	0
Data Not Collected		0	0
Total		0	0
Other Characteristics of Persons Served			
Number of Chronically Homeless Persons		0	
Number of Youth Under Age 25		0	
Number of Parenting Youth Under Age 25 with Children		0	
Number of Adult Heads of Household		0	
Number of Child and Unknown-Age Heads of Household		0	
Expenditures			
Total ESG Expended (PYTD)	\$ -		
Street Outreach Expenditures	\$ -	Rapid Rehousing Expend.	\$ -
Emergency Shelter Expend.	\$ -	Homeless Prevention Expend.	\$ -
Report Prepared by:		Date Prepared	
For City Used Only:	IDIS Activity ID #:	Reviewed by:	Date of review:

EXHIBIT D

Agreement Between CITY OF FRESNO and COUNTY OF FRESNO Coronavirus Emergency Solutions Grant (ESG-CV)

MINIMUM SCOPE OF INSURANCE

- l) Throughout the life of this Agreement, COUNTY shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either 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 his/her sole discretion. If the COUNTY is self-insured, the following requirements will outline the responsibility of the self-insured coverage. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY and STATE and each of their 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.
- a) If at any time during the life of the Agreement or any extension, COUNTY 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 COUNTY 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 COUNTY 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.
- b) The fact that insurance is obtained by COUNTY shall not be deemed to release or diminish the liability of COUNTY, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY and STATE 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 COUNTY. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of COUNTY, vendors, suppliers, invitees, consultants, medical professionals, subcontractors, consultants, or anyone employed directly or indirectly by any of them.

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).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability including both (Abuse & Molestation) & (Medical Malpractice) Insurances that insures against liability arising out of the bodily injury, personal injury, including mental anguish, and third-party property damage occurring because of the wrongful or negligent acts attributable to the institution. The Abuse & Molestation coverage should protect against a wide range of potential claims, including but not limited to sexual molestation and other sexual misconducts. The Medical Malpractice coverage should protect against any claims of medical negligence.

MINIMUM LIMITS OF INSURANCE

COUNTY shall procure and maintain for the duration of the contract insurance with limits of liability not less than those set forth below. However, insurance limits available to CITY and STATE and each of their 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) \$2,000,000 per occurrence for bodily injury and property damage;
- ii) \$2,000,000 per occurrence for personal and advertising injury;
- iii) \$4,000,000 aggregate for products and completed operations; and,
- iv) \$4,000,000 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 and EMPLOYER'S LIABILITY with limits of liability not less than:

- i) \$1,000,000 each accident for bodily injury;
- ii) \$1,000,000 disease each employee; and,
- iii) \$1,000,000 disease policy limit.

4. CYBER LIABILITY insurance with limits not less than:

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

5. PROFESSIONAL LIABILITY (Abuse & Molestation and Medical Malpractice):

- i) \$3,000,000 per claim/occurrence; and
- ii) \$5,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event COUNTY 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 and STATE and each of their officers, officials, employees, agents, and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

COUNTY shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and COUNTY shall also be responsible for payment of any self-insured retentions. Any self-insured retentions must be declared 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 self-insured retentions as respects CITY and STATE or any of their officers, officials, employees, agents, and volunteers; or
- (ii) COUNTY 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

- (i) 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 calendar days' written notice has been given to CITY, except ten days for nonpayment of premium. COUNTY 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, COUNTY 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, COUNTY 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.
- (ii) The Commercial General and Automobile Liability insurance policies shall be written on an occurrence form.
- (iii) The Commercial General and Automobile Liability insurance policies shall be endorsed to name CITY and STATE and each of their officers, officials, agents, employees and volunteers as an additional insured. COUNTY shall establish additional insured status for the CITY and STATE for all ongoing and completed operations under the Commercial General Liability policy by use of ISO Forms or an executed manuscript insurance company endorsements providing additional insured status. The Commercial General endorsements must be as broad as that contained in ISO Forms: GC 20 10 11 85 or both CG 20 10 & CG 20 37.
- (iv) The Commercial General and Automobile Liability insurance shall contain, or be endorsed to contain, that the COUNTY'S insurance shall be primary to and require no contribution from the CITY or STATE. The Commercial General Liability policy is required to include primary and noncontributory coverage in favor of the CITY and STATE for both the ongoing and completed operations

coverage. These coverages shall contain no special limitations on the scope of protection afforded to CITY and STATE and each of their officers, officials, employees, agents, and volunteers. If COUNTY maintains higher limits of liability than the minimums shown above, CITY and STATE requires and shall be entitled to coverage for the higher limits of liability maintained by COUNTY.

- (v) 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.
- (vi) For any claims related to this Agreement, COUNTY's insurance coverage shall be primary insurance with respect to the CITY and STATE and each of their officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the CITY and STATE and each of their officers, officials, agents, employees, and volunteers shall be excess of the COUNTY'S insurance and shall not contribute with it.
- (vii) The Workers' Compensation insurance policy shall contain, or be endorsed to contain, a waiver of subrogation as to CITY and STATE and each of their officers, officials, agents, employees, and volunteers.
- (viii) The Commercial General and Automobile Liability insurance policies shall contain, or be endorsed to contain, a waiver of subrogation as to CITY and STATE and each of their officers, officials, agents, employees, and volunteers.

If the Professional Liability (Abuse & Molestation, Medical Malpractice and Cyber) 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 County.
2. Insurance must be maintained and evidence of insurance must be provided for at least five 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 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 County, County must purchase "extended reporting" coverage for a minimum of five 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.

PROVIDING OF DOCUMENTS – COUNTY shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required herein. All certificates and applicable endorsements are to be received and approved by the CITY'S Risk Manager or 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, COUNTY 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. All subcontractors working under the direction of COUNTY

Shall also be required to provide all documents noted herein.

SUBCONTRACTORS – If COUNTY subcontracts any or all of the services to be performed under this Agreement, COUNTY 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 for both the CITY and STATE. Any required Side Agreement(s) and associate insurance documents for the subcontractors must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, COUNTY 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.

AGREEMENT BETWEEN CITY OF FRESNO AND COUNTY OF FRESNO

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 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.

Ernest-Buddy Mendes
Name

Ernest-Buddy Mendes
Signature

9/22/20
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.

ATTEST:

BERNICE E. SEIDEL
Clerk of the Board of Supervisors
County of Fresno, State of California

By
Deputy