

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER <b>24-ERF-3-R-4-L-100001</b>	PURCHASING AUTHORITY NUMBER (If Applicable)
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME  
 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR NAME  
 San Bernardino County

2. The term of this Agreement is:

START DATE  
 Upon HCD Approval

THROUGH END DATE  
 4/15/2029

3. The maximum amount of this Agreement is:  
 \$11,000,000.00 (Eleven Million Dollars and No Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Authority, Purpose, and Scope of Work	6
Exhibit B	Budget Detail and Payment Provisions	4
Exhibit C*	General Terms and Conditions	GTC 04/2017
Exhibit D	ERF General Terms and Conditions	11
Exhibit E	Special Terms and Conditions	2
	TOTAL NUMBER OF PAGES ATTACHED	23

*Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

*These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>*

**IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.**

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

San Bernardino County

CONTRACTOR BUSINESS ADDRESS 560 E. Hospitality Lane, Suite 200	CITY San Bernardino	STATE CA	ZIP 92408
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PRINTED NAME OF PERSON SIGNING Marcus Dillard	TITLE Chief of Homeless Services
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CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED
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**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME Department of Housing and Community Development				
CONTRACTING AGENCY ADDRESS 651 Bannon Street, Suite 400		CITY Sacramento	STATE CA	ZIP 95811
PRINTED NAME OF PERSON SIGNING		TITLE Contract Office Manager, Contract Services Section		
CONTRACTING AGENCY AUTHORIZED SIGNATURE		DATE SIGNED		
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL		EXEMPTION (If Applicable) Exempt per; SCM Vol. 1, 4.04., A.3 (DGS memo, dated 06/12/1981)		

## EXHIBIT A

### **AUTHORITY, PURPOSE, AND SCOPE OF WORK**

#### 1. **Authority**

The State of California has established the Encampment Resolution Funding Program (“ERF” or “Program”) pursuant to Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code. ERF was amended by AB 166 (Statutes of 2024, Chapter 48, Sec.14-15, effective July 2, 2024).

The Program is administered by the California Department of Housing and Community Development (“HCD”) in the Business, Consumer Services and Housing Agency (“Agency”). ERF provides one-time, competitive grant funds to Continuums of Care and / or Local Jurisdictions as defined below. To date, there have been three previous rounds of the Encampment Resolution Funding Program. This Standard Agreement governs the Lookback Disbursement in Round 4 of the ERF Program (“ERF-4-L”). For this Standard Agreement, ERF-4-L is synonymous with “ERF” or “Program” and refers to programs and grantees under Health and Safety Code 50252.1(b).

This Standard Agreement along with all its exhibits (“Agreement”) is entered into by HCD and a Continuum of Care or a Local Jurisdiction (“Grantee”) under the authority of, and in furtherance of, the purpose of the Program. In signing this Agreement and thereby accepting this award of funds, the Grantee agrees to comply with the terms and conditions of this Agreement, the [Notice of Funding Availability](#) (“NOFA”) dated November 27, 2023, under which the Grantee applied, the representations contained in the Grantee’s application, HCD guidance or directives, and the requirements appearing in the statutory authority for the Program cited above.

#### 2. **Purpose**

As stated in the NOFA, the Program’s objective is to fund actionable, person-centered local proposals that resolve the experience of unsheltered homelessness for people residing in encampments. Resolving these experiences of homelessness will necessarily address the safety and wellness of people within encampments, resolve critical encampment concerns, and transition individuals into interim shelter with clear pathways to permanent housing or directly into permanent housing, using data informed, non-punitive, low-barrier, person-centered, Housing First, and coordinated approaches. These projects must comply with the principles of Housing First as defined in Welfare and Institutions Code section 8255. Proposals may bolster existing, successful models and/or support new approaches that provide safe stable, and ultimately permanent housing for people experiencing homelessness in encampments. Expenditures shall be consistent with the legislative intent of the authorizing statute to ensure the safety and wellness of people experiencing homelessness in encampments.

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### 3. Definitions

The following Encampment Resolution Funding Program terms are defined in accordance with Health and Safety Code section 50250, Subdivisions (a) – (m);

- (a) “Additional funding round moneys” means moneys appropriated for the program in or after fiscal year 2022–23.
- (b) “Agency” means the Business, Consumer Services, and Housing Agency.
- (c) “Applicant” means a continuum of care or local jurisdiction.
- (d) “Continuum of Care” has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations.
- (e) (1) Subject to paragraph (2), “council,” unless context requires otherwise, means the California Interagency Council on Homelessness, previously known as the Homeless Coordinating and Financing Council created pursuant to Section 8257 of the Welfare and Institutions Code.  
  
(2) Unless context requires otherwise, “council,” with respect to the administration of this chapter on or after the effective date of the act adding this paragraph, means the department.
- (f) “County” includes, but is not limited to, a city and county.
- (g) “Department” means the California Department of Housing and Community Development.
- (h) “Funding round 1 moneys” means moneys appropriated for the program in fiscal year 2021–22.
- (i) “Homeless” has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations.
- (j) “Local Jurisdiction” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
- (k) “Program” means the Encampment Resolution Funding program established pursuant to this chapter.
- (l) “Recipient” means an applicant that receives grant funds from HCD for the purposes of the program.

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(m)“State right-of-way” means real property held in title by the State of California.

### **Additional definitions for the purposes of ERF program:**

“Grantee” is a Continuum of Care or a Local Jurisdiction that receives grant funds from HCD for the purposes of the program. Grantee is synonymous with “Recipient.”

“Subrecipients” or “Subgrantees” are entities that receive subawards from “Recipients” or “Grantees” to carry out part of the Program.

“Expended” means all ERF funds obligated under contract or subcontract that have been fully paid and receipted, and no invoices remain outstanding.

“Obligate” means that the Grantee has placed orders, awarded contracts, received services, or entered into similar transactions that require payment using ERF funding. Grantees must expend and obligate the funds by the statutory deadlines set forth in this Exhibit A.

#### 4. **Scope of Work**

This Scope of Work identifies the terms and conditions necessary to accomplish the Program’s intended objectives.

As detailed in [Exhibit A.2](#), the Program’s objective is to fund grantees to implement actionable, person-centered local proposals that resolve the experience of unsheltered homelessness for people residing in encampments.

Grantees will implement their ERF funded local proposals in compliance with the terms and conditions of this Agreement, the NOFA under which the Grantee applied, the representations contained in the Grantee’s application, HCD guidance and directives, and the requirements per the authorizing statute.

Expenditures shall be consistent with the legislative intent of the authorizing statute to ensure the safety and wellness of people experiencing homelessness in encampments. Permissible eligible uses and activities are detailed below in Exhibit B, Budget Details and Payment Provisions.

Grantees are expected to be close partners with HCD. This means timely and accurate reporting, candid communication of successes and challenges, and availability of persons, information, or materials.

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Quarterly reporting requirements are detailed below in [Exhibit D.4, Reporting, Evaluation, and Audits](#).

Fiscal deadlines are detailed below in [Exhibit A.6, Effective Date, Term of Agreement, and Deadlines](#).

Grantees shall complete a Final Work Product (as detailed below in [Exhibit A.6.D](#)) and participate in a program evaluation regarding their implementation of ERF awards. To support this effort, HCD will make Technical Assistance available.

HCD maintains sole authority to determine if a Grantee is acting in compliance with the program objectives and may direct Grantees to take specified actions or risk breach of this Agreement. Grantees will be provided reasonable notice and HCD's discretion in making these determinations are absolute and final.

### 5. HCD Contract Coordinator

HCD's Contract Coordinator for this Agreement is HCD's Grant Program Design Section Chief or the Grant Program Design Section Chief's designee. Unless otherwise instructed, any communication shall be conducted through email to the HCD Contract Coordinator or their designee. If documents require an original signature, the strongly preferred form is an e-Signature in accordance with the Uniform Electronic Transactions Act (UETA). If an Awardee is unwilling or unable to sign a document electronically, HCD shall accept wet or original signed documents. These documents containing wet signatures should be both mailed to HCD and scanned and emailed as instructed. State law or policy may require the use of wet signatures for specific documents. The Representatives during the term of this Agreement will be:

	PROGRAM	GRANTEE
<b>ENTITY:</b>	California Department of Housing and Community Development	San Bernardino County
<b>SECTION/UNIT:</b>	Policy and Program Support	
<b>ADDRESS:</b>	651 Bannon Street, Suite 400 Sacramento, CA, 95811	560 E. Hospitality Lane, Suite 200, San Bernardino, CA 92408-0044
<b>CONTRACT COORDINATOR:</b>	Jeannie McKendry	Marcus Dillard

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<b>PHONE NUMBER:</b>	(916) 490-9589	(909) 501-0610
<b>EMAIL ADDRESSES:</b>	<a href="mailto:HPDHomelessnessGrants@hcd.ca.gov">HPDHomelessnessGrants@hcd.ca.gov</a> <a href="mailto:Jeannie.McKendry@hcd.ca.gov">Jeannie.McKendry@hcd.ca.gov</a>	<a href="mailto:Marcus.Dillard@hss.sbcounty.gov">Marcus.Dillard@hss.sbcounty.gov</a>

The Department reserves the right to change their HCD Contract Coordinator, designee, contract administering entity, and / or contact information at any time with reasonable notice to the Grantee.

All requests to update the Grantee information listed within this Agreement shall be emailed to the HCD grant’s general email box at [HPDHomelessnessGrants@hcd.ca.gov](mailto:HPDHomelessnessGrants@hcd.ca.gov).

Notice to either party may be given by email. Such notice shall be effective when received as indicated on email. Changes to the HCD Contract Coordinator, designee, and / or contact information or grantee information can be made without a formal amendment.

**6. Effective Date, Term of Agreement, and Deadlines**

- A. This Agreement is effective upon execution by HCD, which includes signature from the Grantee and HCD. This is indicated by the HCD provided signature and date on the second page of the accompanying STD 213, Standard Agreement.
- B. Performance shall start no later than 30 days, or on the express date set by HCD and the Grantees, after all approvals have been obtained and the Grant Agreement is fully executed. Should the Grantee fail to commence work at the agreed upon time, HCD, upon five (5) days written notice to the grantee, reserves the right to terminate the Agreement.
- C. Grantees will continue to perform until the Agreement is terminated, including data reporting and participation in program evaluation activities, as needed.
- D. This Agreement will terminate on April 15, 2029.

Grantees shall submit a Final Work Product by April 1, 2028. The Final Work Product will include programmatic and fiscal data and a narrative on the outputs and outcomes of the program on a reporting template to be provided by HCD.

HCD will review submitted Final Work Products and collaborate with Grantees to cure any deficiencies by April 15, 2029.

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Grantees are expected to continue performing until April 15, 2029. This means timely and accurate reporting, candid communication of success or shortcomings, and availability of persons, information, or materials.

E. Expenditure and Obligation Deadlines:

- 1) Grantees shall expend no less than 50 percent and obligate 100 percent of Program funds by June 30, 2026.
- 2) Grantees that have not obligated 100 percent of their Program funds by June 30, 2026, shall submit an alternative disbursement plan to HCD for approval no later than July 30, 2026. This alternative disbursement plan should detail the explanation for the delay and plans for all future obligations and expenditures.
- 3) Grantees not meeting the requirements outlined in paragraph (2) above may be subject to additional corrective action, as determined by HCD.
- 4) All Program funds (100 percent) shall be expended by June 30, 2027. Any funds not expended by this date shall revert to the fund of origin pursuant to HSC Section 50253(d)(5).

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

1. **Payee**

Name: San Bernardino County                      Amount: \$11,000,000.00

2. **General Conditions Prior to Disbursement**

All Grantees must submit the following completed forms prior to ERF being released:

- A. Request for Funds Form (“RFF”)
- B. STD 213 Standard Agreement form and Exhibits A, B, D and E
- C. STD 204 Payee Data Record or Government Agency Taxpayer ID Form

3. **Disbursement of Funds**

ERF will be disbursed to the Grantee in one allocation upon receipt, review and approval of the completed Standard Agreement and RFF by HCD.

The RFF must include the proposed eligible uses and the amount of funds proposed to be expended.

4. **Budget Details and Expenditure of Funds**

The Grantee shall expend Program funds on eligible uses and activities as detailed in the submitted, approved budget. HCD reserves the right to direct specific line-item changes in the originally submitted Application budget or subsequently submitted budgets.

A. **Budget Changes**

1) Process:

Budget modification requests should be made as part of the quarterly report process. These requests will be reviewed in the first week after quarterly reports are received. HCD may consider budget change requests outside of this process, through email as needed due to documented, exigent circumstances. Grantees carry the burden to anticipate foreseeable budget change requests and should plan accordingly.

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HCD reserves the right to amend or adjust this process as necessary.

2) Conditions requiring a budget modification request:

Changes may be made to the timing (e.g., fiscal year) of eligible use expenditures without prior approval by HCD so long as the total expenditures (actual and projected) for each eligible use category remain the same as approved in the standardized budget and align with the expenditure deadlines expressed in statute.

Any decrease or increase to the total expenditures for any eligible use category must be approved by HCD's Grant Program Design Section Chief or their designee, in writing, before the Grantee may expend Program funds according to an alternative standardized budget. The Grants Program Design Section Chief will respond to Grantee with approval or denial of request. Failure to obtain written approval from HCD before implementation of a programmatic or fiscal change as required by this section may be considered a breach of this Agreement. A breach of this agreement may result in remedies listed below in [Exhibit D.6, Breach and Remedies](#).

Regardless of an increase or decrease of an expenditure amount, any significant or material programmatic or fiscal change shall be submitted to HCD for prior approval.

### B. Eligible Uses

Eligible uses and activities must be consistent with HSC Sections 50250 – 50254.5, other applicable laws, the terms and conditions of this Agreement, HCD guidance or directives, the NOFA under which the Grantee applied, representations contained in the Grantee's application, and the Purpose of the Program as detailed in [Exhibit A.2, Purpose](#).

Eligible uses and activities include, but are not limited to, the following:

**Rapid Rehousing:** Rapid rehousing, including housing identification services, rental subsidies, security deposits, incentives to landlords, and holding fees for eligible persons, housing search assistance, case management and facilitate access to other community-based services.

**Operating Subsidies:** Operating subsidies in new and existing affordable or supportive housing units, emergency shelters, and navigation centers. Operating subsidies may include operating reserves.

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**Street Outreach:** Street outreach to assist eligible persons to access crisis services, interim housing options, and permanent housing and services.

**Services Coordination:** Services coordination, which may include access to workforce, education, and training programs, or other services needed to improve and promote housing stability for eligible persons, as well as direct case management services being provided to persons.

**Systems Support:** Systems support for activities that improve, strengthen, augment, complement, and/or are necessary to create regional partnerships and a homeless services and housing delivery system that resolves persons' experiences of unsheltered homelessness.

**Delivery of Permanent Housing:** Delivery of permanent housing and innovative housing solutions, such as unit conversions that are well suited for eligible persons.

**Prevention and Shelter Diversion:** Prevention and shelter diversion to permanent housing, including flexible forms of financial assistance, problem solving assistance, and other services to prevent people that have been placed into permanent housing from losing their housing and falling back into unsheltered homelessness. This category is only available to serve people who were formerly residing in the prioritized ERF encampment site.

**Interim Sheltering:** Interim sheltering, limited to newly developed clinically enhanced congregate shelters, new or existing non-congregate shelters, and operations of existing navigation centers and shelters based on demonstrated need that are well suited for eligible persons.

**Improvements to Existing Emergency Shelters:** Improvements to existing emergency shelters to lower barriers, increase privacy, better address the needs of eligible persons, and improve outcomes and exits to permanent housing.

**Administration:** up to 5% of awarded Program funds may be applied to administrative costs.

Program funds shall not be expended on Site Restoration or other Ineligible Costs as detailed immediately below.

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### 5. Ineligible Costs

ERF shall not be used for costs associated with activities in violation, conflict, or inconsistent with Health and Safety Code sections 50250 – 50254.5, other applicable laws, the terms and conditions of this Agreement, HCD guidance or directives, the NOFA under which the Grantee applied, representations contained in the Grantee's application, and the Purpose of the Program as detailed in [Exhibit A.2, Purpose](#).

Moreover, no parties to this contract nor their agents shall directly or indirectly use ERF awards for any use or activity that is in violation, conflict, or inconsistent with the legislative intent of the authorizing statute to ensure the safety and wellness of people experiencing homelessness in encampments. ERF funded activities that cause a traumatic effect are inconsistent with ensuring the safety and wellness of people experiencing homelessness in encampments.

HCD, at its sole and absolute discretion, shall make the final determination regarding the allowability of ERF expenditures.

HCD reserves the right to request additional clarifying information to determine the reasonableness and eligibility of all uses of the funds made available by this Agreement. If the Grantee or its funded subrecipients use ERF funds to pay for ineligible activities, the Grantee shall be required to reimburse these funds to HCD at an amount and timeframe determined by HCD.

An expenditure which is not authorized by this Agreement, or by written approval of HCD, or which cannot be adequately documented, shall be disallowed, and must be reimbursed to HCD by the Grantee at an amount and timeframe determined by HCD.

Program funds shall not be used to supplant existing local funds for homeless housing, assistance, prevention, or encampment resolution.

Unless expressly approved by HCD in writing reimbursements are not permitted for any Program expenditures prior to this Agreement's date of execution.

## EXHIBIT D

### **ERF GENERAL TERMS AND CONDITIONS**

#### 1. **Termination and Sufficiency of Funds**

##### A. **Termination of Agreement**

HCD may terminate this Agreement at any time for cause by giving a minimum of 14 days' notice of termination, in writing, to the Grantee. Cause shall consist of violations of any conditions of this Agreement, violation of any federal or state laws; or withdrawal of HCD's expenditure authority as described in [Exhibit D, Breach and Remedies](#). Upon termination of this Agreement, unless otherwise approved in writing by HCD, any unexpended funds received by the Grantee shall be returned to HCD within 30 days of HCD's specified date of termination.

##### B. **Sufficiency of Funds**

This Agreement is valid and enforceable only if sufficient funds are made available to HCD by legislative appropriation. In addition, this Agreement is subject to any additional restrictions, limitations or conditions, or statutes, regulations, or any other laws, whether federal or those of the State of California, or of any agency, department, or any political subdivision of the federal or State of California governments, which may affect the provisions, terms or funding of this Agreement in any manner.

#### 2. **Transfers**

Grantee may not transfer or assign by subcontract or novation, or by any other means, the rights, duties, or performance of this Agreement or any part thereof, except as allowed within [Exhibit D.12, Special Conditions – Grantees/Subgrantee](#) or with the prior written approval of HCD and a formal amendment to this Agreement to affect such subcontract or novation.

#### 3. **Grantee's Application for Funds**

Grantee submitted a standardized budget to HCD as part of their application for the Program.

Grantee warrants that all information, facts, assertions and representations contained in the application and approved modifications and additions thereto are true, correct, and complete to the best of the Grantee's knowledge. In the event that any part of the application, or any approved modification or addition thereto is untrue, incorrect, incomplete, or misleading in such a manner that would substantially affect HCD approval, disbursement, or monitoring of the funding and the grants or activities

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governed by this Agreement, then HCD may declare a breach of this Agreement and take such action or pursue such remedies as are legally available.

### 4. Reporting, Evaluation, and Audits

#### A. Reporting Requirements

##### 1) Timing and Format of Reports.

Grantee is required to provide HCD or its agents with all data and outcomes that may inform an assessment of the funded proposal. Grantees shall report quarterly, annually, and have one Final Work Product submitted prior to this Agreement's termination.

The quarterly, annual, and Final Work Product reports shall be submitted on a template to be provided by HCD at least 90 days prior to the first reporting deadline. HCD may request interim reports as needed and will provide no less than 30 days' notice to Grantees.

##### 2) Required Data

Grantees will be required to provide, at minimum:

- a) Outreach and service path data at the anonymized, individual level.
- b) Current housing status of persons served in the aggregate.
- c) Status of funding as presented in the HCD approved, standardized budget.
- d) Continued confirmation that projects receiving ERF funds are populated timely into HMIS and use HCD supplied funding codes.

HCD's discretion in identifying which information shall be included in these reports is final. Grantees shall also report information in the form and manner required by HCD. Failure to comply will be considered a breach.

Pursuant to HSC Section 50254.5, grantees shall provide data elements, including, but not limited to, health information, in a manner consistent with state and federal law, to their local Homeless Management Information System for tracking in the statewide Homeless Data Integration System.

Pursuant to HSC Section 50254.5(b)(2)(C), Grantees shall report individual, client-level data for persons served by grant funding to HCD, in addition to any data reported through local Homeless Management

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Information System, as required by HCD for the purposes of research and evaluation of grant performance, service pathways, and outcomes for people served.

Grantees shall comply with the data entry requirements of AB 977, located at Welfare and Institutions Code section 8256(d).

3) HCD usage of Reports

Pursuant to HSC Section 50254.5(b)(2)(D), HCD may use information reported directly from grantees and through statewide Homeless Data Integration System for the purposes of research and evaluation of grant performance, service pathways, and outcomes for people served.

4) Failure to Report

If the Grantee fails to provide any such report, HCD may recapture any portion of the amount authorized by this Agreement with a 14-day written notification.

### B. Evaluation

- 1) At HCD's discretion, Grantees shall participate in a program evaluation regarding their implementation of ERF awards. To support this effort, HCD will contract a third party to complete the evaluation.
- 2) Grantees are expected to be close partners with HCD for this program evaluation and for all evaluative aspects of this Program. This means timely and accurate reporting, candid communication of successes or challenges, and availability of persons, information, or materials. More specifically, Grantees must cooperate with HCD, or its designee as reasonably required to implement an evaluation plan. This includes providing or facilitating the collection of data and materials as reasonably requested by HCD or its designee.
- 3) For the purpose of evaluation, HCD or its designee may visit sites related to the project and film, tape, photograph, interview, and otherwise document Grantee's operations during normal business hours and with reasonable advance notice.
- 4) Grantees should maintain active data, documents, and filings in anticipation of this evaluation. Special care should be taken to organize

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and preserve internal work products that guided implementation by the Grantee or subgrantee.

- 5) Grantees shall notify HCD and provide copies of any reports or findings if Grantee conducts or commissions any third-party research or evaluation regarding their funded project.
- 6) All terms and conditions that apply to reporting similarly apply to evaluation.

### C. **Auditing**

HCD reserves the right to perform or cause to be performed a financial audit. At HCD request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. Should an audit be required, the Grantee shall adhere to the following conditions:

- 1) The audit shall be performed by an independent certified public accountant.
- 2) The Grantee shall notify HCD of the auditor's name and address immediately after the selection has been made. The contract for the audit shall allow access by HCD to the independent auditor's working papers.
- 3) The Grantee is responsible for the completion of audits and all costs of preparing audits.
- 4) If there are audit findings, the Grantee must submit a detailed response acceptable to HCD for each audit finding within 90 days from the date of the audit finding report.

## 5. **Inspection and Retention of Records**

### A. **Record Inspection**

HCD or its designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance under this Agreement. The Grantee agrees to provide HCD, or its designee, with any relevant information requested within 30 days of a written request.

The Grantee agrees to give HCD or its designee access to its premises, upon reasonable notice and during normal business hours, for the purpose of interviewing employees who might reasonably have information related to such

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records, and of inspecting and copying such books, records, accounts, and other materials that may be relevant to an investigation of compliance with the ERF laws, HCD guidance or directives, and this Agreement.

### B. **Record Retention**

The Grantee further agrees to retain all records described in subparagraph A for a minimum period of five (5) years after the termination of this Agreement.

If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been commenced before the expiration of the required record retention period, all records must be retained until completion of the action and resolution of all issues which arise from it.

### C. **Public Records Act**

The grantees' final ERF-4-L application, this contract, and other documents related to the grant are considered public records, which are available for public viewing pursuant to the California Public Records Act Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

## 6. **Breach and Remedies**

### A. **Breach of Agreement**

Breach of this Agreement includes, but is not limited to, the following events:

- 1) Grantee's failure to comply with the terms or conditions of this Agreement.
- 2) Use of, or permitting the use of, Program funds provided under this Agreement for any ineligible activities.
- 3) Any failure to comply with the deadlines set forth in this Agreement.

### B. **Remedies for Breach of Agreement**

In addition to any other remedies that may be available to HCD in law or equity for breach of this Agreement, HCD may:

- 1) Conduct program monitoring which will include a Corrective Action Plan (CAP) with findings, remedies, and timelines for resolving the findings.

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- 2) Bar the Grantee from applying for future ERF funds.
  - 3) Revoke any other existing ERF award(s) to the Grantee.
  - 4) Require the return of any unexpended ERF funds disbursed under this Agreement.
  - 5) Require repayment of ERF funds disbursed and expended under this Agreement.
  - 6) Require the immediate return to HCD of all funds derived from the use of ERF.
  - 7) Seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or participation in the technical assistance in accordance with ERF requirements.
- C. All remedies available to HCD are cumulative and not exclusive.
- D. HCD may give written notice to the Grantee to cure the breach or violation within a period of not less than 14 days.

7. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of HCD to enforce at any time the provisions of this Agreement, or to require at any time performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of HCD to enforce these provisions.

8. **Nondiscrimination**

During the performance of this Agreement, Grantee and its subrecipients shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity, gender expression, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), genetic information, marital status, military and veteran status, denial of medical and family care leave or pregnancy disability leave, or any other characteristic protected by state or federal law. Grantees and Sub grantees shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and its subrecipients shall comply with the provisions

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of California's laws against discriminatory practices relating to specific groups: the California Fair Employment and Housing Act (FEHA) (Gov. Code, Section 12900 et seq.); the regulations promulgated thereunder (Cal. Code Regs., tit. 2, Section 11000 et seq.); and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, Section 11135 - 11139.5). Grantee and its subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

### 9. Conflict of Interest

All Grantees are subject to state and federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Additional applicable statutes include, but are not limited to, Government Code Section 1090 and Public Contract Code Sections 10410 and 10411.

- A. **Current State Employees:** No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent Grantee with any State agency to provide goods or services.
- B. **Former State Employees:** For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.
- C. **Employees of the Grantee:** Employees of the Grantee shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the Political Reform Act of 1974 (Gov. Code, Section 81000 et seq.).
- D. **Representatives of a County:** A representative of a County serving on a board, committee, or body with the primary purpose of administering funds or making

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funding recommendations for applications pursuant to this chapter shall have no financial interest in any contract, program, or project voted on by the board, committee, or body on the basis of the receipt of compensation for holding public office or public employment as a representative of the County.

### 10. **Drug-Free Workplace Certification**

Certification of Compliance: By signing this Agreement, Grantee hereby certifies, under penalty of perjury under the laws of State of California, that it and its subrecipients will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, Section 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

Publish a statement notifying employees and subrecipients that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, Grantees, or subrecipients for violations, as required by Government Code Section 8355, subdivision (a)(1).

- A. Establish a Drug-Free Awareness Program, as required by Government Code Section 8355, subdivision (a)(2) to inform employees, Grantees, or subrecipients about all of the following:
  - 1) The dangers of drug abuse in the workplace.
  - 2) Grantee's policy of maintaining a drug-free workplace.
  - 3) Any available counseling, rehabilitation, and employee assistance program.
  - 4) Penalties that may be imposed upon employees, Grantees, and subrecipients for drug abuse violations.
  
- B. Provide, as required by Government Code Section 8355, subdivision (a)(3), that every employee and/or subrecipient that works under this Agreement:
  - 1) Will receive a copy of Grantee's drug-free policy statement, and
  - 2) Will agree to abide by terms of Grantee's condition of employment or subcontract.

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11. **Child Support Compliance Act**

For any Contract Agreement in excess of \$100,000, the Grantee acknowledges in accordance with Public Contract Code 7110, that:

- A. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The Grantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

12. **Special Conditions – Grantees/Subgrantee**

The Grantee agrees to comply with all conditions of this Agreement including the Special Conditions set forth in [Exhibit E](#). These conditions shall be met to the satisfaction of HCD prior to disbursement of funds. The Grantee shall ensure that all Subgrantees are made aware of and agree to comply with all the conditions of this Agreement and the applicable State requirements governing the use of ERF. Failure to comply with these conditions may result in termination of this Agreement.

- A. The Agreement between the Grantee and any Subgrantee shall require the Grantee and its Subgrantees, if any, to:
  - 1) Perform the work in accordance with Federal, State and Local housing and building codes, as applicable.
  - 2) Maintain at least the minimum State-required worker's compensation for those employees who will perform the work or any part of it.
  - 3) Maintain, as required by law, unemployment insurance, disability insurance, and liability insurance in an amount that is reasonable to compensate any person, firm or corporation who may be injured or damaged by the Grantee or any Subgrantee in performing the Work or any part of it.
  - 4) Agree to include and enforce all the terms of this Agreement in each subcontract.

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### 13. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

The Grantee agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, environmental protection, equal opportunity, land use, homelessness, housing element, fair housing, and all other matters applicable and/or related to the ERF program, the Grantee, its subrecipients, and all eligible activities.

Grantee shall also be responsible for obtaining any and all permits, licenses, and approvals required for performing any activities under this Agreement, including those necessary to perform design, construction, or operation and maintenance of the activities. Grantee shall be responsible for observing and complying with any applicable federal, state, and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental protection, procurement, and safety laws, rules, regulations, and ordinances. Grantee shall provide copies of permits and approvals to HCD upon request.

### 14. **Inspections**

- A. Grantee shall inspect any work performed hereunder to ensure that the work is being and has been performed in accordance with the applicable federal, state and/or local requirements, and this Agreement.
- B. HCD reserves the right to inspect any work performed hereunder to ensure that the work is being and has been performed in accordance with the applicable federal, state and/or local requirements, and this Agreement.
- C. Grantee agrees to require that all work that is determined based on such inspections not to conform to the applicable requirements be corrected and to withhold payments to the subrecipient until it is corrected.

### 15. **Litigation**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of HCD, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are and shall be deemed severable.
- B. The Grantee shall notify HCD immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or HCD, and shall take

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such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of HCD.

## EXHIBIT E

### SPECIAL TERMS AND CONDITIONS

1. All proceeds from any interest-bearing account established by the Grantee for the deposit of funds, along with any interest-bearing accounts opened by subrecipients to the Grantee for the deposit of funds, must be used for eligible activities. Grantees must maintain records of all expenditures of the proceeds from these interest-bearing accounts for five (5) years and report on these expenditures as required by HCD. HCD reserves the right to perform or cause to be performed a financial audit on the use of proceeds from interest bearing accounts.
2. Grantee shall utilize its local Homeless Management Information System (HMIS) to track ERF projects, services, and clients served. Grantee will ensure that HMIS data are collected in accordance with applicable laws and in such a way as to identify individual projects, services, and clients that are supported by funding (e.g., by creating appropriate ERF-specific funding sources and project codes in HMIS).
3. Grantee shall participate in and provide data elements, including, but not limited to, health information, in a manner consistent with federal law, to their local Homeless Management Information System for tracking in the statewide Homeless Data Integration System, in accordance with their existing Data Use Agreement entered into with the Council, if any, and as required by Health and Safety Code Section 50254.5. Any health information provided to, or maintained within, the statewide Homeless Management Information System shall not be subject to public inspection or disclosure under the California Public Records Act. For purposes of this paragraph, "health information" means "protected health information," as defined in Part 160.103 of Title 45 of the Code of Federal Regulations, and "medical information," as defined in subdivision (j) of Section 56.05 of the Civil Code. The Council or HCD may, as required by operational necessity, amend or modify required data elements, disclosure formats, or disclosure frequency. Additionally, the Council, at its discretion, may provide Grantee with aggregate reports and analytics of the data Grantee submits to HDIS in support of the Purpose of this Agreement and the existing Data Use Agreement.
4. Grantee agrees to accept technical assistance as directed by HCD or by a contracted technical assistance provider acting on behalf of HCD. Grantee will report to HCD on programmatic changes the Grantee will make as a result of the technical assistance and in support of their grant goals.
5. Grantee should establish a mechanism for people with lived experience of homelessness to have meaningful and purposeful opportunities to inform and shape all levels of planning and implementation, including through opportunities to hire people with lived experience.

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6. HCD maintains sole authority to determine if a Grantee is acting in compliance with the program objectives and may direct Grantees to take specified actions or risk breach of this Agreement. Per HSC Section 50252.1(d), HCD has authority to:
  - A. Monitor grantee performance.
  - B. Require a grantee not meeting goals to accept technical assistance from the Department.
  - C. Limit the allowable uses of program funds for a grantee that is not meeting goals.
7. Grantees will be provided reasonable notice and HCD's discretion in making these determinations are absolute and final.
8. **Non-Bond Funded**

The Department represents that the intent of [Exhibit D.1.B, Sufficiency of Funds](#) is only to preserve the legislature's ability to make changes to appropriations and matters that are lawfully subject to change through the Budget Act. The Department represents and warrants that as of the date of this Agreement the non-bond funds referenced in the Encampment Resolution Funding Program, Round 3 Notice of Funding Application dated November 27, 2023, for this Agreement are appropriated to and available for the purposes of this Agreement, and further, that upon execution of this Agreement said funds are deemed allocated to and encumbered for the purposes described in this Agreement and shall not be terminated or reduced as a result of [Exhibit D.1.B, Sufficiency of Funds](#) once construction has commenced in compliance with Program requirements and in accordance with the construction commencement requirements within this Agreement. If not continuously appropriated, said funds must still be disbursed prior to any applicable disbursement or expenditure deadline set forth in this Agreement.