



**Contract Number**

**SAP Number**

## Community Development and Housing

**Department Contract Representative** Gary Hallen, Director  
**Telephone Number** (909) 387-4324

**Contractor** Lutheran Social Services of Southern California

**Contractor Representative** LaSharnda Beckwith, President and CEO

**Telephone Number** (909) 366-3287

**Contract Term** February 1, 2022 - October 26, 2023

**Total Contract Amount** \$250,000

**Cost Center** \$66,750 (Fed-ESG-CV: 6210002483)  
\$50,000 (Fed-ESG-21-22: 6210002482)  
\$133,250 (State-ESG-CV: 6210002488)

### IT IS HEREBY AGREED AS FOLLOWS:

This Contract is made and entered into, by and between San Bernardino County, hereinafter referred to "COUNTY," and Lutheran Social Services of Southern California, hereinafter referred to as "CONTRACTOR."

### RECITALS

**WHEREAS,** COUNTY was awarded \$4,246,600 of Emergency Solutions Grant on or about February 19, 2021, by the State of California Housing and Community Development, hereinafter referred to as "HCD," under the second allocation of Emergency Solutions Grants (ESG), as authorized by the Coronavirus Aid, Relief, and Economic Security Act (State CARES Act), Public Law 116-136, hereinafter referred to as "State ESG-CV" funds. These special State ESG-CV funds are to be used to prevent, prepare for, and respond to the Coronavirus pandemic, hereinafter referred to as "COVID-19" among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19; and,

**WHEREAS,** COUNTY was awarded \$8,594,080, on or about June 1, 2020, by the United States Department of Housing and Urban Development, hereinafter referred to as "HUD," under the allocation of Emergency Solutions Grants (ESG), as authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, hereinafter referred to as "Federal ESG-CV" funds. These special ESG-

CV funds are to be used to prevent, prepare for, and respond to the Coronavirus pandemic, hereinafter referred to as “COVID-19” among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19; and,

**WHEREAS**, COUNTY was awarded \$635,741 (Grant #E20UC060503), on or about October 23, 2020 of County Program year 2020-2021 (ESG 20-21) Contract and \$633,286 (Grant #E21UC060503) on or about October 27, 2021 for the County program year 2021-2022 (ESG 21-22) Contract by HUD under the allocation of Emergency Solutions Grants (ESG) pursuant to the Homeless Emergency Assistance and Rapid Transition To Housing (HEARTH) Act, hereinafter referred as “Federal and State ESG Program”. These funds are to serve persons experiencing homeless or at risk of homelessness to receive assistance; and,

**WHEREAS**, COUNTY was awarded \$299,449 on or about September 9, 2021 by the State of California HCD for program year 20-21 (Contract # 20-ESG-15572), hereinafter collectively referred to as “State ESG Fund”; and,

**WHEREAS**, income limits for ESG-CV funds for the Homelessness Prevention activity have been increased from thirty percent (30%) of the Area Median Income (AMI) to fifty percent (50%) AMI; and,

**WHEREAS**, COUNTY is considered to be a recipient and CONTRACTOR is considered a subrecipient of the Emergency Solutions Grant, Catalogue of Federal Domestic Assistance (CFDA) No. 14.231; and,

**WHEREAS**, COUNTY Unique Entity Identifier (DUNS) is 073590812; and,

**WHEREAS**, the Federal Award Identification Number (FAIN) of the funding is E-20-UW-06-0503; and,

**WHEREAS**, On August 25, 2020 (Item No. 75), the County Board of Supervisors approved the Substantial Amendment to the 2015-2020 Consolidated Plan which incorporated the ESG-CV funds received as part of the CARES Act resulting from the COVID-19 pandemic and identified the purposed uses for the funds; and,

**WHEREAS**, COUNTY desires to award the CONTRACTOR a total of \$250,000 of ESG State CV, Federal-CV, and Federal FY 21-22, and to be retroactive from February 1, 2022 through October 26, 2023; and,

**WHEREAS**, COUNTY desires to contract with CONTRACTOR for Street Outreach, Emergency Shelter, Homeless Management Information System (HMIS) and Administration ESG services as follows: State ESG-CV for the amount of \$133,250 with an expenditure deadline of July 30, 2022; County ESG-CV for the amount of \$66,750 with an expenditure deadline of September, 30, 2022; Federal ESG 21-22 for the amount of \$50,000 with an expenditure deadline of October 26, 2023 for the CONTRACTOR to perform specific duties in conformance with the specific funding and in accordance with the Scope of Work and Budget, attached hereto as Exhibit 1 and incorporated herein by this reference; and,

**WHEREAS**, CONTRACTOR is subjected to the ESG one hundred percent (100%) match requirement of 24 CFR 576.201, using other resource of equivalent services, for Federal ESG 21-22 funds, for the amount of \$50,000. CONTRACTOR does not require a match for any State CV or Federal CV funds awarded; and,

**WHEREAS**, as provided by the CARES Act, “the recipient may deviate from the applicable procurement standards (e.g., 24 CFR 576.407(c) and (f) and 2 CFR 200.317-200.326) when procuring goods and services to prevent, prepare for, and respond to coronavirus”; and,

**WHEREAS**, procurement of the **CONTRACTOR**, on November 17, 2021, the COUNTY Community Development and Housing Department (CDH) issued a Notice of Funding Availability (NOFA) No. CDH-2021-ESG to solicit and identify qualified service providers to apply for ESG Funding to include ESG-CV of State and Federal, and Multiple Program years 2020-2025 of State and Federal funding provide homeless services. CONTRACTOR responded with a written submission to participate in all activities to include prevent, prepare

for, and respond to the Coronavirus pandemic for ESG-CV funds, and possesses the required qualifications, experience and expertise to provide services and is willing to use federal and state funds to operate the program to serve individuals and families who are homeless or at-risk of homelessness; and,

**WHEREAS**, CONTRACTOR will provide for State ESG-CV eligible services and the Federal ESG-CV funds will only be used for necessary and reasonable costs allowable under federal law and regulations to operate the ESG-CV program only. The usage of funds shall be to provide all or some of the ESG-CV eligible activities as set forth in 24 CFR §576.101- §576.107, as specifically defined in Exhibit 2 and incorporated herein by this reference. In addition, CONTRACTOR may use the ESG-CV funding for eligible costs and activities as defined and permitted in accordance with HUD Notices CPD 20-08 and CPD 21-08. Any subsequent guidance related to the ESG-CV funding, released by HUD or other governing body(ies) at the time of this Agreement or at a later date shall apply; and,

**WHEREAS**, the COUNTY ESG Funds program were previously restricted in use to only the COUNTY ESG Service Areas of Adelanto, Barstow, Big Bear Lake, Colton, Grand Terrace, Highland, Loma Linda, Montclair, Needles, Redlands, Twentynine Palms, Yucaipa, Yucca Valley, and unincorporated areas of the County; however, in accordance with the HUD-mandate to implement a centralized and coordinated assessment system (HUD Notice CPD-17-01), the COUNTY implemented and utilizes the Coordinated Entry System (CES) to assess and prioritize the most vulnerable of the homeless population. The use of CES makes the use of Federal ESG Funds allowable throughout the entire county and ESG funds are no longer area-restricted; and,

**WHEREAS**, CONTRACTOR agrees to operate the ESG program in conformance to and compliance with the CES HUD-mandate. CONTRACTOR agrees to receive referrals from CES prior to providing services with the exception of Homeless Prevention. CONTRACTOR agrees that initial reverse-referrals must be entered into CES for homeless prevention services to clients within seventy-two (72) hours from initial service delivery and/or intake. CONTRACTOR agrees to engage CES and retrieve policies and procedures to access referrals; and,

**WHEREAS**, COUNTY imposes all requirements of the ESG-CV funds upon the CONTRACTOR to ensure the use of funds is in accordance with Federal and State statutes, regulations and terms and conditions of the HCD award and HUD award; and,

**WHEREAS**, CONTRACTOR agrees to comply with all State and Federal statutes, regulations and terms and conditions concerning grant administration, including but not limited to, recordkeeping, billing, and closeout of the grant; and,

**WHEREAS**, CDH is authorized to act on behalf of COUNTY in administering the ESG grant programs; and,

**NOW, THEREFORE**, in consideration of the mutual covenants herein set forth and the mutual benefits to be derived therefrom, the parties agree that the recitals above are herein incorporated and agree as follows:

## 1. TERMS OF AGREEMENT

The grant amount is \$250,000 for the period between February 1, 2022 to October 26, 2023, and is subject to expenditures requirement described herein. The State ESG-CV funds of \$133,250 for program year 2020-2022 must be expended on or before July 30, 2022. Any extension would be at the sole discretion of the County subject to HCD approval.

The Federal ESG-CV of \$66,750 must be expended on or before September 30, 2022. Any extension would be at the sole discretion of the County subject to HUD approval.

The Federal ESG 21-22 of \$50,000 must be expended on or before October 26, 2023. Any extension would be at the sole discretion of the County subject to HUD approval.

The CONTRACTOR shall submit monthly reimbursement claims due 30 days after the closing of each month.

The grant award amount is as follows:

Funding Source	Award Amount	Expiration Date
State ESG-CV	\$133,250	July 30, 2022
Federal ESG-CV	\$66,750	September 30, 2022
Federal ESG 21-22	\$50,000	October 26, 2023
Grand Total	\$250,000	October 26, 2023

No more than the amounts specified in the Eligible Uses, Budget Summary and Accomplishment Goals, attached hereto as **Exhibit 1 - BUDGET ALLOCATION AND ACCOMPLISHMENT GOALS** may be spent for the separate cost categories specified in the Budget Summary without prior written approval of the COUNTY.

The term of this Contract begins February 1, 2022, and ends October 26, 2023, unless terminated earlier as provided in Section 16, General Contract Terms. Any extension of time or rollover of unexpended funds would be at the sole and absolute discretion of the COUNTY, in accordance with applicable rules and regulations, as imposed by HCD and/or HUD.

The COUNTY's Community Development and Housing Director may grant time, performance, or activity budget modifications to this Contract when such modifications:

- a) In aggregate, do not exceed grant thresholds;
- b) Do not exceed more than two per COUNTY'S fiscal contract year when specifically requested by CONTRACTOR;
- c) Will not change the project goals beyond the thresholds as established by the Citizen Participation Plan (on file with COUNTY) or scope of services;
- d) Are in the best interests of the COUNTY and CONTRACTOR in performing the scope of services under this Contract;
- e) Do not alter the amount of compensation under this Contract; and
- f) Do not exceed the amount of the County funded activity set forth in the County Action Plan.

## 2. SCOPE OF SERVICES

### Eligible Uses – Direct Services Provided

The project description for services to be provided by CONTRACTOR under this Contract are identified in **Exhibit 1 – BUDGET ALLOCATION AND ACCOMPLISHMENT GOALS**, which includes the Scope of Work for services to be rendered. Eligible uses of the funding are also defined in **Exhibit 2 - ESG GENERAL PROGRAM DESCRIPTION** and are to be rendered in accordance with **Exhibit 3 - ESG PROGRAM REQUIREMENTS**. CONTRACTOR must use all other required forms and certifications

included in Exhibits 4 through 18. The provision of required beneficiary information to validate that claim reimbursements meet HUD ESG Regulations is also required.

### **Accomplishments – Goals and Performance Measures**

CONTRACTOR shall be responsible to accomplish the levels of performance as set forth in Exhibit 1 - **BUDGET ALLOCATION AND ACCOMPLISHMENT GOALS** and report such measures monthly to COUNTY with each reimbursement request. COUNTY will review performance with CONTRACTOR on a quarterly basis to assess expenditure and performance progress. If CONTRACTOR is not meeting expenditure and performance measures, COUNTY will work with CONTRACTOR to identify strategies to identify and remediate performance issues. Prior to recapturing funds as described above, COUNTY will provide the CONTRACTOR with an opportunity to provide a spending plan demonstrating to COUNTY'S satisfaction that all the CONTRACTOR'S ESG-CV funds are able to meet expected benchmarks and expiration of funds.

### **3. SERVICE AREAS**

Eligible beneficiaries to be served include homeless and at-risk of becoming homeless individuals and families throughout San Bernardino County, including all incorporated and unincorporated areas of the COUNTY (Countywide).

### **4. PARTICIPANT REQUIREMENTS**

The following shall be required by CONTRACTOR for individuals who wish to participate in services. CONTRACTOR must ensure:

A. **HOMELESS DEFINITION** - Each prospective beneficiary meets one of the HUD Homeless definitions, as defined in 24 CFR §576.2:

#### **1. Category 1 – Literally Homeless**

An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
- iii. An individual who is exiting an institution where he or she resided for ninety (90) days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

#### **2. Category 2 – Imminent Risk of Homelessness**

An individual or family who will imminently lose their primary nighttime residence, provided that:

- i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
- ii. No subsequent residence has been identified; and

- iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.

**3. Category 3 – Homeless Under Other Federal Statutes**

Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

- i. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
- ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the sixty (60) days immediately preceding the date of application for homeless assistance;
- iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and,
- iv. Can be expected to continue in such status for an extended period of time due to special needs or barriers.

**4. Category 4 – Fleeing Domestic Abuse or Violence** Any individual or family who:

- i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
- ii. Has no other residence; and
- iii. Lacks the resources or support networks to obtain other permanent housing.

**B. AT RISK OF HOMELESSNESS DEFINITION** - Each prospective beneficiary meets one of the HUD At-Risk of Homeless definitions, as defined in 24 CFR §576.2:

**1. Category 1 – An individual or family who:**

- i. Has an annual income below 50% percent of area median income for the area, for San Bernardino County area for CV funds and below 30% area median income for regular funds not utilizing current waivers in place, as determined by HUD;
- ii. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "homeless" definition in this section; and:
  - a. Meets one of the following conditions: Has moved because of economic reasons two or more times during the sixty (60) days immediately preceding the application for homelessness prevention assistance;

- b. Is living in the home of another because of economic hardship;
- c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
- d. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
- e. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
- f. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- g. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.

## 2. **Category 2 – Unaccompanied Children and Youth**

A child or youth who does not qualify as homeless under the homeless definition, but qualifies as homeless under another under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a (3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C., 14043e–2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C.)

## 3. **Category 3 – Families with Children and Youth**

An unaccompanied youth who does not qualify as homeless under the homeless definition but qualifies as homeless under section 725(2) of the McKinney-Vento Homeless Assistance Act, and the parent(s) or guardian(s) or that child or youth if living with him or her.

### C. ELIGIBILITY BY COMPONENT:

#### 1. Homeless

- a. Street Outreach: Individuals defined as homeless under the following categories are eligible for assistance in Street Outreach:
  - 1. Category 1 = Literally Homeless
  - 2. Category 4 = Fleeing/Attempting to Flee DV (where the individual or family also meets the criteria for Category 1)

Additional limitation on eligibility: Individuals and families must be living on the streets (or other places not meant for human habitation) and be unwilling or unable to access services in emergency shelter.

- b. Emergency Shelter: Individuals and families defined as Homeless under the following categories are eligible for assistance in Emergency Shelter projects:
  - 1. Category 1 = Literally Homeless
  - 2. Category 2 = Imminent Risk of Homeless

3. Category 3 = Homeless Under Other Federal Statutes 4. Category 4 = Fleeing/Attempting to Flee DV
- c. Rapid Re-housing: Individuals defined as Homeless under the following categories are eligible for assistance in Rapid Re-Housing projects:
  1. Category 1 = Literally Homeless
  2. Category 4 = Fleeing/ Attempting to Flee DV
- d. Homelessness Prevention: The following are eligible for assistance in Homeless Prevention projects:
  1. People who have an annual income below 50% AMI AND meet the “at risk of homeless” meet the “homeless” definition under the following categories:
    - a. Category 2 = Imminent Risk of Homeless
    - b. Category 3 = Homeless Under Other Federal Statutes
    - c. Category 4 = Fleeing Abuse and Domestic Violence 2. People who have an annual income below 50% AMI AND meet the “at risk of homeless” definition under the following categories:
      1. Category 1 = Individuals and Families
      2. Category 2 = Unaccompanied Children and Youth
      3. Category 3 = Families with Children and Youth

ESG beneficiaries meet HUD program income requirement (50% or less of Area Median Income for CARES ACT ESG funding and 30% or less of Area Median Income for non-CARES ACT ESG funding unless waiver, which expires October 21, 2022, is in place or otherwise extended by HUD):

1. At initial certification AND recertification for ESG beneficiaries seeking assistance under Category 2 – At-Risk of Homelessness; and,
  2. Only at recertification, not at initial certification for ESG beneficiaries seeking continual assistance under:
    - a. Category 1 – Literally Homeless; or
    - b. Category 3 – Homeless Under Other Federal Statutes; or
    - c. Category 4 – Fleeing Domestic Abuse or Violence.
- D. Have been referred by CES to CONTRACTOR or CONTRACTOR has reverse-referred program participant to CES for assessment (this does not apply to Category 4).
- E. CONTRACTOR coordinates services program enrollment and services in collaboration with CES.
- F. ESG beneficiaries meet the prioritization criteria and have been prioritized by CES.
- G. Services rendered to ESG beneficiaries meet cost eligibility as set forth in 24 CFR §576.101 – 576.107 and 2 CFR Part 200.

## 5. CONTRACTOR REQUIREMENTS

The following shall be required by CONTRACTOR:

- A. Compliance with all applicable federal, state, and local laws, required to execute and perform this contract. CONTRACTOR may be required to repay CDH or HCD in the event of non-compliance with

any applicable law if CDH is required to pay any amount of funds to HCD as a result of CONTRACTOR'S non-compliance.

- B. Review, understanding, and certification that reimbursement claims submitted to the COUNTY meet eligible expenses under the Emergency Solutions Grant, HCD and HUD requirements. CONTRACTOR further acknowledges that the source of the ESG Funds is a federal pass-through grant to the Subrecipient. The COUNTY shall have no obligation to advance or pay the CONTRACTOR with any funds.
- C. CONTRACTOR attests that by submitting a reimbursement claim to CDH it has completed all due diligence necessary and verified eligibility of ESG and ESG-CV Grant funding. CONTRACTOR may be required to repay CDH, HUD or HCD for non-eligible reimbursement claims that may inadvertently be processed by COUNTY.
- D. CONTRACTOR verifies that reimbursement requests for rental assistance do not exceed Fair Market Rents (FMR) as defined by HUD unless waivers are in place and confirms that rental assistance has been issued directly to a property owner or an agent authorized to act on behalf of a property owner.
- E. CONTRACTOR must work in collaboration with the CES System and the Continuum of Care (CoC), to ensure the screening, assessment, and referral of ESG beneficiaries are consistent with the COUNTY'S written standards for providing ESG assistance, as described in the consolidated plan. CONTRACTOR must provide documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the CoC in accordance with the requirements established by HUD (24 CFR § 576.400).
- F. CONTRACTOR must conduct initial evaluations, upon receipt of program participant referral from CES, and re-evaluations to determine the eligibility of each individual or family eligibility for ESG assistance in accordance with 24 CFR § 576.401.
- G. CONTRACTOR may terminate assistance if program participant violates program requirements. Termination of assistance must be in accordance with a formal process as established by the CONTRACTOR that recognizes the rights of the individuals affected (24 CFR § 576.402).
- H. CONTRACTOR must certify that shelters and all housing provided through ESG Activities §576.103 - Homelessness Prevention; §576.104 - Rapid Re-housing meet Habitability Standards.

(Exhibit 9 - Habitability Standards Certification) in conformance to 24 CFR § 576.403. During COVID-19, HUD has made concessions to allow for the inspections to be conducted using electronic and technological methods such as with date-stamped video and/or photographs. Upon the expiration of the quarantine orders related to COVID-19 pandemic, the onsite, physical inspections must be conducted within 120 days. In addition, CONTRACTOR must ensure the unit meets Lead-Based Paint requirements.

- I. CONTRACTOR must ensure all program beneficiaries meet income requirements. CONTRACTOR may utilize the Income Calculator, as provided by HUD, which is an internet based interface (Exhibit 13 – CPD Income Calculator) or CONTRACTOR may utilize the Excel based spreadsheet (Exhibit 5- Income Eligibility Calculation Worksheet) provided by COUNTY.
- J. CONTRACTOR must utilize Exhibit 10 - ESG Income Limits, Fair Market Rents and Utility Allowance Schedule to ensure program beneficiaries meet ESG income requirements and all housing assistance provided under ESG meets FMR and Rent Reasonableness standards. COUNTY will be responsible to provide CONTRACTOR with an updated Exhibit 10 - ESG Income Limits, Fair Market Rents and Utility Allowance Schedule as income limits, FMRs and Utility Allowance Schedules, as updates and effective dates are made available by issuing agencies.

## 6. BUDGET SECTION

No more than the amounts specified in **Exhibit 1 – BUDGET ALLOCATION AND ACCOMPLISHMENT GOALS** may be spent for the separate cost categories specified in the Budget Summary without prior written approval of the COUNTY.

The COUNTY reserves the right to reduce the grant allocation when the COUNTY fiscal monitoring indicates that CONTRACTOR'S rate of expenditure will result in unspent funds at the end of the program year or if it is determined that costs incurred are not in conformance with eligible costs as defined by 24 CFR §576.101 – 576.107 and 2 CFR Part 200. Changes in the grant allocation will be done after consultation with CONTRACTOR. Such changes shall be incorporated into this Contract by written amendment(s).

Contractor-initiated activity-level Budget modifications shall be allowed upon review and approval by the Department's Deputy Executive Officer or Director, the modifications shall be limited to a maximum of two (2) per Contract period as specified under "Terms of Agreement" Section 1(b) and must be in compliance with amendment thresholds, as defined by the County's Citizen Participation Plan and grant guidelines, on file with the COUNTY. Budget modifications must be justified and not had adversely impact overall performance measures, as reported to HCD.

The CONTRACTOR will submit a final request for reimbursement no later than 30 days after each expenditure deadline per funding source (30 days after expiration date of funds). See section 1 Terms of Agreement table with specified dates per funding source.

## 7. USE OF FUNDS

Funds allocated pursuant to this Contract shall be used exclusively for costs included in CONTRACTOR'S program budget. Contract funds shall not be used as security or to guarantee payments for any non-program obligations, nor as loans for non-program activities.

CONTRACTOR must submit request for reimbursement no later than thirty (30) days after the close of the service period (i.e., services ending March 30 must be submitted for reimbursement no later than April 30) with all supporting documentation (i.e., proof of payment such as cancelled checks or bank statements, invoices, timesheets/payroll reports, activity logs, purchase orders, etc.) to accompany any expenses being requested for reimbursement. Please refer to **Exhibit - 12 Claims Checklist**. Requests for reimbursements submitted more than ninety (90) days after the close of the service period are subject to be denied and not reimbursed unless CONTRACTOR is able to substantiate extenuating circumstances and obtain approval from COUNTY with prior notice.

CONTRACTOR must demonstrate timely use of funds meeting the following expenditure and performance benchmarks, as defined in Section 2 – Scope of Services.

## 8. REVENUE DISCLOSURE REQUIREMENT

By its execution of this Contract, CONTRACTOR certifies that it has previously filed with CDH, a written statement listing all revenue received, or expected to be received, by CONTRACTOR from federal, state, city or COUNTY sources, or other governmental or private agencies, and applied or expected to offset, in whole or in part, any of the costs incurred by CONTRACTOR in conducting current or prospective projects or business activities, including, but not necessarily limited to, the project or business activity which is the subject of this Contract. Such statement shall reflect the name and a description of such project or business activity, the dollar amount of funding provided, or to be provided, by each and every agency to each project or business activity, and the full name and address of each such agency.

Substantial modifications to such statement shall be submitted, with CONTRACTOR'S next, subsequent monthly reimbursement claim. CONTRACTOR shall make available for inspection and audit to COUNTY

representatives, upon request, at any time during the duration of this Contract and during a period of five (5) years thereafter, all of its books and records relating to the operation by it of the project or business activity, which is the subject of this Contract, funded in whole or in part with governmental monies, whether or not such monies are received through the COUNTY. All such books and records pertaining to the project or business activity which is the subject of this Contract shall be maintained by CONTRACTOR at a location in the COUNTY. Failure of CONTRACTOR to comply with the requirements of this section of the Contract shall constitute a material breach of the Contract, upon which the COUNTY may cancel, terminate, or suspend this Contract.

## 9. JOINT FUNDING

For all programs and services for which there are sources of funds in addition to COUNTY funds as provided under this Contract, CONTRACTOR shall provide proof of such funding. The COUNTY shall NOT pay for any services provided by CONTRACTOR, which are funded by other sources. All restrictions and/or requirements provided in this Contract relative to accounting, budgeting, and reporting apply to the total program regardless of funding sources.

## 10. MATCHING FUNDS

CONTRACTOR must match dollar-for-dollar for regular State and Federal ESG funds from other public or private sources and will provide Funding/Match Report and submit monthly Match Report updates, as shown in Exhibit 4- **SERVICE PROVIDER AGENCY GRANT MATCH REQUIREMENTS.**

- A. Provide matching funds itself, or
- B. Through matching funds or voluntary efforts by any recipient or project sponsor, or
- C. By credited matching of equivalent services rendered during program year.

Matching funds report must be provided by the CONTRACTOR. Funds used to match another grant, or a previous ESG grant, may not be used to match a subsequent grant award.

CONTRACTOR/Grantees/recipients may use any of the following in calculating the amount of matching funds provide:

- Cash;
- the value or fair rental value of any donated material or building;
- the value of any lease on a building;
- any salary paid of staff to carry out the program of the recipient; and
- the value of the time and services contributed by volunteers to carry out the program of the recipient at a current rate of twenty-one dollars (\$21) per hour. (Note: Volunteers providing professional services such as medical or legal services are valued at the reasonable and customary rate in the community).

CONTRACTOR is not required to meet a matching requirement for the ESG-CV funding provided by the CARES Act.

## 11. PROGRAM INCOME

Program income, as defined in 2 CFR §200.307 and 2 CFR 200.80 represents net income directly generated from the use of ESG funds by CONTRACTOR as a result of the activity funded under the terms of this Contract. When such income is generated by an activity only partially assisted with ESG funds, the income shall be prorated to reflect the percentage of ESG funds used. CONTRACTOR shall retain the use of program income by returning program income to the COUNTY and requesting project budget increases for activities authorized under this Contract. Program income shall be returned to the

COUNTY within thirty (30) days after: a) disposition or sale of real or personal property occurs; b) cumulative program income reaches increments of one thousand dollars (\$1,000); or c) the end of each fiscal year. CONTRACTOR shall include the reports required by Section 13, Program Reporting, from all sources and amounts of program income on a monthly and year-to-date basis.

Program income returned by the COUNTY to CONTRACTOR shall be spent by CONTRACTOR on only those costs authorized under this Contract. All provisions of this Contract shall apply to said use of program income funds. CONTRACTOR shall account for the receipt and use of program income in such a way that program income is spent on authorized activities before additional ESG funds are spent.

Any program income on hand when this Contract expires or is received after such expiration shall be remitted to COUNTY.

## **12. USE OF FUNDS FOR ENTERTAINMENT, GIFTS, OR FUNDRAISING ACTIVITIES**

CONTRACTOR certifies and agrees that it will not use funds provided through this Contract to pay for entertainment, gifts, or fundraising activities.

## **13. PROGRAM REPORTING AND RETENTION OF RECORDS**

CONTRACTOR agrees to prepare and submit financial, program progress, and other reports as required by HCD or COUNTY directives. CONTRACTOR shall maintain such program, property, personnel, financial, statistical, and other records, supporting documents, and accounts as are considered necessary by HCD or COUNTY to assure proper accounting for all Contract funds. Said records, documents and accounts are to be retained by CONTRACTOR for a minimum of five (5) years. The retention period starts from the date the COUNTY submits its consolidated annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the service under the terms of this Contract is reported on for the final time. Said COUNTY submission will follow CONTRACTOR'S final submission to COUNTY of reports identified under this paragraph. Records and accounts subject to litigation or audit must be maintained for five (5) years or until the issue is resolved, whichever is longer. Records that pertain to real estate transactions must be maintained for five (5) years or the number of years there is an outstanding obligation, whichever is longer. All CONTRACTOR'S records, with the exception of confidential client information, shall be made available to representatives of COUNTY and the appropriate federal agencies. CONTRACTOR is required to submit data necessary to complete the Consolidated Annual Performance and Evaluation Report (CAPER) in accordance with HUD regulations in the format and at the time designated by the Community Development and Housing Director or his/her designee. By the thirtieth (30<sup>th</sup>) of each month, CONTRACTOR shall submit required fiscal reimbursement forms and the HMIS REPORT, Exhibit 16, for the month being reported, as necessary to track program accomplishments and for completion of the HUD required Consolidated Annual Performance and Evaluation Report (CAPER). CONTRACTOR shall also provide the applicable HOUSING STATUS AND HOMELESS CERTIFICATION Form, included as Exhibit 6. Specific content in the requests for reporting as described in Exhibits 5 and 6 are subject to future modification as HUD reporting requirements adjust to new ESG regulations.

CONTRACTOR agrees to prepare and submit financial, program progress, evaluations, and other reports as required by HUD, HCD or the COUNTY directives. CONTRACTOR shall maintain such property, personnel, financial and other records and accounts as are considered necessary by HUD or the COUNTY to assure proper accounting for all contract funds. All CONTRACTOR'S records pertaining to services provided under this Contract, with the exception of confidential client information, shall be made available to representatives of the COUNTY and the appropriate federal agencies.

## 14. FISCAL LIMITATIONS

The United States of America, through HUD, and the State of California, through HCD, may, in the future, place programmatic or fiscal limitation(s) on ESG funds not presently anticipated. Accordingly, the COUNTY reserves the right to revise this Contract in order to take account of actions affecting HUD or HCD program funding. In the event of funding reduction, the COUNTY may reduce the budget of this Contract as a whole or as to cost category, may limit the rate of CONTRACTOR'S authority to commit and spend funds, or may restrict CONTRACTOR'S use of both its uncommitted and its unspent funds. Where HUD has directed or requested the COUNTY to implement a reduction in funding, in whole or as to cost category, with respect to funding for this Contract, CDH may act for the COUNTY in implementing and effecting such a reduction and in revising the Contract for such purpose. Where the COUNTY had reasonable grounds to question the fiscal accountability, financial soundness, or compliance with this Contract of CONTRACTOR, the COUNTY may act to suspend the operation of this Contract for up to sixty (60) days upon three (3) days' notice to CONTRACTOR of its intention to so act, pending an audit or other resolution of such questions. In no event, however, shall any revision made by the COUNTY affect expenditures and legally binding commitments made by CONTRACTOR before it received notice of such revision, provided that such amounts have been committed in good faith and are otherwise allowable and that such commitments are consistent with HUD cash withdrawal guidelines.

## 15. ADMINISTRATIVE REQUIREMENTS

### A. Financial Management

1. If CONTRACTOR is a nonprofit organization, it agrees to comply with 24 CFR Part 84 and 2 CFR Part 200 (depending on whether the nonprofit is or is not an Educational Institution) and agrees to adhere to the accounting principles and procedures required therein, develop, and implement adequate internal financial controls, and maintain required source documentation for all costs incurred.
2. If CONTRACTOR is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85 and 2 CFR Part 200 apply.

### B. Recordkeeping and Retention

CONTRACTOR agrees to maintain all records required by ESG Rules and Regulations under 24 CFR Parts 91 and 576, including:

1. Records documenting that activities are ESG eligible.
2. Records documenting the eligibility of ESG beneficiaries.
3. As applicable, records documenting rent reasonableness.
4. As applicable, records documenting each rental unit has passed a habitability Inspection.
5. Records documenting that each participant received an intake interview.
6. As applicable, records documenting that persons receiving assistance for longer than three (3) months, were recertified at three (3) month intervals.
7. Records providing a full description of each activity undertaken.
8. Records documenting compliance with fair housing and equal opportunity cross-cutting regulations.
9. Financial records illustrating appropriate accounting principles applied.
10. Records accounting for staff time and activities relating to ESG expenditures and draw requests.
11. Any other records necessary to demonstrate compliance with ESG
12. All records pertaining to each fiscal year of ESG funds must be retained for the five (5) years after the expenditure of all funds from the grant under which the program participants were served.

### C. Client Data

CONTRACTOR shall maintain client data demonstrating client eligibility for services provided. Such data shall include at a minimum the HMIS Data and Technical Standards, as prescribed by HUD. Such information shall be made available to CDH as a part of the monthly reimbursement requests documentation and must be made available upon request. In addition to entry of client data entered into HMIS, CONTRACTOR will be expected to meet Data Quality Standards, as prescribed by HUD. See Section 18 – HOMELESS MANAGEMENT INFORMATION SYSTEMS (HMIS) - DATA COLLECTION of this Contract.

#### D. Procurement

CONTRACTOR shall comply with 2 CFR Part 200 Subpart D Sections 200.310-200.327 and the procurement policies and requirements of the COUNTY and HUD concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to CDH upon termination of this Contract.

1. Expendable Personal Property: Expendable personal property refers to all tangible personal property other than non-expendable personal property. All purchases of expendable or non-expendable personal property with a unit value of one thousand dollars (\$1,000) or more per unit must have the prior written approval of the Community Development and Housing Director.
2. Acquisition of Supplies and Equipment: CONTRACTOR may purchase from a related agency/organization only if:
  - a. Prior authorization is obtained in writing from COUNTY.
  - b. Charges do not exceed the authorized amount and minimum written specifications are met.
  - c. A community-related benefit is derived from such related acquisition.
  - d. No conflict of interest for private gain accrues to CONTRACTOR or its employees, agents, or officers.
  - e. CONTRACTOR shall adhere to all applicable procurement standards of 2 CFR Part 200 in the acquisition of supplies and equipment. CONTRACTOR shall submit documentation of compliance with 2 CFR 200.310-327 prior to procuring nonexpendable property or equipment.
3. Purchases and Invoice Deadlines: No expendable or non-expendable property or equipment shall be purchased during the final three (3) months of the initial performance period unless approved by the COUNTY in writing. Invoices for all obligations incurred under this Contract must be submitted to CDH Administrative Services within thirty (30) days after the initial performance period termination date or they may not be honored. Exceptions to the preceding limitations require prior written approval by CDH.
4. Costs Incurred Prior to Contract Execution: No costs incurred prior to the Contract commencement date shall be eligible for reimbursement with Grant funds. HUD procurement policies and requirements for non-profit contractors are contained in 24 CFR Part 84 and for states and local governments in 24 CFR Part 85.

#### E. Closeout

CONTRACTOR agrees to adhere to and comply with the closeout procedures detailed in 2 CFR 200.344, including but not limited to the following:

1. CONTRACTOR must submit, no later than sixty (60) calendar days after the expiration of the term, all financial, performance, and other reports as required by the terms and conditions of the Federal (HUD) and HCD award;
2. Unless COUNTY authorizes an extension, CONTRACTOR must liquidate all obligations incurred under the Federal (HUD) and HCD award no later than Sixty (60) days after the end date of the performance period, as specified in the terms and conditions of the Federal award;
3. CONTRACTOR must promptly refund any balances of unobligated cash that COUNTY paid that is not authorized to be retained by CONTRACTOR for use in other projects (Refer to 2 CFR 200.345);
4. CONTRACTOR must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with 2 CFR 200.310-200.316 and 200.239; and,
5. CONTRACTOR, in collaboration with COUNTY should complete all closeout actions for the Federal award no later than one (1) year after receipt and acceptance of all required final reports.

## **16. GENERAL CONTRACT TERMS**

### **A. LEGALITY AND SEVERABILITY**

The parties' actions under this Contract shall comply with all applicable laws, rules, regulations, court orders, and governmental agency orders. If a provision of this Contract is terminated or held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

### **B. TAXES**

COUNTY is exempt from Federal excise taxes and no payment shall be made for any taxes with respect to income, personal property taxes levied on CONTRACTOR, or on any taxes levied on employee wages. The COUNTY shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the COUNTY pursuant to the Contract.

### **C. REPRESENTATION OF THE COUNTY**

In the performance of this Contract, CONTRACTOR, its agents, and employees, shall act in an independent capacity and not as officers, employees, or agents of the COUNTY.

### **D. CONTRACTOR PRIMARY CONTACT**

The CONTRACTOR will designate an individual to serve as the primary point of contact for this Contract. CONTRACTOR or designee must respond to COUNTY inquiries within two (2) business days. CONTRACTOR shall not change the primary contact without written notification and acceptance of the COUNTY. CONTRACTOR will also designate a back-up point of contact in the event the primary contact is not available.

CONTRACTOR shall notify the COUNTY in writing of any change in mailing address within ten (10) business days of the change.

### **E. SUBCONTRACTING**

Any subcontracting and/or subcontractors shall be subject to the same terms and conditions as CONTRACTOR. CONTRACTOR shall be fully responsible for the performance, training, recordkeeping requirements, and payments of any subcontractor's contract.

### **F. CONTRACT ASSIGNABILITY**

Without the prior written consent of the COUNTY, this Contract is not assignable by CONTRACTOR either in whole or in part.

#### G. CONTRACT AMENDMENTS

CONTRACTOR agrees any alterations, variations, modifications, or waivers of the provisions of this Contract, shall be valid only when reduced to writing, executed, and attached to the original Contract and approved by the required persons.

#### H. TERMINATION FOR CONVENIENCE

This Contract may be terminated, in whole or in part, at any time by either party upon giving sixty (60) days' notice in writing to the other party. The Deputy Executive Officer of Community Revitalization or the CDH Director are hereby authorized to give said notice.

#### I. LICENSES AND PERMITS

CONTRACTOR shall ensure that it has all necessary licenses and permits required by the laws of federal, state, county, and municipal laws, ordinances, rules, and regulations to conduct operations. The CONTRACTOR shall maintain these licenses and permits in effect for the duration of this Contract. CONTRACTOR will notify COUNTY immediately of loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in termination of this Contract.

#### J. LABOR LAWS

- a. CONTRACTOR, its agents, and employees shall be bound by and comply with all applicable provisions of the Labor Code and such federal, state, and local laws, which affect the conduct of the work.
- b. CONTRACTOR shall strictly adhere to the applicable provisions of the Labor Code regarding: the employment of apprentices; minimum wages; travel and subsistence pay; retention and inspection of payroll records; workers compensation; payment of wages. The CONTRACTOR shall forfeit to the COUNTY the penalties prescribed in the Labor Code for violations.
- c. CONTRACTORS are prohibited from performing work with a subcontractor who is ineligible to perform work on a HUD project pursuant to HUD Title 24 CFR Part 24. Any contract entered into between a CONTRACTOR and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a HUD contract, and any public money that may have been paid to a debarred subcontractor by a CONTRACTOR on the project shall be returned to the awarding body. The CONTRACTOR shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project. A list of debarred contractors can be found on the Excluded Parties Listing System on HUD's website.

#### K. RELIGIOUS PROSELYTIZING OR POLITICAL ACTIVITIES

CONTRACTOR agrees that it will not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the activities funded under this Contract. Further, CONTRACTOR agrees that it will not perform or permit political activities in connection with the performance of this Contract. Funds made available under this Contract will be used exclusively for performance of the work required under this Contract and no funds made available under this Contract shall be used to promote any religious or political activities. If the CONTRACTOR conducts such activities, the activities must be offered separately, in time or location, from the programs or

services funded under this Contract, and participation must be voluntary for the beneficiaries of the ESG-funded program services.

#### L. IMPROPER CONSIDERATION

1. CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee, or agent of the COUNTY in an attempt to secure favorable treatment regarding this Contract.
2. The COUNTY, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee, or agent of the COUNTY with respect to the proposal and award process. This prohibition shall apply to any amendment, extension, or evaluation process once this Contract has been awarded.
3. CONTRACTOR shall immediately report any attempt by a COUNTY officer, employee, or agent to solicit (either directly or through an intermediary) improper consideration from CONTRACTOR. The report shall be made to the supervisor or manager charged with supervision of the employee or to the COUNTY Administrative Office. In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.

#### M. EMPLOYMENT OF FORMER COUNTY OFFICIALS

CONTRACTOR agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent CONTRACTOR. The information shall include a list of former COUNTY administrative officials who terminated COUNTY employment within the last five (5) years and who are now officers, principals, partners, associates, or members of the business. The information also includes the employment with or representation of CONTRACTOR. For purposes of this provision, "County Administrative Official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Chief Executive Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit, or Safety Management Unit.

#### N. DISCLOSURE OF CRIMINAL AND CIVIL PROCEEDINGS

The CONTRACTOR shall require its subcontractors to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten (10) years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates, or key employees, has within the last ten (10) years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the CONTRACTOR'S subcontractors will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, if required by COUNTY, the CONTRACTOR shall ask its subcontractors to disclose whether the firm, or any of its partners, principals, members, associates, or key employees, within the last ten (10) years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the CONTRACTOR'S subcontractors will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision “key employees” includes any individuals providing direct service to the COUNTY. “Key employees” do not include clerical personnel providing service at the firm’s offices or locations.

#### O. INACCURACIES OR MISREPRESENTATIONS

If in the administration of this Contract, the COUNTY determines that CONTRACTOR has made a material misstatement, misrepresentation, or omission that materially inaccurate information has been provided to the COUNTY during the selection process, this Contract may be immediately terminated. In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.

#### P. RECYCLED PAPER PRODUCTS

The COUNTY has adopted a recycled product purchasing standards policy (11-10), which requires CONTRACTORS to use recycled paper for proposals and for any printed or photocopied material created as a result of a contract with the COUNTY. The policy also requires CONTRACTORS to use both sides of paper sheets for reports submitted to the COUNTY whenever practicable.

#### Q. REIMBURSEMENTS

Reimbursement will be made by CDH based upon satisfactory performance under the terms of the Contract. CONTRACTOR will submit reimbursement requests to the COUNTY within thirty (30) days following the last calendar day of the month in which expenses occurred. CDH will review supporting documentation and confirm satisfactory performance prior to processing reimbursement request. CDH may request additional supporting documentation and disallow portions of a claim pending satisfactory documentation as determined by CDH. CONTRACTOR attests that by submitting a reimbursement claim to CDH it has completed all due diligence necessary and verified eligibility of ESG and ESG-CV Grant funding. Required reimbursement documentation will be provided to CONTRACTOR once this Contract has been executed and may be modified by CDH from time to time to meet applicable regulations.

#### R. ELECTRONIC FUND TRANSFER PROGRAM

CONTRACTOR shall accept all payments from COUNTY via electronic funds transfer (EFT) directly deposited into the CONTRACTOR’S designated checking or other bank account. CONTRACTOR shall promptly comply with directions and accurately complete forms provided by COUNTY required to process EFT payments.

#### S. DISCLOSURE OF INFORMATION

In recognizing CONTRACTOR’S need to identify its services to related clients to sustain itself, the COUNTY shall not inhibit CONTRACTOR from publicizing its role under this Contract within the following conditions:

CONTRACTOR shall develop all publicity material in a professional manner. CONTRACTOR, its employees, agents, and sub-contractors shall not publish or disseminate commercial advertisements, press releases, opinions of feature articles, using the name of the COUNTY without the prior written consent of the CDH Director or designee. The COUNTY shall not unreasonably withhold written consent, and approval by the COUNTY may be assured in the event that no adverse comments are received in writing within two (2) weeks after submittal.

#### T. DRUG AND ALCOHOL-FREE WORKPLACE

In recognition of individual rights to work in a safe, healthful, and productive workplace, as a material condition of this Contract, CONTRACTOR agrees that CONTRACTOR and CONTRACTOR'S employees, while performing services for the Federal and State ESG:

1. Shall not be in any way impaired because of being under the influence of alcohol or a drug.
2. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
3. Shall not sell, offer, or provide alcohol or a drug to another person.

This shall not be applicable to CONTRACTOR or CONTRACTOR'S employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

CONTRACTOR shall inform all employees that are performing services for the Federal and State ESG, of the COUNTY's objective of a safe, healthful, and productive workplace and the prohibition of drug or alcohol use or impairment from same while performing such services.

COUNTY may terminate for default or breach of this Contract and any other agreement CONTRACTOR has with the COUNTY, if CONTRACTOR or CONTRACTOR'S employees are determined by the COUNTY not to be in compliance with above.

#### U. LOBBYING

CONTRACTOR certifies and agrees that it will comply with federal law (31 U.S.C. 1352) and regulations found at 24 CFR Part 87, which provide that no appropriated funds may be expended by the recipient of a federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, or an officer or employee of a Member of Congress in connection with awarding of any federal contract, the making of any federal grant or loan, entering into any cooperative agreement and the extension, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement. CONTRACTOR shall sign a certification to that effect in a form as set forth in **Exhibit 18 - CERTIFICATION AND DISCLOSURE OF LOBBYING**, attached hereto and by this reference incorporated herein. CONTRACTOR shall submit the signed certification to COUNTY prior to performing any of its obligations under this Agreement and prior to any obligation arising on the part of COUNTY to pay any sums to CONTRACTOR under the terms and conditions of this Contract. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agree, the undersigned shall compete and submit a "Disclosure of Lobbying Activities" in accordance with its instructions (Exhibit 18).

#### V. ENVIRONMENTAL CONDITIONS

1. ESG activities are subject to environmental review by HUD under the environmental regulations in 24 CFR Part 50. CONTRACTOR, or any contractor of the CONTRACTOR, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project or activity under this Section, or commit or expend ESG or local funds for eligible activities under this Section unless and until HUD has performed an environmental review under 24 CFR Part 50 and the CONTRACTOR and COUNTY has received approval of the property.

CONTRACTOR agrees to comply with all applicable environmental requirements as they apply to the performance of this Contract, including but not limited to Clean Air Act, the Federal Water Pollution Control Act, and the Flood Disaster Protection Act. If applicable, CONTRACTOR also shall comply with the Historic Preservation requirement of the National Historic Preservation Act of 1966.

2. CONTRACTOR is subject to adherence with 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. 4821-4846), and implementing regulations in 24 CFR Part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG and all housing occupied by ESG beneficiaries that were built before 1978.
3. CONTRACTOR will accept assignment from the COUNTY of all responsibilities set forth in Subpart K of 24 CFR 35.
4. Subpart K is to establish procedures to eliminate, to the extent feasible and practical, Lead-Based Paint ("LBP") hazards in a residential property that receives Federal assistance under certain HUD programs for acquisition, leasing, support services, or operation. In connection with the grant funds under this Contract, the COUNTY requires that the CONTRACTOR comply and show evidence of compliance with all applicable subparts of 24 CFR 35, and especially, Subpart K ("LBP Regs"). The CONTRACTOR shall conduct the following activities for the dwelling unit, common areas servicing the dwelling unit, and the exterior surfaces of the building in which the dwelling unit is located:
  - a. A visual assessment of all painted surfaces in order to identify deteriorated paint;
  - b. Paint stabilization of each deteriorated paint surface, and clearance, in accordance with §35.1330 (a) and (b), before occupancy of a vacant dwelling unit, or where a unit is occupied, immediately after use of Federal assistance;
  - c. Ongoing LBP maintenance activities into regular building operations, in accordance with §35.1355(a), if the dwelling unit has a continuing, active financial relationship with a federal housing assistance program;
  - d. Notice to occupants in accordance with §35.125(b)(1) and (c), describing the results of the clearance examination.
5. CONTRACTOR shall provide to all occupants of housing assisted with ESG:
  - a. A copy of the pamphlet entitled "Protect Your Family from Lead in Your Home" (see **Exhibit 15 - LEAD BASED PAINT PAMPHLET AND DISCLOSURE**).
  - b. All available information and knowledge regarding the presence of LBP and LBP hazards prior to leasing a housing unit (See 24 CFR 35, Subpart A).
  - c. Notification in writing of the results of the presumption of LBP and/or LBP hazards, results of any lead hazard evaluation, and any lead hazard reduction work (See 24 CFR 35, Subpart A).

## 17. AUDITS

CONTRACTOR is required to arrange for an independent financial/compliance audit performed within the direction of generally accepted auditing standards and government auditing standards. Said audit(s) shall cover the applicable term of this Contract. When CONTRACTOR receives seven hundred fifty thousand dollars (\$750,000) or more in federal funds from all funding sources within a fiscal year, the required audit must be performed in compliance with standards as set forth and published by the United States Office of Management and Budget (2 CFR § 200.501a).

CONTRACTOR shall submit a copy of the audit report to the COUNTY within thirty (30) days of completion. Within thirty (30) days of the submittal of said audit report, CONTRACTOR shall provide to the COUNTY a written response to any concerns or findings identified in said audit report. The response must examine each concern or finding and explain a proposed resolution, including a schedule for correcting any deficiency. All actions to correct said conditions or findings shall be taken within six (6) months after receipt of the audit report.

The COUNTY, or any state or federal agency, may make additional audits or reviews, as necessary, to carry out the responsibilities of CONTRACTOR under COUNTY, state or federal laws and regulations. CONTRACTOR agrees to cooperate fully with all persons conducting said additional audits or reviews. The COUNTY and its authorized representatives shall, at all times, have access for the purpose of audit or inspection, to any and all books, documents, papers, records, property, and premises of CONTRACTOR.

If indications of misappropriation or misapplication of the funds of this Contract cause the COUNTY to require an additional audit, the cost of the audit will be encumbered and deducted from this Contract Budget.

Should the COUNTY subsequently determine that the additional audit was not warranted, the amount encumbered will be restored to the Contract Budget. CONTRACTOR shall reimburse all misappropriation or misapplication of funds to the COUNTY. In the event the COUNTY uses the judicial system to recover misappropriated or misapplied funds, CONTRACTOR shall reimburse the COUNTY legal fees and court costs in addition to awards.

## **18. HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS) – DATA COLLECTION**

The CONTRACTOR must ensure that data on all persons served and all activities assisted under ESG are entered into the applicable community wide HMIS in the area in which those persons and activities are located, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. HUD requires ESG-CV performance data to be reported on a quarterly basis and will be due on the following dates during the performance period, unless otherwise noted: March 30, July 30, October 30, and January 30. COUNTY will coordinate with CONTRACTOR for the collection of the reporting data. Data must be reviewed and validated by CONTRACTOR no later than the 10<sup>th</sup> of each month. COUNTY will use the HMIS data to create CSV (Comma Separated Value) files that will be uploaded into the SAGE System, which is HUD's data repository. CONTRACTOR will work with COUNTY to remediate any validation errors that may occur, prior to the submission of the reports.

ESG funds require reporting client-level data, such as the number of persons served, their demographic information, and the applicable ESG services provided into HMIS which is an electronic data collection system that facilitates the collection of information on persons who are homeless or at risk of becoming homeless. HMIS is managed and operated locally by the Office of Homeless Services (OHS). HUD HMIS technical and data standards are set forth in the [Final 2017 HMIS Data Standards](#), on file with OHS. CONTRACTOR is required to work with OHS staff to ensure the timely and accurate set-up of their HMIS program profile. COUNTY will work with CONTRACTOR and OHS to ensure the HMIS program profile is set up in a manner that accurately captures the data pertinent to CONTRACTOR'S program.

The CONTRACTOR and its subcontractors shall have an agreement in place with the HMIS lead agency to participate in the regionally established HMIS system and shall submit a copy of HMIS reports (see **Exhibit 16 - SAMPLE HMIS REPORT**) with monthly reimbursements. A copy of the CONTRACTOR'S agreement with the HMIS lead agency shall be delivered to the COUNTY, upon request. In the case of Domestic Violence service providers or other agencies prohibited from entering data into HMIS, documentation from the HMIS lead agency certifying that the CONTRACTOR is using a comparable database shall be delivered to the COUNTY. The "HMIS Lead Agency" is San Bernardino County, Office of Homeless Services:

Mike Bell, HMIS Support  
San Bernardino County  
Office of Homeless Services  
215 North D Street, Suite 301  
San Bernardino CA 92401  
[Michael.Bell@hss.sbcounty.gov](mailto:Michael.Bell@hss.sbcounty.gov)

**Tel:** 909-501-0613  
**Fax:** 909-501-0622

The CONTRACTOR shall enter into an Interagency Data Sharing Agreement with the HMIS Lead Agency where the CONTRACTOR agrees to share HMIS data with other ESG funded agencies regarding clients that are served in ESG funded programs, unless prohibited by law. A copy of such agreement shall be delivered to the CONTRACTOR.

CONTRACTOR must ensure all required data elements, as listed below, are entered into the HMIS system for ESG participants, in a timely manner, and is inputted no later than two (2) working days after program entry. Services rendered to clients must be entered into HMIS no later than two (2) working days from date of service(s). All clients who exit the program must have an updated status in HMIS within two (2) working days from actual exit date. Failure to meet the above data input requirements will constitute a violation of the terms and conditions of this Contract and made subject to remedies as set forth in Section 19 - Termination and Termination Costs, below.

In addition to the timely entry of HMIS data, CONTRACTOR is required to enter accurate and complete data. COUNTY will ensure CONTRACTOR adheres to Data Quality Standards, as established by HUD, and data entry requirements, as set forth in the HMIS Memorandum of Understanding (MOU) and the OHS Policy Handbook. The Data Quality Standards assess the data quality and completeness of following Data Elements entered:

- 1) Client Demographic Data
  - a) Name
  - b) Social Security Number
  - c) Date of Birth
  - d) Race
  - e) Ethnicity
  - f) Gender
  - g) Veteran Status
- 2) Universal Data
  - a) Disabling Condition
  - b) Project Start Date
  - c) Project Exit Date
  - d) Destination
  - e) Relationship to Head of Household
  - f) Client Location
  - g) Housing Move-in Date
  - h) Living Situation
- 3) Common Program Specific Data Elements
  - a) Income and Sources
  - b) Non-Cash Benefits
  - c) Health Insurance
  - d) Disability Elements
  - e) Physical Disability
  - f) Developmental Disability
  - g) Chronic Health Condition
  - h) HIV/AIDS
  - i) Mental Health Problem
  - j) Substance Abuse
  - k) Domestic Violence
  - l) Contact
  - m) Date of Engagement

- n) Bed-Night Date
- o) Housing Assessment Disposition
- 4) Data Timeliness
  - a) Entry Timeliness
  - b) Exit Timeliness

The Data Quality Standards require a program to have a five percent (5%) or less error rate to ensure data accuracy and less than a five-day lapse in timeliness for entry of data at time of client entry, services are rendered, and client exit. Any performance benchmarks not meeting these standards will be flagged and captured on a CONTRACTOR HMIS Data Quality Report Card (Report Card) generated by OHS (See **Exhibit 17 - HMIS DATA QUALITY REPORT CARD**). The Report Card will be generated and reviewed on a quarterly basis. The Report Card will be provided to CONTRACTOR when available and data deficiencies, if any, will be identified and discussed with CONTRACTOR to determine methods to remediate and/or improve data quality scores.

If CONTRACTOR continues to not meet data entry and data quality benchmarks, as established by HUD, and set forth in the HMIS MOU and the OHS Policy Handbook, COUNTY may terminate contract as set forth in Section 19 - Termination and Termination Costs below.

## **19. TERMINATION AND TERMINATION COSTS**

The COUNTY may immediately terminate this Contract upon the termination, suspension, discontinuation, or substantial reduction in ESG funding for the Contract activity or if for any reason the timely completion of the work under this Contract is rendered improbable, infeasible, or impossible:

1. If CONTRACTOR fails to perform the services within the time specified herein or any extension thereof; or,
2. If CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms. If in either of these circumstances, CONTRACTOR does not cure such failure within a period of ten (10) days (or such longer period as the COUNTY may authorize in writing) after receipt of notice from the COUNTY specifying such failure, COUNTY may terminate this Contract.
3. CONTRACTOR shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy Law or not.
4. The filing of a voluntary petition to have CONTRACTOR declared bankrupt.
5. The appointment of a Receiver or Trustee for CONTRACTOR.
6. The execution by CONTRACTOR of an assignment for the benefit of its creditors.

If CONTRACTOR materially fails to comply with any term of this Contract, the COUNTY may take one or more of the actions provided under Federal Regulation at 2 CFR 200.339 through 343, Enforcement, which include temporarily withholding cash, disallowing non-compliant costs, wholly or partly terminating the award, withholding future awards, requiring repayment for ineligible reimbursements, and other remedies that are legally available. In such event, CONTRACTOR shall be compensated for all eligible services rendered, and incurred costs related to the provision of such services, performed in good faith in accordance with the terms of this Contract that have not been previously reimbursed, to the date of said termination to the extent that ESG funds are available from HCD and HUD.

In the event the COUNTY terminates the Contract, in whole or in part, the COUNTY may procure, upon such terms and in such manner as the COUNTY may deem appropriate, services similar to those so terminated, and CONTRACTOR shall be liable to the COUNTY for any excess costs for such similar supplies or services; provided that CONTRACTOR shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

## **20. MONITORING**

The CDH Director, or designee, will conduct periodic program reviews, inclusive of desk audits and onsite monitoring, to monitor and assess the performance of the CONTRACTOR against goals and performance standards. These reviews will focus on the extent to which the planned program, as described in CONTRACTOR'S ESG Application and summarized in **Exhibit 1 – ELIGIBLE USES, BUDGET ALLOCATION AND ACCOMPLISHMENT GOALS** has been implemented. Effectiveness of program management and impact of the program pursuant to ESG & ESG-CV goals will also be reviewed. Authorized representatives of COUNTY and HUD shall have the right of access to all activities and facilities operated by CONTRACTOR under this Contract. Facilities include all files, records, and other documents related to the performance of this Contract. Activities include attendance at staff, board of directors, advisory committee and advisory board meetings and observation of on-going program functions. CONTRACTOR will allow access to records and permit on-site inspection by COUNTY representatives, HUD and HCD representatives, and ensure that its employees and board members furnish such information, as in the judgment of COUNTY, HUD and HCD representatives, may be relevant to the question of compliance with contractual conditions and HCD or HUD directives, or the effectiveness, legality, and achievements of the program.

Substandard performance as determined by the COUNTY will constitute non-compliance with this Contract. If action to correct such substandard performance is not taken by the CONTRACTOR within thirty (30) days, when feasible and practical, after being notified by the COUNTY, contract suspension or termination procedures will be initiated.

## **21. INDEPENDENT CONTRACTOR**

All parties hereto in the performance of this Contract will be acting in independent capacities and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the agent or employees of the other party for any purpose whatsoever.

## **22. CONFLICT OF INTEREST**

CONTRACTOR shall comply with all applicable federal and state laws, regulations and policies governing conflict of interest, including State conflict of interest regulations found in California Government Code Sections 1090, 1126, 87100 et seq., federal conflict of interest regulations found in 24 CFR 570.611, 2 CFR 200.317 and 318, and any other applicable policies, rules and regulations related to conflict of interest.

Any person who is an employee, agent, consultant, officer, elected or appointed official of CONTRACTOR, who exercises any functions or responsibilities with respect to ESG funded activities identified in this Contract and who is in a position to participate in a decision making process or gain inside information with regard to activities identified in this Contract, may not obtain a financial interest or benefit from the ESG-assisted activities identified in this Contract or any related contract, subcontract, or agreement, either for themselves, an immediate family member or business partner, during his/her tenure. CONTRACTOR shall maintain written standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

CONTRACTOR'S failure to comply with this Section may result in the termination of the Contract and repayment of funds as described in Section 19 in addition to any other available remedies to COUNTY.

This Section 22 shall survive termination of this Contract.

## 23. CONFIDENTIALITY

CONTRACTOR shall maintain the confidentiality of all its records in accordance with all applicable federal, state and COUNTY laws, regulations, ordinances, and directives relating to confidentiality. CONTRACTOR shall inform all of its officers, employees, and agents providing services hereunder of the confidentiality provisions of this Contract. In addition, CONTRACTOR must develop written procedures to ensure that all records containing personally identifying information shall remain confidential and kept secure and confidential; the address or location of any domestic violence or related shelter project assisted under ESG will not be made public; and, the address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the COUNTY or CONTRACTOR and consistent with state and local laws regarding privacy and obligations of confidentiality.

## 24. INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents, and volunteers ("Indemnitees") from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees.

CONTRACTOR'S indemnification obligation applies to the COUNTY'S "active" as well as "passive" negligence but does not apply to the COUNTY'S "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. This indemnification includes, but is not limited to, any determination by HUD or its successors that activities undertaken by CONTRACTOR under this Contract fail to comply with any laws, regulations, or policies applicable thereto or that any funds billed by and disbursed to CONTRACTOR under this Contract were improperly expended. This Section 24 shall survive the termination of this Contract.

## 25. INSURANCE REQUIREMENTS

Additional Insured: All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the COUNTY and its officers, employees, agents, and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

Waiver of Subrogation Rights: CONTRACTOR shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, Contractors, and subcontractors. All general or auto liability insurance coverage provided shall not prohibit CONTRACTOR and CONTRACTOR'S employees or agents from waiving the right of subrogation prior to a loss or claim. CONTRACTOR hereby waives all rights of subrogation against the COUNTY.

Policies Primary and Non-Contributory: All policies required herein are to be primary and noncontributory with any insurance or self-insurance programs carried or administered by the COUNTY.

Severability of Interests: CONTRACTOR agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between CONTRACTOR and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

Proof of Coverage: CONTRACTOR shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and CONTRACTOR shall maintain such insurance from the time CONTRACTOR commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Contract, CONTRACTOR shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

Acceptability of Insurance Carrier: Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII." CONTRACTOR is an authorized self-insured public entity for purposes of general liability, automobile liability, and workers' compensation. CONTRACTOR warrants that, through its self-insurance program, it has adequate coverage or resources to protect against any liabilities arising out of its performance regarding the terms and conditions of this agreement.

Deductibles and Self-Insured Retention: Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

Failure to Procure Coverage: In the event that any policy of insurance required under this Contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the COUNTY will be promptly reimbursed by the CONTRACTOR or COUNTY payments to CONTRACTOR will be reduced to pay for COUNTY purchased insurance.

Insurance Review: Insurance requirements are subject to periodic review by the COUNTY. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY'S risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the COUNTY.

CONTRACTOR agrees to provide insurance set forth in accordance with the requirements herein. If CONTRACTOR uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, CONTRACTOR agrees to amend, supplement, or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in any way affecting the indemnity herein provided and in addition thereto, CONTRACTOR shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

Workers' Compensation/Employers Liability: A program of Workers' Compensation insurance or a state approved, self-insurance program in an amount and form to meet all applicable requirements of the

Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of CONTRACTOR and all risks to such persons under this Contract.

If CONTRACTOR has no employees, it may certify or warrant to the COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the COUNTY'S Director of Risk Management.

With respect to CONTRACTOR that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

Commercial/General Liability Insurance: CONTRACTOR shall carry General Liability Insurance covering all operations performed by or on behalf of CONTRACTOR providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment
- (b) Products and completed operations
- (c) Broad form property damage (including completed operations)
- (d) Explosion, collapse and underground hazards
- (e) Personal injury
- (f) Contractual liability
- (g) \$2,000,000 general aggregate limit

Automobile Liability Insurance: Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired, and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the CONTRACTOR is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the CONTRACTOR owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

Umbrella Liability Insurance: An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

## **26. AMENDMENTS AND VARIATIONS**

This writing with attachments embodies the whole of this Contract of the parties hereto. There are no oral agreements not contained herein. Except as herein provided, addition or variation of the terms of this Contract shall not be valid unless made in the form of a written amendment to this Contract formally approved and executed by both parties.

The provision below does not apply to this Agreement

## **27. USE OF ARRA FUNDS AND REQUIREMENTS**

This Contract may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 (“ARRA”), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel, and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States.

A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the “Buy American” requirement. Request for a waiver must be made to the County for an appropriate determination. Section 1606 of ARRA requires that laborers and mechanics employed by CONTRACTORS and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the “wage rate” requirement. The above-described provisions constitute notice under ARRA of the Buy American and wage rate requirements. CONTRACTOR must contact the COUNTY contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. CONTRACTOR will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the COUNTY may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. CONTRACTOR agrees to fully cooperate in providing information or documents as requested by the COUNTY pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract. CONTRACTOR may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. CONTRACTOR must contact the COUNTY with any questions regarding registration requirements.

### **Schedule of Expenditure of Federal Awards**

In addition to the requirements described in “Use of ARRA Funds and Requirements,” proper accounting and reporting of ARRA expenditures in single audits is required. CONTRACTOR agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, “Audits of States, Local Governments, and Nonprofit Organizations.” This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c). In addition, CONTRACTOR agrees to separately identify to each sub-contractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds. CONTRACTOR may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. CONTRACTOR agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

## **Whistleblower Protection**

CONTRACTOR agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal subcontractors, including the State, and all subcontractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

CONTRACTOR agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of the ARRA.

### **28. ANTI-DISCRIMINATION**

No person shall, on the basis of race, color, ancestry, national origin, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, physical disability, mental disability, medical condition, genetic information, age, religious creed, military, or veteran status, be excluded from participating in, be refused the benefits of, or otherwise be subjected to discrimination in any activities, programs, or employment supported by this Contract.

### **29. CONTRACT COMPLIANCE**

CONTRACTOR shall make every effort to ensure that all projects funded wholly or in part by ESG or ESG-CV funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, CONTRACTOR shall make every effort to employ residents of the area and shall keep a record of the positions that have been created directly or as a result of this program.

### **30. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS**

All parties agree to be bound by all applicable federal, state, and local laws, ordinances, regulations, directives, and all applicable cross-cutting requirements as they pertain to the performance of this Contract. This Contract is subject to and incorporates the following, including, but not limited to:

- (1) Economic Opportunities for Low- and Very Low-income Persons. The CONTRACTOR shall ensure that employment and other economic opportunities generated by the Program shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and regulations at 24 CFR Part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).
- (2) Civil Rights. The CONTRACTOR agrees to comply with Title VI of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 109 of the Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 41 CFR Chapter 60.
- (3) Nondiscrimination and Equal Employment Opportunity. During the performance under this AGREEMENT, the CONTRACTOR shall not discriminate against any employee or applicant for employment based on race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, sexual orientation, or any other basis prohibited by applicable

law. The CONTRACTOR shall take affirmative action to ensure that all applicants and employees are treated without regard to race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, and sexual orientation. The CONTRACTOR shall comply with all provisions of Executive Order 11246, Equal Employment Opportunity, as amended by Executive Orders 11375, 11478, 12086, and 12107.

- (4) Nondiscrimination and Equal Opportunity in Participation. The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a). The CONTRACTOR shall not discriminate against any participant on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familiar status, sexual orientation, or any other basis prohibited by applicable law.

CONTRACTOR shall, through affirmative outreach, make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. The CONTRACTOR must take appropriate steps to ensure effective communication with persons with disabilities.

- (5) Americans with Disabilities Act. The CONTRACTOR agrees to comply with any federal regulations issued pursuant to compliance with the Americans with Disabilities Act, which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and Local government services, and public accommodations.
- (6) Fair Housing. Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funded sub-recipients. The CONTRACTOR has a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act.
- (7) Displacement and Relocation. CONTRACTOR must ensure that it has taken all reasonable steps to minimize displacement of persons. Relocation must be consistent with requirements as set forth in 24 CFR §576.408.
- (8) Affirmative Outreach. The COUNTY and CONTRACTOR must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The recipient and its subrecipients must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, recipients and subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons (c).
- (9) The California Fair Employment and Housing Act of 1959 codified as Government Code §§12900 - 12996, the California statute used to fight sexual harassment and other forms of unlawful discrimination in employment and housing.

**31. PARTICIPATION OF HOMELESS PERSONS**

In compliance with the federal regulations governing the ESG Program, and specifically 24 CFR 576.405 governing homeless assistance and participation, CONTRACTOR will require its subcontractor to provide for the participation of not less than one homeless or formerly homeless individual on its subcontractor's *board of directors or other equivalent policymaking entity*. To the extent feasible, CONTRACTOR'S subcontractor must involve homeless individuals and families in providing work or services pertaining to operating facilities, providing services assisted under ESG, and providing services for occupants of facilities assisted under ESG. CONTRACTOR'S subcontractor must provide a certification (**Exhibit 14 - Homeless Participation Certification**) documenting compliance with, or efforts to comply with, this requirement.

**32. SUSPENSION AND DEBARMENT**

By entering this Contract, CONTRACTOR certifies that CONTRACTOR, including its principals, is not suspended, or debarred from participating in federally funded contracts and sub-awards.

**33. GOOD STANDING OF NON-PROFIT STATUS**

CONTRACTOR certifies:

- (1) It is a duly organized and existing non-profit corporation in good standing and authorized to do business under the laws of the State of California and in possession of required non-profit status under the United States Internal Revenue Code [for example, 26 USC § 501(c)(3)]. The CONTRACTOR has full right, power, and lawful authority to accept the funding hereunder and to undertake all obligations as provided herein and the execution, performance, and delivery of this Contract by the CONTRACTOR has been fully authorized by all requisite actions on the part of the CONTRACTOR.
- (2) If CONTRACTOR non-profit status changes at any time during this Contract, it will advise the COUNTY within 15 days.
- (3) If the CONTRACTOR is a private non-profit, it hereby agrees that the members of its Board of Directors will receive no compensation, directly or indirectly, other than reimbursement for expenses, from any funds generated from or because of the ESG program, for their services.
- (4) As a non-profit, the CONTRACTOR acknowledges that administration of its operation and services are subject to the requirements as established in 2 CFR § 200.

**34. INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM (IDIS) AND FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT ("FFATA")**

To ensure compliance with transparency and reporting, COUNTY must collect and report data on its use of ESG funds in the Integrated Disbursement and Information System (IDIS) and other reporting systems, as specified by HUD. The COUNTY must also comply with the reporting requirements in 24 CFR parts 85 and 91 and the reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, (31 U.S.C. 6101 note), which are set forth in Appendix A to 2 CFR part 170, which is a reporting system used to report awards and amounts of awards made to subrecipients.

Upon request by COUNTY, CONTRACTOR must provide information required for IDIS and FFATA reporting purposes.

**35. NOTICES**

Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice by first-class United States Certified Mail, postage prepaid, addressed to the appropriate party as follows:

San Bernardino County  
Attention: Community Development & Housing Department  
385 North Arrowhead Avenue, 3rd Floor  
San Bernardino, CA 92415-0043

Lutheran Social Services of Southern California  
Attention: LaSharnda Beckwith, President and CEO  
1354 N. G St.  
San Bernardino, 92405

Such addresses may be changed by notice to the other party given in the same manner as provided above.

**36. COUNTERPART EXECUTION**

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

SAN BERNARDINO COUNTY

►  
 \_\_\_\_\_  
 Curt Hagman, Chairman, Board of Supervisors

Dated: \_\_\_\_\_  
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell  
 Clerk of the Board of Supervisors  
 San Bernardino County

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

\_\_\_\_\_  
*(Lutheran Social Services of Southern California)*

By ► \_\_\_\_\_  
*(Authorized signature - sign in blue ink)*

Name \_\_\_\_\_  
 LaSharnda Beckwith

Title \_\_\_\_\_  
 President and CEO

Dated: \_\_\_\_\_

Address 1354 N. G St.  
San Bernardino, CA 92405

**FOR COUNTY USE ONLY**

Approved as to Legal Form  
 ► \_\_\_\_\_  
 Suzanne Bryant, Deputy County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance  
 ► \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department  
 ► \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT 1**  
**BUDGET ALLOCATION AND ACCOMPLISHMENT GOALS**  
**Lutheran Social Services**

Budget Summary and Accomplishments 2020-2023				
Grant Type	Activity	2020-2023 Allocation	Number of Persons Expected to be Served (Individuals)	Average Annual Cost Per Unit of Service per Person
ESG State-CV Funding Expenditure Deadline: July 30, 2022	Emergency Shelter (ES)	\$101,250.00	60	\$1,687.50
	Street Outreach	\$10,000.00	20	\$500
	HMIS	\$22,000.00	N/A	N/A
	<b>TOTAL</b>	<b>\$133,250.00</b>	<b>80</b>	<b>\$2,187.50</b>
ESG Federal-CV Funding Expenditure Deadline: September 30, 2022	Emergency Shelter (ES)	\$33,750.00	20	\$1,687.50
	Street Outreach	\$5,000.00	10	\$500
	HMIS	\$8,000.00	N/A	N/A
	Administrative (Admin)	\$20,000.00	N/A	N/A
	<b>TOTAL</b>	<b>\$66,750.00</b>	<b>30</b>	<b>\$2,187.50</b>
21-22 Federal ESG Expenditure Deadline: October 26, 2023 ** Requires a Match**	Emergency Shelter	\$50,000.00	30	\$1,666
	<b>TOTAL</b>	<b>\$50,000.00</b>	<b>30</b>	<b>\$1,666</b>
<b>GRAND TOTAL</b>		<b>\$250,000.00</b>	<b>140</b>	

**Scope of Work**

Lutheran Social Services of Southern California will deliver the following services under the San Bernardino County ESG State-CV, ESG Federal-CV, and 21-22 Federal ESG Award agreement for funded activities Emergency Shelter, Street Outreach, HMIS and Administrative:

**Emergency Shelter**

Provide needed services through emergency shelter included in 24 CFR 576.102 and CDP 21-08 released by HUD. To include but not limited to essential services, case management, childcare, purchase of equipment or furniture needed on a case-by-case basis.

- I. Provide 120 homeless men with emergency shelter services, which will include 24/7 shelter nights
- II. Meals and clothing
- III. Screening/assessment by a case manager using the Vulnerability Index and the Service Prioritization Decision Assistance Tool (VI-SPDAT) to determine critical needs and develop client-specific self-sufficiency plans to address these needs.
- IV. Development of an individualized self-sufficiency plan for each participant.
- V. Supportive services that include but are not limited to – entitlement benefits enrollment; document procurement, referrals to substance abuse and mental health service providers, primary care providers, employment assistance, job readiness training, reunification of family members, housing navigation, and linkage to permanent housing.
- VI. Transportation to self-sufficiency related services – employment, school, healthcare, entitlement benefits, and document procurement.

## **Outreach**

Engage persons experiencing homelessness through Street Outreach activity and provide services included in 24 CFR 576.101 and CPD 21-08 released by HUD. To include but not limited to engagement, case management, transportation, protective personal equipment, and purchase of supply or equipment eligible under street outreach.

The goal is to Engage (5 individuals engaged each month = 30 individuals by September 30, 2022) and County's Coordinated Entry System (CES) intake.

## **HMIS**

Lutheran Social Services will have staff input all required information into HMIS, facilitate the tracking of information, provide reports, and purchase any software or equipment needed to support HMIS and the tracking of client information. In inclusion and resources eligible activities under 24 CFR 576.107 and Notice CPD 21-08 for COVID funds.

- I. Tracking of client data using the Homeless Management Information Systems (HMIS).