PROGRAM FUNDING AGREEMENT
COMMUNITY CARE EXPANSION PRESERVATION PROJECTS

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SUMMARY COVER SHEET

Program Funding Agreement ID	**7480-CA CCE-CP_2070_SANBERNARDINO-01-G**
Program Agreement Effective Date:	
Program Funding Agreement Manager:	**ADVOCATES FOR HUMAN POTENTIAL, INC. (AHP)** 490-B Boston Post Road, Sudbury, MA 01776-3365 Tel: (978) 443-0055 ♦ Fax: (978) 261-1467 **AHP Contracting Officer:** Charles Galland, COO cgalland@ahpnet.com **|** 978-261-1425 **AHP Project Director:** Louise Nieto Tel: 253 238 2673 (o) **|** lnieto@ahpnet.com **AHP Direct Staff Contact:** Louise Nieto Tel: 253 238 2673 (o) **|** lnieto@ahpnet.com
County:	**County of San Bernardino, a political subdivision of the State of California, acting through its County Administrative Office** **ATTN: Leonard X. Hernandez** Address: 385 N. Arrowhead Avenue San Bernardino, CA 92415 Phone: 909-387-5418 Email address: leonard.hernandez@cao.sbcounty.gov
Prime Contract Identification:	**California Department of Social Services** **Agreement No.: 21-3097** **Contract Title:** *Community Care Expansion Preservation Program*
Contract Type:	Deliverable Based Type Contract
Base Period of Performance:	Effective date through January 30, 2027
Consideration/Budget:	Facility Preservation and Renovation **Not to Exceed $13,833,106.00**

(This Page is not part of the Program Funding Agreement and is for Summary/Reference Purposes Only)

This Program Funding Agreement (the "Agreement") is entered into _____, 2023 (the "Effective Date"), by and between **ADVOCATES FOR HUMAN POTENTIAL, INC.,** a Massachusetts corporation, with offices located at **490-B Boston Post Road, Sudbury, MA 01776** ("**AHP**"), and **COUNTY OF SAN BERNARDINO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, ACTING THROUGH ITS COUNTY ADMINISTRATIVE OFFICE** with offices at **385 N. Arrowhead Avenue San Bernardino, CA 92415 ("County")**. AHP and County may be referred to separately as a "Party" or collectively as "Parties."

RECITALS

A. AHP entered into an agreement with the State of California (the "State") through the California Department of Social Services ("CDSS") to facilitate program funding awards and provide services to CDSS as the third party administrator of the CDSS Community Care Expansion Preservation Program ("Program"). The agreement between CDSS and AHP shall hereinafter be referred to as the "Prime Contract" or "CDSS Contract";

B. The purpose of the Program is to preserve and avoid the closure of licensed residential adult and senior care facilities that serve applicants and recipients of Supplemental Security Income/State Supplementary Payment and Cash Assistance Program for Immigrants ("Qualified Residents"), with a priority for individuals experiencing or at risk of homelessness ("Prioritized Population");

C. Pursuant to the requirements of the Program and CDSS guidelines, counties are to use their allocation of program funds to preserve the capacity of eligible residential adult and senior care settings as well as increase the acceptance of new Qualified Residents by providing operating subsidy payments ("Operating Subsidy Payments" or "OSP") and funding capital projects addressing critical repairs, required upgrades, and ensuring that facilities are compliant with licensing standards ("Capital Projects"), with the goal of preventing closures and preserving beds in existing licensed facilities;

D. In response to that certain Notice of Funding Availability issued by AHP on behalf of CDSS on or about June 10, 2022 (the "NOFA") for the Program, and the All County Welfare Directors Letter ("ACWDL") dated December 14, 2022 (collectively referred to as "Funding Letters"), County elected to receive its noncompetitive allocation of **Thirteen Million Eight Hundred Thirty-Three Thousand One Hundred Six and 00/100 Dollars ($13,833,106.00)** for the purpose of funding Operating Subsidy Payments and/or Capital Projects ("Program Funds") and has submitted to AHP an Implementation Plan ("Implementation Plan") for the administration and disbursement of the Program Funds to existing licensed adult and senior care facilities serving Qualified Residents; and;

E. This Agreement sets forth the terms and conditions of AHP's administration and management of the Program Funds and County's duties and obligations related to its receipt of Program Funds. Capitalized terms not defined herein shall have the meanings ascribed thereto in the California Welfare and Institutions Code sections 18999.97 – 18999.98.

NOW, THEREFORE, based upon the foregoing, and in consideration of the mutual covenants and agreements herein set forth, the Parties agree as follows:

ARTICLE 1.
AUTHORITY

California Assembly Bill 172 (Chapter 696, Statutes of 2021) ("AB 172") added sections 18999.97-18999.98 to the Welfare and Institutions Code, providing the statutory basis for the Program and California Senate Bill 129 (Chapter 69, Statutes of 2021), the Budget Act of 2021, and California Assembly Bill 178 (Chapter 45, Statutes of 2022), Budget Act of 2022, provide the funding for the Program. CDSS issued the Funding Letters and AHP publishes Funding Letters on behalf of CDSS and provides technical assistance, general training and support to counties on administration, disbursement and monitoring of the Program Funds, as well as administration and fund management to CDSS.

This Agreement is entered under the authority of and in furtherance of the Program. This Agreement is the result of the County's election to accept its allocation of Program Funds and County's submission of an Implementation Plan which is subject to AHP and CDSS review and approval.

This Agreement hereby incorporates by reference County's approved Implementation Plan, as well as any report prepared by AHP in reliance on the representations and descriptions included in that Implementation Plan. This Agreement is governed by the following (collectively, the "Program Requirements"), and each of the following, as amended and in effect from time to time, is hereby incorporated by this reference as if set forth herein in full:

1.1 AB 172 (Chapter 696, Statutes of 2021), including any subsequent amendments to the statutes contained therein;

1.2 California Welfare and Institutions Code sections 18999.97 – 18999.98;

1.3 The NOFA, in the form attached to this Agreement as Attachment D; and the ACWDL dated December 14, 2022;

1.4 Guidance issued by CDSS regarding the Program;

1.5 Program Guidelines, or Program Manuals, as adopted by CDSS, and as may be amended from time to time;

1.6 The award letter(s) issued by AHP to County ("Award Letter") attached to this Agreement as Attachment E; and

1.7 All other applicable law, including, but not limited to, California Labor Code statutes applicable to public works projects.

County is solely responsible and liable for County and County's subcontractors' performance and compliance with this Agreement, the above-referenced Program Requirements, and all other local, state, and federal laws applicable to the Project.

ARTICLE 2.
TERM

2.1 This Agreement shall commence on the Effective Date and shall expire automatically on June 30, 2027 (the "Expiration Date"); (the period from the Effective Date through the Expiration Date shall be referred to herein as the "Term"), unless earlier terminated by AHP or CDSS or assigned to CDSS pursuant to Section 2.3 below.

2.2 Upon the expiration of the Term, there shall be no extension or renewal of the Term of this Agreement, unless the Parties and CDSS otherwise agree in writing.

2.3 In the event that the Term of this Agreement is not extended, renewed, or terminated early, and either Party hereto shall have a material obligation to the other Party by the terms of this Agreement, which shall not be satisfied on or before the Expiration Date, all of AHP's rights and obligations under this Agreement shall be assigned automatically to CDSS, effective June 29, 2027, at 11:59 p.m. Each of the Parties hereto acknowledges and agrees that upon the occurrence of an assignment pursuant to this Section 2.3, such an assignment shall be effective without any further action by either Party hereto, or CDSS, and from and after the date of such an assignment: (i) CDSS shall be a Party to this Agreement and shall have all rights and obligations of AHP hereunder, and (ii) AHP shall cease to be a Party to this Agreement and shall be released from its obligations hereunder. Upon the occurrence of such assignment, the Term of this Agreement shall be extended automatically for a period of one (1) year and shall expire without any further action by either County or CDSS, unless County and CDSS otherwise agree in writing.

2.4 In the event that the Prime Contract is terminated or amended in a manner removing AHP from responsibility as a Party to this Agreement, and either Party hereto shall have a remaining obligation to the other Party by the terms of this Agreement, which shall not be satisfied on or before the Expiration Date, all of AHP's right and obligations under this Agreement shall be assigned automatically to CDSS effective upon the date of the termination or amendment.

2.5 Notwithstanding the foregoing or anything to the contrary contained herein, AHP and/or CDSS shall have the termination rights as set forth in Article 7, and Article 8, of this Agreement.

ARTICLE 3.
PROGRAM FUNDS AND DISBURSEMENT

3.1 Purpose. The County has been awarded the Program Funds in the amount set forth in this Agreement to be used solely for the purposes set forth in this Agreement and as detailed in the Implementation Plan and for no other purposes. The County shall be responsible for administering and disbursing the Program Funds for purposes that are consistent with the Program Requirements. The County may disburse Program Funds to Eligible Recipients (as defined below) for

OSP and/or for Capital Projects. Program Funds awarded for OSP may not be commingled with Program Funds awarded for Capital Projects, and vice versa. The County is obligated to develop an application, allocation methodology and award process for Eligible Recipients consistent with the terms of this Agreement. Program Funds shall be disbursed only upon satisfaction of the requirements of this section.

3.2 Conditions of Disbursement. Within thirty (30) calendar days of the delivery to AHP of a fully executed Agreement, AHP shall disburse to the County twenty-five percent (25%) of the total amount of Program Funds awarded to the County ("Advance Disbursement"), which funds are to be used by the County in accordance with this Agreement. County shall submit proof of expenditures applied against the Advance Disbursement no later than (30) days after the end of each calendar quarter. In no event shall further Program Fund disbursements be made by AHP to County until after the Advance Disbursement has been exhausted and County has provided proof of expenditures applied against the Advance Disbursement. Such proof of expenditures shall be in a form approved by AHP and shall include any documentation requested by AHP to evidence the County's expenditures of funds, consistent with the terms of this Agreement. After the Advance Disbursement has been exhausted, disbursements shall be made by written request in a form approved by AHP and shall include any documentation requested by AHP to evidence the County's expenditures of funds, including Match Funds as described in Section 5.6, consistent with the terms of this Agreement ("Disbursement Request").

Disbursements are subject to the following:

3.2.1. County shall submit Disbursement Requests no more than once per calendar quarter, unless additional Disbursement Requests are permitted pursuant to section 3.2.4.

3.2.2. Disbursement Requests shall be submitted no earlier than the last day of each calendar quarter and no later than thirty (30) days following the last day of each calendar quarter.

3.2.3. Program Funds will be disbursed to the County for costs incurred for the Project within thirty (30) days of receipt of a complete Disbursement Request for Program Funds, provided such Disbursement Request is approved by AHP or its designee.

3.2.4. Other than the Advance Disbursement, all disbursements shall be based on actual expenditures incurred by the County. The County may

submit requests for additional advance disbursements upon providing to AHP evidence of good cause for the additional advance disbursement, and AHP shall provide said request to CDSS for approval. Any approval or disapproval of a disbursement request for an advance disbursement is within the sole discretion of CDSS. In no event shall the balance of advance disbursements exceed 25% of the total Program Fund amount.

3.2.5. Disbursement Requests shall identify the purpose of the use of funds, whether for OSP or Capital Projects or both, and shall delineate items allocated to OSP or Capital Projects, if applicable.

3.2.6. Within ninety (90) days of the final Disbursement Request, the County shall provide AHP with (i) a reconciliation showing all expenditures made with Program Funds, including those made with the Advance Disbursement, (ii) documentation of the expenditure of all Match Funds, and (iii) any documentation or evidence requested by AHP to support such expenditures.

3.3 Documentation of Match Funds. Match Funds contributed pursuant to Article 5, Section 5.6 of this Agreement shall be reported with each Disbursement Request. In the event the Match Funds are an in-kind contribution in lieu of cash, including Project expenses incurred prior to the Effective Date (the "Sunk Costs"), the value of such in-kind contribution must be approved by AHP. All Match Funds must be expended prior to submitting the final Disbursement Request.

3.4 Disbursement of Program Funds to Eligible Recipients. The County shall be responsible for disbursement of Program Funds to Eligible Recipients. The County shall follow its standard procurement, invoicing, and reimbursement processes for the disbursement of Program Funds, consistent with the terms and conditions of this Agreement.

3.5 Additional Considerations for Program Funds Used For Capital Projects. The County shall be responsible for ensuring that Eligible Recipients comply with all construction requirements, including that Eligible Recipients comply with California Prevailing Wage laws (California Labor Code section 1720 et seq.), all permitting requirements of the local jurisdiction and any other governmental or Program Requirements. The County shall require that all facilities receiving Program Funds for Capital Projects undertaking a construction project costing more than One Million Dollars ($1,000,0000) shall obtain payment and performance bonds. Any exception to the requirement to obtain payment and performance bonds must be approved by AHP or CDSS.

ARTICLE 4.
ELIGIBLE RECIPIENTS AND EXPENDITURES

The County shall disburse Program Funds to Eligible Recipients for the uses set forth below. In awarding Program Funds, the County shall prioritize facilities with the highest risk of closure and facilities with the highest percentage of Qualified Residents.

4.1 Eligible Recipients. Program Funds shall only be disbursed by the County to facilities meeting all of the following eligibility criteria ("Eligible Recipients"):

4.1.1 An existing licensed Adult Residential Facility as defined in Title 22, section 80001(a)(5) of the California Code of Regulations; Residential Care Facility for the Elderly, as defined in Title 22, section 87101(r)(5) of the California Code of Regulations; or a Residential Care Facility for the Chronically Ill as defined in Title 22, section 87801(r)(5) of the California Code of Regulations.

4.1.2 Currently serving at least one Qualified Resident.

4.1.3 In good standing with the Community Care Licensing Division or, if the facility is not in good standing, providing a certification that the Program Funds will bring the facility into good standing.

4.1.4 Has agreed to continue to serve Qualified Residents.

4.1.5 Has agreed to prioritize applications from Qualified Residents who are part of the Prioritized Population.

4.1.6 Has agreed to remain in good standing with Community Care Licensing Division.

4.1.7 Has agreed to use the Program Funds disbursed for the uses set forth below in Section 4.3 if Program Funds are used for OSP or Section 4.5 if the Program Funds are used for Capital Projects.

4.2 Additional Criteria for Eligible Recipients of OSP. In addition to the criteria for Eligible Recipients set forth in Section 4.1, recipients of Program Funds for OSP must also meet the following criteria:

4.2.1 Have a monthly or annual operating cash flow gap that places the facility at risk of closure or risk of reducing the number of beds for Qualified Residents.

4.2.2 Have recorded a deed restriction on the facility or property requiring that the facility continue to provide licensed adult and senior residential care for a minimum duration equal to at least the term of the agreement between the County and Eligible Recipients to fund the OSP.

4.2.3 The duration of the agreement between the County and Eligible Recipients to fund the OSP is the period of time in which the County will be providing Program Funds for OSP to any Eligible Recipients within the County.

4.3 Eligible and Ineligible Uses of Program Funds for OSP. Program Funds used for OSP may be used to cover operating costs associated with the day-to-day physical operation of the Eligible Recipient's facility related to the Qualified Residents, including covering costs of utilities, maintenance and repair, staff and payroll costs, marketing, leasing, taxes and insurance, office supplies, accounting, and strategic planning. Examples of eligible uses are set forth in section 205 of the NOFA. Program Funds used for OSP may not supplant other funding available from existing local, state, or federal programs and grants supporting Qualified Residents and may not supplant the Qualified Residents' payments to the Eligible Recipient. Program Funds cannot be used for costs that are not related to operations, distributions to the facility owners, to pay tort claim liabilities, or to pay costs associated with a change of ownership. The County shall be responsible for ensuring that Program Funds are used for eligible purposes consistent with the Program Requirements and this Agreement.

4.4 Additional Criteria for Capital Project Eligible Recipients. In addition to the criteria for Eligible Recipients set forth in Section 4.1, recipients of Program Funds for Capital Projects must also meet the following criteria:

4.4.1 Have a gap in their financial ability to make needed repairs or upgrades, placing the facility at risk of closure or reducing the number of beds available for Qualified Residents.

4.5 Eligible and Ineligible Uses of Program Funds for Capital Projects. Program Funds used for Capital Projects are to be used for physical repairs and upgrades to an Eligible Recipient's facility, inside or outside the facility within the property line of the facility. Examples of eligible uses are set forth in section 205 of the NOFA. Program Funds used for Capital Projects may not supplant any existing funds used to support the prioritized population. Program Funds for Capital Projects shall not be used for repairs to foundations of leased facilities, projects that would expand or create new usable space, the provision of services, or for operating costs.

ARTICLE 5.
PROGRAM IMPLEMENTATION REQUIREMENTS

5.1 The County is responsible for the administration, disbursement, and monitoring of the Program Funds in accordance with the terms of this Agreement and the Program Requirements. Implementation requirements include the following:

5.2 Application Process. The County shall establish an application process for Eligible Recipients that addresses the Program priorities and goals. The application and funding selection process shall assess Eligible Recipients'

financial capacity, and ability to adhere to the Program Guidelines, including ensuring that Eligible Recipients have sufficient staff capacity and financial resources to manage the facility. The County funding shall be distributed geographically throughout the County to the extent feasible.

5.3 Monitoring. The County is responsible for monitoring use of Program Funds to ensure that Program Funds are only used for eligible uses in a manner consistent with the Program Guidelines. The County procedures must include a corrective action plan for assessing the risk of activities, projects, and for monitoring facilities to ensure that Program Requirements are met. The County is responsible for taking appropriate action in the event that Eligible Recipients fail to use the Program Funds for eligible uses or fail to perform. The County may subcontract any of its obligations to a third party, but the County remains responsible for the obligations in this Agreement.

5.4 OSP Agreements. The County shall enter into written agreements with Eligible Recipients of Program Funds used for OSP, which at a minimum shall include (i) the Eligible Recipients reporting obligations; (ii) the requirement that the Eligible Recipient respond to requests for information from AHP and CDSS; (iii) the eligible uses of the Program Funds; (iv) the conditions under which Program Funds will be disbursed; (v) the method of disbursement; (vi) a requirement that the facility be deed restricted to provide licensed adult and senior residential care for a minimum duration equal to the term of the agreement between the County and the Eligible Recipient for the use of Program Funds for OSP; (vii) conditions for the repayment of Program Funds or cancellation of future disbursement of Program Funds; (viii) a requirement that the Eligible Recipient provide an annual audit within ninety (90) days of the end of the fiscal year, if applicable; (ix) a requirement to report material changes, such as changes in key staff or litigation against the Eligible Recipient or the facility, within thirty (30) days of such occurrence; (x) a requirement that the Eligible Recipient indemnify the County; and (xi) such other provisions required by AHP or CDSS. County may include other requirements in its the agreement with Eligible Recipients of Program Funds used for OSP.

5.5 Capital Project Agreements. The County shall enter into written agreements with Eligible Recipients of Program Funds for Capital Projects which at a minimum shall include (i) the Eligible Recipients reporting responsibilities; (ii) the requirement that the Eligible Recipient respond to requests for information from AHP and CDSS; (iii) the allowed use of the Program Funds; (iv) the conditions for disbursement of the Program Funds; (v) the method of disbursement for the Program Funds; (vi) any procurement and bidding requirements, including, but not limited to, requirements to pay prevailing wage pursuant to California Labor Code section 1720 et seq.; (vii) conditions for repayment of the Program Funds or the cancellation of future disbursements; (viii) a requirement that the Eligible Recipient provide an annual audit within ninety (90) days of the end of the fiscal year, if applicable; (ix) a requirement to report material changes, such as changes in key staff or litigation against the Eligible Recipient or the facility within thirty

(30) days of such occurrence; (x) a requirement that the Eligible Recipient indemnify the County; (xi) if part of the County requirements, a requirement that the Eligible Recipient enter into a deed restriction to provide licensed residential care to Qualified Residents for a term determined by the County; and (xii) such other provisions required by AHP or CDSS. County may include other requirements in its agreement with Eligible Recipients of Program Funds used for Capital Projects.

5.6 Capital Project Program Fund Match. The County is required to match at least ten percent (10%) of the Program Funds for Capital Projects allocated to the County (the "Match Funds"). The County shall provide evidence to AHP of the contribution of Match Funds either in the form of cash or in-kind contributions as outlined in Article 3. Match Funds may be from the County or provided by an Eligible Recipient. In-kind Match Funds may be in the form of Sunk Costs directly related to the Capital Project, or costs directly related to the Capital Project that have already been incurred and cannot be recovered, and evidenced with documentation of paid invoices for professional services related to preconstruction of the specific Capital Project, as approved by AHP or CDSS on a case-by-case basis. In-kind Match Funds may also include donations of professional design-build services or materials directly related to the Capital Project. Any Match Funds claimed under Sunk Costs must supplement, not supplant, other fund sources. The provision of services and funds derived from the State general fund cannot be used in satisfaction of the required contribution of Match Funds.

5.7 Deed Restriction or Regulatory Agreement. The County must require Eligible Recipients receiving Program Funds for OSP to record a deed restriction or regulatory agreement on the funded facility requiring that the facility continue to provide licensed residential adult and senior care for a minimum duration equal to the term of the agreement between the County and Eligible Recipient for funding OSP. The deed restriction must be recorded on the title to the property upon which the facility is located before the County disburses any funds. If the Eligible Recipient leases the facility or property, the deed restriction must be signed by both the Eligible Recipient and the owner of the fee interest in the property and recorded against both the fee interest in the property and the leasehold. The County may, at its election, require deed restrictions for Capital Projects.

ARTICLE 6.
FISCAL ADMINISTRATION

6.1 The County shall be responsible for managing the Program Funds in compliance with the Program Requirements. The County is responsible for ensuring that Program Funds are used in accordance with the terms of this Agreement and the Program Requirements. The County is not required to establish a separate account for Program Funds but must establish a separate fund and must monitor all expenditures from the fund to ensure funds are only used for Program

purposes. All interest earned from Program Funds shall be used for purposes consistent with the terms of this Agreement and segregated from other County funds. Minimum requirements for the management of Program Funds include the following:

6.1.1 The County, by signing this Agreement, attests that it has the capacity and ability to manage the application, disbursement and monitoring of the Program Funds required by this Agreement and the Program Requirements.

6.1.2 The County shall include in its program requirements that all Eligible Recipients are assessed for financial feasibility and ability to comply with the Program Requirements.

6.1.3 The County shall comply with all disbursement procedures for the Program Funds set forth in the County's Implementation Plan or as otherwise approved by CDSS.

6.1.4 The County shall assign the necessary staff to monitor the use of Program Funds, ensure adherence to the Program Requirements, and monitor ongoing compliance with Program Requirements for the duration of any deed restriction required by this Agreement or the Term of this Agreement, whichever is longer, or required by the County.

6.1.5 The County shall ensure that recipients of Program Funds for Capital Projects comply with State Labor Code section 1720 et seq. (State Prevailing Wage).

6.1.6 The County shall comply with any reporting and record retention requirements in the Program Requirements or this Agreement.

6.2 Any Program Funds that have been disbursed to the County but have not been expended by the expiration of the Period of Performance set forth in the Summary Cover Sheet must be returned to CDSS with accrued interest within thirty (30) calendar days after the expiration of the Period of Performance in accordance with directions provided by CDSS. County shall not be entitled to any disbursement of Program Funds after expiration of the Period of Performance and any such undisbursed funds will be retained by CDSS.

6.3 The County shall not expend more than fifteen percent (15%) of the Program Funds on County administrative costs.

ARTICLE 7.
DEFAULT AND REMEDIES

7.1 Event of Default. Any of the following, after notice to County by AHP or CDSS, provided in accordance with the notice requirements of this Agreement, and expiration of any applicable cure period, shall constitute an Event of Default under this Agreement:

7.1.1 The County's failure to timely satisfy each or any of the conditions set forth in this Agreement, or the Award Letter.

7.1.2 The County's violation of any of the Program Requirements.

7.1.3 AHP's or CDSS's determination of the following:

7.1.3.1 The County has concealed any material fact from AHP or CDSS related to the County or any Eligible Recipients; or

7.1.3.2 Any material fact or representation, made or furnished to AHP or CDSS by the County in connection with this Agreement shall have been untrue or misleading at the time that such fact or representation was made known to AHP, or subsequently becomes untrue or misleading; or

7.1.3.3 Any Certification provided by the County is determined to be untrue or misleading;

7.1.3.4 Any objectives or requirements of the Program cannot be met in accordance with this Agreement or within applicable timeframes, as memorialized by this Agreement.

7.2 Right to Cure. If the breach, violation, or default pursuant to Section 7.1 is not cured to AHP's and CDSS' satisfaction, as determined by AHP and CDSS, each in their sole and absolute discretion, within fourteen (14) days of notice to the County, provided in accordance with the notice requirements of this Agreement, then AHP, with CDSS approval, may declare an Event of Default under this Agreement.

7.2.1 Notwithstanding the foregoing, the County may request additional time to cure any default from AHP. AHP may, but shall not be required to, grant any such request, subject to CDSS approval, in CDSS's sole discretion. CDSS's approval of the County's request for additional time to cure shall be subject to the County's continuing and diligent efforts to cure, and any additional cure period provided to the County shall be reasonable, as determined by CDSS, in CDSS's sole discretion. AHP, shall provide notice to County of approval or denial of County's request for additional time to cure any default. In no event shall any extension of the cure period exceed thirty (30) days.

7.3 AHP/CDSS Remedies. Upon the occurrence of an Event of Default, AHP (on CDSS's behalf) and/or the State (represented by CDSS in this Agreement) may take any and all actions or remedies that are available under this Agreement, at law, or in equity, including but not limited to the following:

7.3.1 temporarily withhold disbursement of Program Funds pending correction of the breach, violation, or default;

7.3.2 disallow use of Program Funds for all or part of the costs resulting from the breach, violation, or default;

7.3.3 wholly or partly suspend or terminate this Agreement and the County's award of Program Funds, or disbursements thereof (any such suspension or termination of this Agreement or the County's award of Program Funds shall be effective upon the County's receipt of AHP or CDSS notice of termination or suspension);

7.3.4 withhold or deny further Program Funds or awards to the County;

7.3.5 require the County to return all or part of any Program Funds, including any interest;

7.3.6 specific performance;

7.3.7 injunctive relief; and

7.3.8 any and all remedies allowed by law or equity.

ARTICLE 8.
TERMINATION

8.1 AHP and/or CDSS shall have the right, each in its sole discretion and without prejudice to any other rights and remedies it may have under applicable law, to terminate this Agreement immediately upon notice of such termination to the County, if (i) an Event of Default occurs; (ii) three (3) violations, breaches or defaults by the County of the terms and conditions of this Agreement (whether the same or different) occur within any twelve-month period, regardless of whether any or all such violations, breaches or defaults are timely corrected; (iii) the County files a petition in bankruptcy or is adjudicated by a court of competent jurisdiction to be bankrupt or insolvent, or makes an assignment for the benefit of creditors or an arrangement pursuant to any bankruptcy law, or if the County discontinues or dissolves its business or if a receiver is appointed for the County or the County's business; or (iv) County fails to provide AHP with adequate assurances within a reasonable time that County is financially solvent, or AHP or CDSS determines that County is financially insecure.

8.2 Notwithstanding the foregoing, or anything to the contrary stated herein, AHP may terminate this Agreement upon thirty (30) days' notice if AHP is directed by CDSS to terminate this Agreement.

8.3 Upon termination of this Agreement for any reason, neither AHP nor CDSS shall be liable for any work that is not performed in accordance with the Agreement or for any commitments made by the County to any Eligible Recipient. Upon any termination, neither AHP nor CDSS shall be responsible for any additional disbursements of Program Funds after the termination date or for any damages to the County as a result of such termination. Upon termination, County shall cease to disburse Program Funds to Eligible Recipients and shall return all Program Funds to the State at the direction of AHP or CDSS.

ARTICLE 9.
POLICIES AND LEGAL AUTHORITIES

9.1 The County shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to the County's performance under this Agreement, including any licensing and health and safety requirements.

9.2 The County shall comply with California Welfare and Institutions Code sections 18999.97 – 18999.98 et seq., including any related CDSS guidance, regulations, and/or subsequent additions or amendments thereto.

9.3 In the event the County does not comply with the terms of this Article 9, AHP shall give notice in accordance with section 15.7 and shall have all rights set forth in Article 7 and Article 8.

ARTICLE 10.
INDEMNIFICATION

10.1 The County shall indemnify, defend, and hold harmless AHP, its officers, employees and agents, and CDSS and its officers, employees and agents, against liabilities to third persons and other losses (not compensated by insurance or otherwise) and for any costs and expenses incurred by AHP and CDSS, including reasonable attorneys' fees, judgments, settlements or penalties against all liabilities, claims, suits, demands or liens for damages to persons or property (collectively "Claims") (unless such Claims arise from the gross negligence or willful misconduct of AHP or CDSS), arising out of, resulting from, or relating to, County's performance under this Agreement and including, but not limited to, the following:

10.1.1 Any act, omission, or statement of the County, or any person employed by or engaged under contract with the County, that results in injury (including death), loss, or damage to any person or property;

10.1.2 Any failure on the part of the County to comply with applicable Program Requirements and requirements of law;

10.1.3 Any act or omission of any Eligible Recipient, including but not limited to any failure of any Eligible Recipient to comply with the Program Requirements and the terms of this Agreement.

10.1.4 Any failure on the part of the County or an Eligible Recipient to satisfy all claims for labor, equipment, materials and other obligations relating to the performance of the work hereunder;

10.1.5 Any injury to property or person occurring on or about the infrastructure or the property of the County or any Eligible Recipient; or

10.1.6 Any claims related to the use, generation, storage, release, threatened release, discharge, disposal or presence of hazardous materials on, under or about the property upon which any facility funded with Program Funds is located.

10.2 The County shall indemnify AHP and/or CDSS under this clause for any of the above acts attributable to its employees, consultants, agents, and/or lower-tiered subcontractors, including Eligible Recipients, in connection with this Agreement. AHP or CDSS shall provide timely notice of any Claims describing in reasonable detail such facts and circumstances with respect to such Claims. The County shall defend AHP and/or CDSS with counsel reasonably acceptable to AHP and/or CDSS. AHP and/or CDSS may, each, at its option and own expense, engage separate counsel to advise regarding the Claim and its defense. Such counsel may attend all proceedings and meetings. The County shall not settle any Claim without the consent of AHP and/or CDSS, as applicable.

10.3 The County agrees to indemnify, defend and save harmless AHP, its officers, agents and employees and CDSS, its officers, agents and employees from any and all claims, costs (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened), and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the County in connection with this Agreement.

10.4 This indemnification shall survive the expiration or termination of the Agreement.

ARTICLE 11.
PREVAILING WAGE

Any construction work that is funded with Program Funds is subject to state prevailing wage law, including California Labor Code section 1720 *et seq.* The County is responsible for ensuring that all Eligible Recipients comply with Prevailing Wage law as well as any other applicable federal or state labor requirements.

ARTICLE 12.
RELOCATION.

The County is responsible for ensuring that all Eligible Recipients comply with applicable relocation laws, including Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. section 4601 et seq.), the California Relocation Assistance Law (California Government Code section 7260 et seq.) and their implementing regulations ("Relocation Laws"), if any Program Funds will be used for projects that will result in the displacement, as that term is defined in the Relocation Laws, of any persons, businesses, or farm operations. Pursuant to the Relocation Laws and guidance provided by CDSS, the County is responsible for ensuring that an Eligible Recipient (i) has a relocation plan prior to proceeding with any phase of a project or other activity that will result in the displacement of persons, businesses, or farm operations; and (ii) provides any required notices and relocation benefits. The County is also responsible for ensuring compliance with California Health & Safety Code and corresponding regulations for the safe transfer and relocation of residents in residential care facilities licensed by CDSS, and ensuring that Eligible Recipients obtain CDSS's approval of a relocation plan for each resident in care in a manner specified by CDSS.

ARTICLE 13.
INSPECTIONS, AUDITS, AND RECORD RETENTION

13.1 AHP and CDSS and any of their authorized representatives shall have the right to access any documents, papers, or other records of the County and any Eligible Recipients which are pertinent to the Program Funds, for the purpose of performing audits, examinations, and/or review regarding compliance with the provisions of this Agreement and the Program Requirements. Such monitoring activities shall include, but are not limited to, inspection of the County and Eligible Recipient's books and records, in addition to site inspections, as AHP or CDSS deems appropriate.

13.2 AHP and CDSS and any of their authorized representatives may perform compliance reviews and review procedures and documents pertaining to the County's compliance with the terms of this Agreement and Eligible Recipient's compliance with the Program Requirements, perform onsite visits and desk reviews in order to ensure Program Funds are expended for eligible uses and to

protect against fraud, waste and abuse. The County shall include in all agreements with Eligible Recipients, a requirement that the Eligible Recipient; (i) provide to AHP, and its authorized representatives, and CDSS and its authorized representatives access to the Eligible Recipient's records and facilities; and (ii) cooperate with any desk reviews.

13.3 The right to access records also includes timely and reasonable access to the County's and the Eligible Recipient's personnel for the purpose of interview and discussion related to the requested documents and/or information.

13.4 The right to access records is not limited to the required retention period but lasts as long as the records are retained by County and the Eligible Recipient.

13.5 The County shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Program Funds for the term of this Agreement and for a minimum of three (3) years thereafter, and require that all Eligible Recipients retain all records related to the Program Funds for the same period.

13.6 The County shall, and shall ensure that each of its Eligible Recipients shall, comply with the requirements set forth in Attachment C – The California Department of Social Services Confidentiality and Information Security Requirements.

13.7 Any review or inspection undertaken by AHP, its designee, or CDSS, or its designee, of the County's records or of any Eligible Recipient's records or facility is solely for the purpose of determining whether the County or the Eligible Recipient is properly discharging its obligations to CDSS, and should not be relied upon by the County or by any third parties as a warranty or representation by AHP or CDSS as to the quality of the design, construction, or operation of any project. The County agrees that claims based upon an audit finding and/or an audit finding that is appealed and upheld shall be recovered by AHP or CDSS by one of the following options:

13.7.1 The County's remittance to AHP or CDSS of the full amount of the audit exception within thirty (30) days following AHP request for payment; or

13.7.2 A repayment schedule which is agreeable to AHP, CDSS and County.

AHP reserves the right to select which option described above shall be employed; and AHP shall notify the County in writing of the claim procedure to be utilized. Interest on the unpaid balance of the audit finding or debt shall accrue at a rate equal to the maximum allowed by applicable law.

13.8 Reporting Requirements. The County shall provide AHP and CDSS with the following reports:

13.8.1 Quarterly reports submitted within thirty (30) days of the end of each quarter.

13.8.2 An annual Program Fund Expenditure Report to be submitted not later than January 31st of each year for the prior calendar year.

13.8.3 A final report to be submitted no later than sixty (60) days after the final disbursement of Program Funds to Eligible Recipients.

All reports shall be in a form and contain such information as required by CDSS in its sole and absolute discretion. In addition to the above reporting requirements, AHP and CDSS may request additional reports and information necessary for AHP and CDSS to monitor compliance with the Program Requirements. The County shall be responsible for obtaining any necessary reporting information from its Eligible Recipients.

ARTICLE 14.
THIRD PARTY BENEFICIARIES.

The State, represented by CDSS in this Agreement, is a third party beneficiary of this Agreement. This Agreement shall not be construed so as to give any other person or entity, other than the Parties and CDSS, any legal or equitable claim or right. CDSS or another authorized department or agency representing the State of California may enforce any provision of this Agreement to the full extent permitted in law or equity as a third party beneficiary of this Agreement. The State may take any and all remedies available in law and equity. In the event of litigation, the State may choose to seek any type of damages available in law or equity, up to the full amount of Program Funds awarded to the County.

The County shall name AHP and CDSS as third party beneficiaries with rights of enforcement in all agreements entered into by the County with Eligible Recipients.

ARTICLE 15.
MISCELLANEOUS.

15.1 Dispute Resolution:

15.1.1 The Parties shall use reasonable efforts to resolve any dispute arising under this Agreement within thirty (30) days pursuant to informal mediation before a retired judge with Judicial Arbitration and Mediation Services ("JAMS") in Los Angeles, California.

15.1.2 If the Parties cannot resolve a dispute arising under this Agreement pursuant to Section 15.1.1, the Parties shall submit such dispute to arbitration in accordance with the provisions of the American Arbitration Association. The Parties shall conduct any arbitration in Los Angeles, California. The arbitrator's decision in any such arbitration shall be final, conclusive, and binding on the Parties.

15.1.3 TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES HEREBY UNCONDITIONALLY WAIVE ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM ARISING OUT OF THIS AGREEMENT.

15.1.4 The County shall be obligated to continue to perform pursuant to this Agreement while any dispute is pending.

15.1.5 This Section 15.1 shall not apply to the State.

15.2 Attorneys' Fees. If a dispute arising out of this Agreement is finally adjudicated, the non-prevailing party shall pay the prevailing party's reasonable expenses incurred in connection therewith, including reasonable arbitration costs and reasonable attorneys' fees. If multiple items are disputed and the final decision is split, then the Parties shall allocate such expenses pro rata as to each item. Section 15.2 does not apply to the State.

15.3 Waiver. AHP's failure to notify the County of a breach or to insist on strict performance of any provision of this Agreement shall not constitute waiver of such breach or provision.

15.4 Remedies. No remedy in this Agreement is exclusive of any other remedy available under this Agreement, at law or in equity. AHP or CDSS may seek equitable relief, including an injunction, against the County in connection with any breach or threatened breach of this Agreement.

15.5 Limitation of Liability. Except as otherwise provided in this Agreement, or by applicable law, the County waives any right to seek, and AHP and CDSS shall not be liable for, any special, consequential, or punitive damages; indirect, or incidental damages; or for any loss of goodwill, profits, data, or loss of use arising out of, resulting from, or in any way connected with the performance or breach of this Agreement, even if the County advises AHP or CDSS of the possibility of any such damages.

15.6 Relationship. The County is an independent contractor with respect to AHP. This Agreement is not intended to create a partnership, joint venture, employment, or fiduciary relationship between the Parties or between any Party hereto and CDSS.

15.7 Notices. Notices under this Agreement must be (i) in writing; (ii) addressed to the receiving Party at the address described in the Summary Cover Sheet (unless notice of a different address is given); and (iii) (A) if personally delivered to the recipient, notice is effective upon delivery, (B) if sent by a nationally recognized overnight courier service, notice is effective on the first business day following its timely deposit with such courier service, delivery fees for next business day delivery prepaid; no signature affirming receipt by the receiving party is required, the internal records of the courier service shall be accepted as sufficient evidence of the date of the deposit of the notice with the courier service, or (C) if sent by

certified U.S. mail, notice is effective three (3) days after deposit thereof in the U.S. mail, postage prepaid, certified, return receipt requested. Counsel for a Party may send notice on behalf of its client.

15.7.1 Notwithstanding the foregoing, the Parties may deliver any approval, disapproval, or request therefor via email. Such email notices and deliveries shall be valid and binding on the Parties, subject to the following:

15.7.1.1 Such email must be properly addressed to the other Party's Designated Representatives. For purposes of this Agreement, "Designated Representative" means initially (i) for AHP, Louise Nieto, lnieto@ahpnet.com and Sheronna Quinine, squinine@ahpnet.com; and (ii) for the County, Leonard X. Hernandez, Leonard.Hernandez@cao.sbcounty.gov and Matthew Erickson, MErickson@cao.sbcounty.gov. A Party may change a Designated Representative only upon notice to the other Party pursuant to the requirements of Section 15.7(iii)(A), (B) or (C).

15.7.1.2 If the sender receives a bounce-back, out-of-office or other automated response indicating non-receipt, the sender shall (i) re-attempt delivery until the other Party confirms receipt, or (ii) deliver the item in accordance with Section 15.7(iii) (A), (B) or (C).

15.8 Governing Law. The place of performance of this Agreement is California and the laws of the State of California, shall govern the validity, performance, enforcement, and interpretation of this Agreement. Any litigation or enforcement of an award must be brought in the appropriate state or federal court in the State of California, County of Sacramento. Each Party consents to personal and subject matter jurisdiction and venue in such courts and waives the right to change venue with respect to any such proceeding. The Parties acknowledge that all directions issued by the forum court, including injunction and other decrees, shall be binding and enforceable in all jurisdictions and countries.

15.9 Assignment. The County shall not assign, delegate, or otherwise transfer this Agreement, or its duties, or obligations in connection therewith, in whole or in part without the prior approval of AHP and CDSS. AHP's obligations under this Agreement shall be assignable to CDSS or CDSS's designee upon CDSS's request without the County's consent. In the event that AHP assigns its obligations under this Agreement to CDSS, AHP shall make commercially reasonable efforts to transition any reasonably necessary documentation related to this Agreement to CDSS or its designee, at no cost to CDSS provided however, that AHP shall have no obligation to incur any liability, pay fees, charges, or reimbursement in connection with any assignment, wind-down or transition services.

15.10 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter. It supersedes all oral or written agreements or communications between the Parties. No understanding, agreement, modification, change order, or other matter affecting this Agreement shall be binding, unless in writing, signed by both Parties. No handwritten changes shall be effective unless initialed by each Party.

15.11 Independent Legal and Tax Advice. AHP and the County, each, have reviewed and negotiated this Agreement using such independent legal and tax counsel as each has deemed appropriate.

15.12 Exhibits. The Attachments, Schedules, and Addenda, attached to this Agreement are a part of this Agreement and incorporated into this Agreement by reference.

15.13 Partial Invalidity. If any part of this Agreement is unenforceable, the remainder of this Agreement and, if applicable, the application of the affected provision to any other circumstance, shall be fully enforceable.

15.14 Captions. The headings contained herein are for convenience only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

15.15 Force Majeure. Neither Party shall be liable to the other for loss or damages due to failure or delay in rendering performance caused by circumstances beyond its reasonable control, if such failure could not have been overcome by the exercise of due diligence, due care, or foresight. Circumstances may include, but are not limited to, acts of God or a public enemy; wars; acts of terrorism; riots; fires; floods; epidemics; quarantine restrictions; labor disputes; strikes; defaults of subcontractors/vendors; failure/delays in transportation; unforeseen freight embargoes; unusually severe weather; or any law/order/regulation/request of a state or local government entity, the U.S. Government, or of any agency, court, commission, or other instrumentality of any such governments. Times of performance under this Agreement may be appropriately extended for excused delays if the Party whose performance is affected promptly notifies the other of the existence and nature of such delay.

15.16 Publicity. Without prior written approval of the other, neither Party shall use the other's name or make reference to the other Party or any of its employees in publications, news releases, advertising, speeches, technical papers, photographs, sales promotions, or publicity purposes of any form related to this work or data developed hereunder, unless disclosure of such materials is required by legal, accounting, or regulatory requirements beyond the disclosing Party's reasonable control. Use of either Party's name may be made in internal documents, annual reports, and proposals. This section shall survive expiration/termination of this Agreement. Notwithstanding the foregoing, the County agrees that the State may use and refer to the County and any Eligible Recipients in any publication, news release, advertising, speech, technical paper, or for any other purposes.

15.17 Notice of Litigation. Promptly, and in any event within one (1) business day after an officer or other authorized representative of the County obtains knowledge thereof, the County shall provide written notice to AHP of (i) any litigation or governmental proceeding pending against the County which could materially adversely affect the County's or any of its Eligible Recipient's ability to perform its obligations under this Agreement and the Program Requirements, and (ii) any other event which is likely to materially adversely affect the County or an Eligible Recipient's ability to perform its obligations under this Agreement and the Program Requirements.

15.18 Survival. Except as otherwise stated, sections that by their terms impose continuing obligations or establish continuing rights shall be deemed to survive the expiration or termination of this Agreement.

15.19 Successors. This Agreement shall be binding upon the Parties, their successors, and assigns.

15.20 Approvals. Whenever this Agreement calls for a Party's approval or for CDSS's approval, approval shall mean prior written approval (including via email), not to be unreasonably conditioned, delayed, or withheld, unless sole discretion is expressly noted.

15.21 Counterparts; Electronic Signatures. The Parties may sign this Agreement in several counterparts, each of which constitutes an original, but all of which together constitute one instrument. Electronic signatures are valid and shall bind the Party delivering such signature.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS THEREOF, the Parties hereto have executed this Agreement by their duly authorized respective officers as of the day and year last written below.

AHP:	**SPONSOR:**
ADVOCATES FOR HUMAN POTENTIAL, INC.	COUNTY OF SAN BERNARDINO
By: _____ CHARLES GALLAND, CHIEF OPERATING OFFICER	By: _____ LEONARD X. HERNANDEZ, CHIEF EXECUTIVE OFFICER
Date: _____	Date: _____

LIST OF ATTACHMENTS

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Attachment A

STATE REQUIREMENTS

1. California Civil Rights Requirements

a. During the performance of this Agreement, County and its subcontractor*s* shall not deny the Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. County shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. County and its subcontractors shall comply with the provision*s* of the Fair Employment and Housing Act (Gov. Code § 12900 *et seq.*), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 *et seq.*), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135 *et seq.*), the regulations or standards adopted by CDSS to implement such article, the Unruh Civil Rights Act (California Civil Code § 51), and Title VI of the Civil Rights Act of 1964.

County shall permit access by representatives of the Department of Fair Employment and Housing, AHP and/or CDSS upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities to ascertain compliance with this clause. County and its subcontractor*s* shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, § 11105.)

County shall include the nondiscrimination and compliance provisions of this section in all subcontracts to perform work under the Agreement.

b. Pursuant to Public Contract Code § 2010, a person that submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of $100,000 or above shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

(1) CALIFORNIA CIVIL RIGHTS LAWS: County certifies compliance with the Fair Employment and Housing Act (Gov. Code § 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 *et*

seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135 *et seq.*), the regulations or standards adopted by CDSS to implement such article, the Unruh Civil Rights Act (California Civil Code § 51), and Title VI of the Civil Rights Act of 1964.

(2) EMPLOYER DISCRIMINATORY POLICIES: For contracts executed or renewed after January 1, 2017, if County has an internal policy against a sovereign nation or peoples recognized by the United States government, County certifies that such policies are not used in violation of the Fair Employment and Housing Act (Gov. Code § 12900 *et seq.*), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 *et seq.*), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135 *et seq.*), the regulations or standards adopted by CDSS to implement such article, the Unruh Civil Rights Act (California Civil Code § 51), and Title VI of the Civil Rights Act of 1964.

c. In the event of County's noncompliance with the requirements of the provisions herein or with any state or federal statutes, rules, regulations, or orders regarding civil rights or non-discrimination requirements, this Agreement may be cancelled, terminated, or suspended in whole or in part and County may be declared ineligible for further state contracts or grants.

d. County will include the contractor certification provisions required by this section in every subcontract or purchase order unless exempted by federal or state statutes, rules, regulations, or orders, so that such provisions will be binding upon each County or vendor. County will take such action with respect to any subcontract or purchase order AHP may direct as a means of enforcing such provisions.

2. Subcontract Requirements

a. County may enter into subcontracts for services to be performed pursuant to the Program Funding Agreement, provided such subcontracts are consistent with this Agreement and provided further that County follows its procurement policy, a copy of which has been previously provided to and approved by AHP. AHP or CDSS reserve the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require County to terminate subcontracts entered into in support of this Agreement.

(1) Upon receipt of a written notice from AHP requiring the substitution and/or termination of a subcontract, County shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within thirty (30) calendar days, unless a longer period is agreed to by CDSS.

b. County shall maintain a copy of each subcontract, including supporting documentation of cost reasonableness for subcontracting services sand shall, upon request by AHP or CDSS, make copies available for approval, inspection, or audit.

c. AHP and/or CDSS assume no responsibility for the payment of subcontractors used in the performance of this Agreement and/or subcontract agreements between the County and Eligible Recipients. County accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement and/or subcontract agreements between the County and Eligible Recipients.

d. County is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.

e. County shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.

f. County agrees to include the following clause, relevant to record retention, in all subcontracts for services:

> Subcontractor agrees to maintain and preserve, until three years after termination of this Agreement and final payment of Program Funds, to permit AHP or CDSS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records.

g. Except as otherwise provided in this Agreement, or as may be stipulated in writing by AHP, AHP shall be County's sole point of contract for all matters related to performance and payment under this Agreement.

h. County shall, as applicable, advise all subcontractors of their obligations to comply with this Attachment.

3. Income Restrictions

Unless otherwise stipulated in this Agreement, County agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by County under this Agreement shall be paid by County to AHP so that AHP can pay CDSS, to the extent that they are properly allocable to costs for which County has been reimbursed by AHP under this Agreement.

4. Site Inspection

The State has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract-supported activities and

the premises in which it is being performed. If any inspection or evaluation is made of the premises of County, County shall provide and shall require its contractors and subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work**.**

5. Warranties

County represents and warrants that:

a. It is free to enter into and fully perform this Agreement.

b. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

c. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to AHP or CDSS in this Agreement.

d. It has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

e. It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way County's performance of this Agreement.

f. All materials and equipment furnished in accordance with this Agreement and all work performed by County will be of good and workmanlike quality, free from faults and defects, and in conformance with the Agreement.

g. It shall comply with all applicable laws in connection with its performance of its obligations under this Agreement.

h. The provisions set forth herein shall survive any termination or expiration of this Agreement or any Project schedule.

6. Suspension or Stop Work Notification

a. AHP may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by AHP's Designated Representative. Upon receipt of said notice, County is to suspend and/or stop all, or any part of, the work called for by this Agreement.

b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be

provided within thirty (30) working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from AHP. The resumption of work (in whole or part) will be at AHP's discretion and upon receipt of written confirmation.

(1) Upon receipt of a suspension or stop work notification, County shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.

(2) Within ninety (90) days of the issuance of a suspension or stop work notification, AHP shall either:

(a) Cancel, extend, or modify the suspension or stop work notification; or

(b) Terminate the Agreement as provided for in the Cancellation/ Termination clause of the Agreement.

c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, County may resume work only upon written concurrence of AHP.

d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or agreement terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.

e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation/ Termination, AHP shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.

f. In accordance with Article10 and Section 15.5 of the Agreement, AHP shall not be liable to County or its subcontractors for loss of profits because of any suspension or stop work notification issued under this clause.

7. Compliance with Statutes and Regulations

a. County shall comply with all applicable California and federal law, regulations, and published guidelines in connection with this Agreement.

Attachment B

State of California
Department of Social Services

CERTIFICATION REGARDING LOBBYING AND CONFLICTS OF INTEREST

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. By entering into the Agreement and accepting Program Funds, County is in compliance with the Political Reform Act of 1978 and regulations promulgated by the Fair Political Practices Commission (FPPC) regarding requirements relating to lobbying and conflicts of interest.

1. County is aware of California state laws and regulations regarding employing current or former state employees. If County has any questions on the status of any person rendering services or involved with the Agreement, AHP must be contacted immediately for clarification.

(a) Current State Employees (Pub. Contract Code § 10410): 1). No officer or employee of the State shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment. No officer or employee of the State shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

(b) Former State Employees (Pub. Contract Code § 10411): 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which they engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency. For the twelve-month period from the date they left state employment, no former state officer or employee may enter into a contract with any state agency if they were employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to their leaving state service.

If County violates any provisions of above paragraphs, such action by County shall render this Agreement void (Pub. Contract Code § 10420). Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem (Pub. Contract Code § 10430(e)).

County of San Bernardino, a political subdivision of the State of California, acting through its County Administrative Office	**Leonard X. Hernandez**
Name of County	**Printed Name of Person Signing for County**
Contract Number 5180-213097	
Contract Number	**Signature of Person Signing for County**
	Chief Executive Officer
Date	**Title**

After execution by or on behalf of County, please return to:
California Department of Social Services

Attachment C

The California Department of Social Services
Confidentiality and Information Security Requirements
County - v 2019 01

This Confidentiality and Information Security Requirements – Attachment C (hereinafter referred to as "this Exhibit" or "Attachment C") sets forth the information security and privacy requirements County is obligated to follow with respect to all confidential and sensitive information (as defined herein) disclosed to or collected by County, pursuant to the Agreement in which this Attachment is incorporated. CDSS, AHP and County desire to protect the privacy and provide for the security of CDSS Confidential, Sensitive, and/or Personal (CSP) Information (hereinafter referred to as "CDSS CSP") in compliance with state and federal statutes, rules and regulations.

. **Order of Precedence.** With respect to information security and privacy requirements for all CDSS CSP, unless specifically exempted, the terms and conditions of this Attachment shall take precedence over any conflicting terms or conditions set forth in any other part of the Agreement between County and AHP.

I. **Effect on lower tier transactions.** The terms of this Attachment shall apply to all lower tier transactions (e.g., agreements, sub-agreements, contracts, subcontracts, and sub-awards, etc.). County shall incorporate the contents of this Attachment into each lower tier transaction.

II. **Confidentiality of Information.**

a. **DEFINITIONS.** The following definitions apply to this Attachment and relate to CDSS Confidential, Sensitive, and/or Personal Information:

i. "Confidential Information" is information maintained by CDSS that is exempt from disclosure under the provisions of the California Public Records Act (Government Code sections 6250 *et seq.*) or has restrictions on disclosure in accordance with other applicable state or federal laws.

ii. "Sensitive Information" is information maintained by CDSS which is not confidential by definition, but requires special precautions to protect it from unauthorized access and/or modification (i.e., financial or operational information). Sensitive information is information in which the disclosure would jeopardize the integrity of CDSS (i.e., CDSS' fiscal resources and operations).

iii. "Personal Information" is information, in any medium (paper, electronic, or oral) that identifies or describes an individual (i.e., name, social security number, driver's license, home/mailing address, telephone number, financial matters with security codes, medical insurance policy number, Protected Health Information (PHI), etc.) and must be protected from inappropriate access, use or disclosure, and must be made accessible to

information subjects upon request. It can also be information in the possession of the Department in which the disclosure is limited by law or contractual Agreement (i.e., proprietary information, etc.).

iv. "Breach" is

1. the unauthorized acquisition, access, use, or disclosure of CDSS CSP in a manner which compromises the security, confidentiality or integrity of the information; or the same as the definition of "breach of the security of the system" set forth in California Civil Code section 1798.29(f).

v. "Information Security Incident" is

1. unauthorized access or disclosure, modification or destruction of, or interference with, CDSS CSP that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of any state or federal law or in a manner not permitted under the Agreement, including this Exhibit.

b. CDSS CSP which may become available to County as a result of the implementation of the Agreement shall be protected by County from unauthorized access, use, and disclosure as described in this Attachment.

c. County is notified that unauthorized disclosure of CDSS CSP may be subject to civil and/or criminal penalties under state and federal law, including but not limited to:

- California Welfare and Institutions Code section 10850
- Information Practices Act – California Civil Code section 1798 *et seq.*
- Public Records Act – California Government Code section 6250 *et seq.*
- California Penal Code section 502, 11140–11144, 13301–13303
- Health Insurance Portability and Accountability Act of 1996 ("HIPAA") – 45 CFR Parts 160 and 164
- Safeguarding Information for the Financial Assistance Programs – 45 CFR Part 205.50
- Unemployment Insurance Code section 14013

d. **EXCLUSIONS.** "Confidential Information," "Sensitive Information," and "Personal Information" (CDSS CSP) does not include information that:

i. is or becomes generally known or available to the public other than because of a breach by County of these confidentiality provisions;

ii. already known to County before receipt from CDSS without an obligation of confidentiality owed to CDSS;

iii. provided to County from a third party except where County knows, or reasonably should know, that the disclosure constitutes a breach of confidentiality or a wrongful or tortious act; or

iv. independently developed by County without reference to CDSS CSP.

III. County Responsibilities.

a. **TRAINING.** County shall instruct all employees, agents, and subcontractors with access to CDSS CSP regarding:

i. The confidential nature of the information;

ii. The civil and criminal sanctions against unauthorized access, use, or disclosure found in the California Civil Code section 1798.55, Penal Code section 502 and other state and federal laws;

iii. CDSS procedures for reporting actual or suspected information security incidents in Paragraph V – Information Security Incidents and/or Breaches; and

iv. That unauthorized access, use, or disclosure of CDSS CSP is grounds for immediate termination of this Agreement and may be subject to penalties, both civil and criminal.

b. **USE RESTRICTIONS.** County shall take the appropriate steps to ensure that their employees, agents, and subcontractors will not intentionally seek out, read, use, or disclose CDSS CSP other than for the purposes described in the Agreement and to meet its obligations under the Agreement.

c. **DISCLOSURE OF CDSS CSP.** County shall not disclose any individually identifiable CDSS CSP to any person other than for the purposes described in the Agreement and to meet its obligations under the Agreement.

d. **SUBPOENA.** If County receives a subpoena or other validly issued administrative or judicial notice requesting the disclosure of CDSS CSP, County will immediately notify the AHP Project Director and CDSS Information Security and Privacy Officer. In no event should notification to CDSS occur more than three (3) business days after receipt by County's responsible unit for handling subpoenas and court orders.

e. **INFORMATION SECURITY OFFICER.** County shall designate an

Information Security Officer to oversee its compliance with this Attachment and to communicate with CDSS on matters concerning this Attachment.

f. **REQUESTS FOR CDSS CSP BY THIRD PARTIES.** County shall promptly transmit to the AHP Project Director and CDSS Information Security and Privacy Officer all requests for disclosure of any CDSS CSP requested by third parties to the Agreement (except from an individual for an accounting of disclosures of the individual's personal information pursuant to applicable state or federal law), unless prohibited from doing so by applicable state or federal law.

g. **DOCUMENTATION OF DISCLOSURES FOR REQUESTS FOR ACCOUNTING.** County shall maintain an accurate accounting of all requests for disclosure of CDSS CSP Information and the information necessary to respond to a request for an accounting of disclosures of personal information as required by Civil Code section 1798.25, or any applicable state or federal law.

h. **RETURN OR DESTRUCTION OF CDSS CSP ON EXPIRATION OR TERMINATION.** Upon expiration or termination of the Agreement between County and AHP, or upon a date mutually agreed upon by the Parties following expiration or termination, County shall return or destroy CDSS CSP. If return or destruction is not feasible, County shall provide a written explanation to the AHP Project Director and CDSS Information Security and Privacy Officer, using the contact information in this Agreement. CDSS, in its sole discretion, will make a determination of the acceptability of the explanation and, if retention is permitted, shall inform County in writing of any additional terms and conditions applicable to the retention of CDSS CSP.

i. **RETENTION REQUIRED BY LAW.** If required by state or federal law, County may retain, after expiration or termination, CDSS CSP for the time specified as necessary to comply with the law.

j. **RECORDS RETENTION:** Maintain all project materials and records pertaining to service delivery and fiscal and administrative controls for three years after final payment has been made under the terms of this Agreement, or until all pending county, State and federal audits are completed, whichever is later. County agrees that the State or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. Upon request, the County shall promptly make these materials and records available to the State or its representative including the State Auditor. County agrees to allow the State or its representative access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, County agrees to include a similar right of the State to audit records and interview staff in any subcontract related to this Agreement.

k. **OBLIGATIONS CONTINUE UNTIL RETURN OR DESTRUCTION.** County's obligations regarding the confidentiality of CDSS CSP set forth in this

Agreement, including but not limited to obligations related to responding to Public Records Act requests and subpoenas, shall continue until County returns or destroys CDSS CSP or returns CDSS CSP to CDSS; provided, however, that on expiration or termination of the Agreement between County and AHP, County shall not further use or disclose CDSS CSP except as required by state or federal law.

l. **NOTIFICATION OF ELECTION TO DESTROY CDSS CSP.** If County elects to destroy CDSS CSP, County shall certify in writing, to the AHP Project Director and CDSS Information Security and Privacy Officer, using the contact information, that CDSS CSP has been destroyed.

m. **BACKGROUND CHECK.** Before a member of County's workforce may access CDSS CSP, County must conduct a thorough background check of that worker and evaluate the results to assure that there is no indication that the worker may present a risk to CDSS information technology systems and/or CDSS data. County shall retain each workforce member's background check documentation for a period of three (3) years following Agreement termination.

n. **CONFIDENTIALITY SAFEGUARDS.** County shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of CDSS CSP that it creates, receives, maintains, uses, or transmits pursuant to the Agreement. County shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of County's operations and the nature and scope of its activities, including at a minimum the following safeguards:

i. **General Security Controls**

1. **Confidentiality Acknowledgement.** By executing the Agreement and signing Paragraph XI, CDSS Confidentiality and Security Compliance Statement, County acknowledges that the information resources maintained by CDSS and provided to County may be confidential, sensitive, and/or personal and requires special precautions to protect it from wrongful access, use, disclosure, modification, and destruction.

2. **Workstation/Laptop Encryption.** All County-owned or managed workstations, laptops, tablets, smart phones, and similar devices that process and/or store CDSS CSP must be encrypted using a FIPS 140-2 certified algorithm which is 128 bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by CDSS Information Security Office.

3. **Data Encryption.** Any CDSS CSP shall be encrypted at rest when stored on network file shares or document repositories.

4. **Server Security.** Servers containing unencrypted CDSS CSP must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

5. **Minimum Necessary.** Only the minimum necessary amount of CDSS CSP required to perform necessary business functions may be copied, downloaded, or exported.

6. **Removable Media Devices.** All electronic files that contain CDSS CSP must be encrypted when stored on any removable media or portable device (i.e., USB thumb drives, floppies, CD/DVD, smart phone, backup tapes, etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128 bit or higher, such as AES.

7. **Antivirus Software.** All County-owned or managed workstations, laptops, tablets, smart phones, and similar devices that process and/or store CDSS CSP must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

8. **Patch Management.** To correct known security vulnerabilities, County shall install security patches and updates in a timely manner on all County-owned or managed workstations, laptops, tablets, smart phones, and similar devices that process and/or store CDSS CSP as appropriate based on County's risk assessment of such patches and updates, the technical requirements of County's systems, and the vendor's written recommendations. If patches and updates cannot be applied in a timely manner due to hardware or software constraints, mitigating controls will be implemented based upon the results of a risk assessment.

9. **User IDs and Password Controls.** All users must be issued a unique user name for accessing CDSS CSP. County's password policy must be based on information security best practices for password length, complexity, and reuse.

10. **Data Destruction.** Upon termination of the Agreement, all CDSS CSP must be sanitized in accordance with NIST Special Publication 800-88, Guidelines for Media Sanitization.

ii. **System Security Controls**

1. **System Timeout.** The system providing access to CDSS CSP must provide an automatic timeout, requiring re-authentication of the user session after no more than thirty (30) minutes of inactivity for applications, and fifteen (15) minutes of inactivity for desktops and

laptops.

2. **Warning Banners.** All systems (servers, desktops, laptops, etc.) containing CDSS CSP must display a warning banner at login stating that data is confidential, systems are logged, and system use is for business purposes only. User must be directed to log off the system if they do not agree with these requirements.

3. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDSS CSP, or which alters CDSS CSP. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If CDSS CSP is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least one (1) year after occurrence.

4. **Access Controls.** The system must use role-based access controls for all user authentications, enforcing the principle of least privilege.

5. **Transmission Encryption.** All data transmissions of CDSS CSP by County outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128-bit key or higher. Encryption can be end-to-end at the network level, or the data files containing CDSS CSP can be encrypted. This requirement pertains to any type of CDSS CSP in motion such as website access, file transfer, and email.

6. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting CDSS CSP that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

iii. **Audit Controls**

1. **System Security Review.** All systems processing and/or storing CDSS CSP must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews shall include vulnerability scanning tools.

2. **Log Reviews.** All systems processing and/or storing CDSS CSP must have a routine procedure in place to review system logs for unauthorized access.

3. **Change Control.** All systems processing and/or storing CDSS CSP must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

iv. **Business Continuity/Disaster Recovery Controls**

1. **Disaster Recovery.** County must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDSS CSP in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than twenty-four (24) hours.

2. **Data Backup Plan.** County must have established documented procedures to backup CDSS CSP to maintain retrievable exact copies of CDSS CSP. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and the amount of time to restore CDSS CSP should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDSS data.

v. **Paper Document Controls**

1. **Supervision of Information.** CDSS CSP in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information may be observed by an individual not authorized to access the information. CDSS CSP in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

2. **Escorting Visitors.** Visitors to areas where CDSS CSP are contained shall be escorted, and CDSS CSP shall be kept out of sight while visitors are in the area.

3. **Confidential Destruction.** CDSS CSP must be disposed of through confidential means, such as cross-cut shredding and/or pulverizing.

4. **Removal of Information.** CDSS CSP must not be removed from the premises of County except for identified routine business purposes or with express written permission of CDSS.

5. **Faxing.** CDSS CSP that must be transmitted by fax shall require that County confirms the recipient fax number before sending, takes precautions to ensure that the fax was appropriately received,

maintains procedures to notify recipients if County's fax number changes, and maintains fax machines in a secure area**.**

6. **Mailing.** Paper copies of CDSS CSP shall be mailed using a secure, bonded mail service, such as Federal Express, UPS, or by registered U.S. Postal Service (i.e., accountable mail using restricted delivery). All packages must be double packed with a sealed envelope and a sealed outer envelope or locked box.

IV. Information Security Incidents and/or Breaches of CDSS CSP

i. **CDSS CSP Information Security Incidents and/or Breaches Response Responsibility.** County shall be responsible for facilitating the Information Security Incident and/or Breach response process as described in California Civil Code 1798.82(f), and State Administrative Manual (SAM) section 5340, Information Security Incident Management, including, but not limited to, taking:

ii. Prompt corrective action to mitigate the risks or damages involved with the Information Security Incident and/or Breach and to protect the operating environment; and

iii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

b. **Discovery and Notification of Information Security Incidents and/or Breaches of CDSS CSP.** County shall notify the AHP Project Director and CDSS Information Security and Privacy Officer of an Information Security Incident and/or Breach as expeditiously as practicable and without unreasonable delay, taking into account the time necessary to allow County to determine the scope of the Information Security Incident and/or Breach, but no later than three (3) calendar days after the discovery of an Information Security Incident and/or Breach. Notification is to be made by telephone call and email.

c. **Isolation of System or Device.** A system or device containing CDSS CSP compromised by an exploitation of a technical vulnerability shall be promptly disconnected or quarantined and investigated until the vulnerability is resolved. County will notify CDSS and AHP within two (2) business days of a confirmed exploitation of a technical vulnerability and keep CDSS and AHP informed as to the investigation until resolution of the vulnerability is completed.

d. **Investigation of Information Security Incidents and/or Breaches.** County shall promptly investigate Information Security Incidents and/or Breaches of CDSS CSP. CDSS shall have the right to participate in the investigation of such Information Security Incidents and/or Breaches. CDSS shall also have the right to conduct its own independent investigation, and County shall cooperate fully in such investigations. County is not required to disclose their un-redacted confidential,

proprietary, or privileged information. County will keep CDSS fully informed of the results of any such investigation.

e. **Updates on Investigation.** County shall provide regular (at least once a week) email updates on the progress of the Information Security Incident and/or Breach investigation of CDSS CSP to the AHP Project Director and CDSS Information Security and Privacy Officer until the updates are no longer needed, as mutually agreed upon between County and the AHP Program Director/CDSS Information Security and Privacy Officer. County is not required to disclose their unredacted confidential, proprietary, or privileged information.

f. **Written Report.** County shall provide a written report of the investigation to the AHP Project Director and CDSS Information Security and Privacy Officer within thirty (30) business days of the discovery of the Information Security Incident and/or Breach of CDSS CSP. County is not required to disclose their unredacted confidential, proprietary, or privileged information. The report shall include, but not be limited to, if known, the following:

   i. County point of contact information;

   ii. A description of what happened, including the date of the Information Security Incident and/or Breach of CDSS CSP and the date of the discovery of the Information Security Incident and/or Breach, if known;

   iii. A description of the types of CDSS CSP that were involved and the extent of the information involved in the Information Security Incident and/or Breach;

   iv. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed CDSS CSP;

   v. A description of where CDSS CSP is believed to have been improperly transmitted, sent, or utilized;

   vi. A description of the probable causes of the improper use or disclosure;

   vii. Whether Civil Code sections 1798.29 or 1798.82, or any other federal or state laws requiring individual notifications of breaches, are triggered; and

   viii. A full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the Information Security Incident and/or Breach of CDSS CSP.

g. **Cost of Investigation and Remediation.** Per SAM section 5305.8, County shall be responsible for all direct and reasonable costs incurred by AHP or CDSS due to Information Security Incidents and/or Breaches of CDSS CSP resulting from County's failure to perform or from negligent acts of its personnel, and resulting in

the unauthorized disclosure, release, access, review or destruction, or loss, theft or misuse of an information asset. These costs include, but are not limited to, notice and credit monitoring for twelve (12) months for impacted individuals, AHP staff time, CDSS staff time, material costs, postage, media announcements, and other identifiable costs associated with the Information Security Incident, Breach and/or loss of data.

V. Contact Information. To direct communications to the above-referenced AHP and CDSS staff, County shall initiate contact as indicated herein. AHP and CDSS reserve the right to make changes to the contact information below by giving written notice to County. Said changes shall not require an amendment to this Attachment or the Agreement to which it is incorporated.

AHP Project Director	**CDSS** **Information Security & Privacy Officer**
See Summary Cover Sheet of the Program Funding Agreement for AHP Project Director information	California Department of Social Services Information Security & Privacy Officer 744 P Street, MS 9-9-70 Sacramento, CA 95814 Email: iso@dss.ca.gov Telephone: (916) 651-5558

VI. Audits and Inspections. CDSS may inspect and/or monitor compliance with the safeguards required in this Attachment. County shall promptly remedy any violation of any provision of this Attachment and shall certify the same to the AHP Project Director and CDSS Information Security and Privacy Officer in writing. The fact that CDSS or AHP inspects, or fails to inspect, or has the right to inspect, does not relieve County of its responsibility to comply with this Attachment.

VII. Amendment. The Parties acknowledge that federal and state laws regarding information security and privacy rapidly evolve and that amendment of this Attachment may be required to provide for procedures to ensure compliance with such laws. The Parties specifically agree to take such action as is necessary to implement new standards and requirements imposed by regulations and other applicable laws relating to the security or privacy of CDSS CSP.

VIII. Interpretation. The terms and conditions in this Attachment shall be interpreted as broadly as necessary to implement and comply with regulations and applicable State laws. The Parties agree that any ambiguity in the terms and conditions of this Exhibit shall be resolved in favor of a meaning that complies and is consistent with federal and state laws and regulations.

IX. Termination. An Information Security Incident and/or Breach of CDSS CSP by County, its employees, agents, or subcontractors, as determined by CDSS, may constitute a material breach of the Agreement between County and AHP and grounds for immediate termination of the Agreement.

X. CDSS Confidentiality and Security Compliance Statement

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
CONFIDENTIALITY AND SECURITY COMPLIANCE STATEMENT v 2019 01

Information resources maintained by the California Department of Social Services (CDSS) and provided to County may be confidential, sensitive, and/or personal and requires special precautions to protect it from wrongful access, use, disclosure, modification, and destruction.

We hereby acknowledge that the confidential and/or sensitive records of CDSS are subject to strict confidentiality requirements imposed by state and federal law, which may include, but are not limited to, the following: the California Welfare and Institutions Code § 10850, Information Practices Act – California Civil Code § 1798 *et seq.*, Public Records Act – California Government Code § 6250 *et seq.*, California Penal Code § 502, 11140–11144, 13301–13303, Health Insurance Portability and Accountability Act of 1996 ("HIPAA") – 45 CFR Parts 160 and 164, and Safeguarding Information for the Financial Assistance Programs – 45 CFR Part 205.50. Contractor agrees to comply with the laws applicable to CDSS CSP received.

This Confidentiality and Security Compliance Statement must be signed and returned with the Agreement.

Project Representative

Name (Printed): **Leonard X. Hernandez**

Title: **Chief Executive Officer**

Business Name: **County of San Bernardino, a political subdivision of the State of California, acting through its County Administrative Office**

Email Address: **leonard.hernandez@cao.sbcounty.gov**

Phone: **909-387-5418**

Signature: _____

Date Signed: _____

READ and ACKNOWLEDGED: Information Security Officer
(or authorized official responsible for business' information security program)

Name (Printed): **Jake Cordova**

Title: **Interim Chief Information Officer**

Business Name: **County of San Bernardino, a political subdivision of the State of California, acting through its County Administrative Office**

Email Address: **jake.cordova@sbcounty.gov**

Phone: **909-388-5501**

Signature:

Date Signed:

Attachment D

Notice of Funding Availability

Community Care Expansion Preservation Program
Operating Subsidy Payment and Capital Projects
Notice of Funding Availability

DATE: JUNE 10, 2022

TO: ALL COUNTY DIRECTORS

SUBJECT: NOTICE OF FUNDING AVAILABILITY FOR THE COMMUNITY CARE EXPANSION PROGRAM: PRESERVATION OPERATIONAL SUBSIDIES AND PRESERVATION CAPITAL FUNDS

REFERENCE: Assembly Bill (AB) 172 (Chapter 696, Statutes of 2021); Welfare and Institutions Code (WIC) Section 18999.97; Senate Bill (SB) 129 (Chapter 69, Statutes of 2021)

The purpose of this letter is to notify all County Directors of noncompetitive allocations available for all counties with licensed residential adult and senior care facilities. This funding is available through the Community Care Expansion (CCE) Preservation Funds for the immediate preservation of licensed residential adult and senior care facilities serving applicants or recipients of Supplemental Security Income/State Supplementary Payment (SSI/SSP) or Cash Assistance Program for Immigrants (CAPI), including those who are experiencing or at risk of homelessness. The CCE Preservation Funds include operating subsidies and funds for capital projects.

Counties accepting these funds will be responsible for the administration and disbursement of funds to existing licensed adult and senior care facilities serving the prioritized population, consistent with the state guidelines provided within this funding announcement.

The California Department of Social Services (CDSS) is contracting with Advocates for Human Potential, Inc. (AHP), a consulting and research firm focused on improving health and human services systems, to serve as the third-party administrator for the CCE program.

I. PROGRAM BACKGROUND

California has a shortage of adult and senior care facilities (e.g., Adult Residential Facilities [ARFs] and Residential Care Facilities for the Elderly [RCFEs]) that accept individuals receiving or applying for SSI/SSP or CAPI. It has also seen a decline in the number of SSI/SSP recipients residing in adult and senior care facilities. The CCE program was established by Assembly Bill (AB) 172 (Chapter 696, Statutes of 2021) to fund capital projects and promote the sustainability of residential adult and senior care facilities and to address historic gaps in the long-term care continuum. The CCE program will provide a total of $805 million in funding for acquisition, construction, and rehabilitation to preserve and expand adult and senior care facilities that serve SSI/SSP

and CAPI applicants and recipients, including those who are experiencing or at risk of homelessness.

A total of $195 million is reserved for the CCE Preservation Funds, which are intended to immediately preserve and avoid the closure of licensed residential adult and senior care facilities serving qualified residents, defined as applicants or recipients of SSI/SSP or CAPI, including the "prioritized population" of qualified residents who are experiencing or at risk of homelessness (WIC sections 18999.97(c)(1) and (2)).

The $195 million Preservation Funds comprise $55 million in state general funds for preservation operating subsidy payments and $140 million in State Fiscal Recovery Funds (SFRF) established by the American Rescue Plan Act (ARPA) of 2021 (Public Law 117-2) for preservation capital projects. Refer to Section II: Allocation and Budget for additional information on the funding available for each of these eligible uses and expenditure deadlines.

California State Priorities

CCE funding opportunities are designed to address the following state priorities:

- Invest in behavioral health and community care options that advance racial equity
- Seek geographic equity of behavioral health and community care options
- Address urgent gaps in the care continuum for people with behavioral health conditions, including seniors, adults with disabilities, and children and youth
- Increase options across the life span that serve as an alternative to incarceration, hospitalization, homelessness, and institutionalization
- Meet the needs of vulnerable populations with the greatest barriers to access, including people experiencing homelessness and justice involvement
- Ensure care can be provided in the least restrictive settings to support community integration, choice, and autonomy
- Leverage county and Medi-Cal investments to support ongoing sustainability
- Leverage the historic state investments in housing and homelessness

In addition to the CCE Preservation Funds described in this letter, $570 million is available for the CCE Capital Expansion Program through a joint Request for Applications alongside the Department of Health Care Services Behavioral Health Continuum Infrastructure Program. **The timeline, eligible uses, program guidelines, and eligibility for the CCE Capital Expansion Program are distinct from the CCE Preservation Funds outlined in this letter.** Counties interested in funds to support the creation or expansion of care facilities or other residential care settings to serve recipients or applicants of SSI/SSP or CAPI are encouraged to learn more about the

CCE Capital Expansion funds, which are available for acquisition, construction, and rehabilitation to expand adult and senior care facilities serving qualified residents. Please visit the Improving California's Infrastructure website for more information on CCE Capital Expansion funds.

II. ALLOCATION AND BUDGET INFORMATION

Funding Availability

The CCE Preservation Funds identified in this letter total $195 million in noncompetitive allocations to counties for the immediate preservation of licensed residential adult and senior care facilities serving qualified residents. Note: facilities vendored by regional centers are not eligible for CCE Preservation Funds. However, these facilities and/or operators are encouraged to contact the regional center to request assistance in identifying resources related to capital development or rehabilitation, if applicable.

The CCE Preservation Funds are divided into two components:

- **Operating Subsidy Payments (OSP):** $55 million is available to fund operating subsidies to existing licensed residential adult and senior care facilities serving qualified residents. The intent of the OSP funds is to preserve and avoid the closure of critical residential adult and senior care facilities. OSP funds can cover an eligible licensed facility's potential or projected operating deficits. Refer to Sections 101 and 201 for more information on OSPs.
- **Capital Projects (CP):** $140 million is available in capital funds to preserve facilities in need of critical repairs or required upgrades, thereby potentially preventing facility closure, which could result in exits to homelessness. Funds can be applied to physical repairs and upgrades on an approved facility's property, including inside or outside the facility, within its property line. The CP can also fund repairs needed to ensure facilities are compliant with licensing standards. Refer to Sections 102 and 202 for more information on CPs.

Community Care Expansion Preservation Program
Operating Subsidy Payment and Capital Projects
Notice of Funding Availability

Funding and match requirements are as follows:

Purpose	Match	Funding Source and Expenditure Timeline	Amount
Operating Subsidy Payments (OSP)	None	State general fund must be obligated by June 30, 2027, and liquidated by June 30, 2029	$55,000,000
Capital Projects (CP)	10% match	Federal SFRF funds must be obligated by June 30, 2024, and liquidated by December 31, 2026	$140,000,000
Total CCE Preservation Funds			**$195,000,000**

Federal and State Expenditure Timeline

Of the $195 million in CCE Preservation Funds, the OSP component is funded by state general funds. OSP funds must be obligated by June 30, 2027, and liquidated by June 30, 2029.

The CP component is funded by the SFRF pursuant to ARPA. CP funds must be obligated by June 30, 2024, and liquidated by December 31, 2026.

Allocation Methodology

OSP and CP preservation funds are available to all counties with current licensed facilities serving qualified residents. The noncompetitive allocations are listed in Section 206. A need-based methodology for each county was determined by calculating the proportion of beds in existing licensed facilities currently serving individuals receiving SSI/SSP according to Community Care Licensing Division (CCLD) survey data. Facilities funded by regional centers are excluded and not eligible for CCE Preservation Funds. Refer to "Process to Accept CCE Preservation OSP and/or CP Funds" below for information on how county entities can accept funds.

Funding is not available in the noncompetitive allocation for counties with no qualifying facilities (i.e., no current licensed facilities willing to accept individuals who are applicants or recipients of SSI/SSP, not funded by regional centers). However, a base allocation of $200,000 may be requested if the county believes there are existing licensed adult and senior care facilities serving applicants or recipients of SSI/SSP or CAPI that were not identified by the need-based methodology. Counties interested in this option must contact cce.preservation@ahpnet.com no later than July 15, 2022.

Refer to Section 206 to review the counties that fall into this category, as indicated by an asterisk.

Allocations and Awards Timeline

The following table summarizes the CCE Preservation Fund timeline:

Notice of funding availability released	June 10, 2022
Stakeholder webinar	June 17, 2022
Deadline for counties to accept allocations via the Director's Certification	July 15, 2022
Deadline for counties to submit initial Implementation Plan for OSP and/or CP Preservation Funds	October 15, 2022
Deadline for counties to submit final Implementation Plan for OSP and/or CP Preservation Funds	January 15, 2023
Initial award announcements	Continuous; individual award announcements will be issued within 45 days of receipt of a complete Director's Certification
Standard Agreement (contract) with participating counties	AHP will issue a Standard Agreement (contract) for counties within 60 days of county initial Implementation Plan submission

CDSS reserves the right to modify the projected timeline at any time.

Process to Accept CCE Preservation OSP and/or CP Funds

Counties may choose to accept funds for either OSP, CP, or both. If both are accepted, a county must designate one county department to implement both program components. Any county department is eligible to accept the funds; examples include, but are not limited to, social service departments, health departments, aging or adult services, the behavioral health department, or housing and community development departments. However, the same county department must administer both OSP and CP funds.

Counties must accept or decline funds via the Director's Certification in the web portal by July 15, 2022. Counties are encouraged to accept funds as soon as possible to meet the immediate needs of adult and senior care facilities at risk

of closure. Funds not accepted by July 15, 2022, will be redistributed to counties that confirm an ability to accept additional funds via the web portal.

Award Announcement and Contract

AHP will review responses via the web portal on a rolling basis. Within 45 days of receiving the complete Director's Certification, AHP will issue an award letter.

Following submission of a signed Director's Certification, counties will be required to submit an initial CCE Preservation Funds Implementation Plan. Initial plans are due no later than October 15, 2022. If additional time is needed to seek local approval or to finalize the plan, counties may submit an amended or final Implementation Plan no later than January 15, 2023.

AHP will issue a Standard Agreement (contract) within 60 days of receipt of an initial Implementation Plan. The final Implementation Plan will be attached as an Addendum to the Standard Agreement (contract) and monitored for compliance where appropriate, as well as serve as a starting point for ongoing technical assistance (TA). The Standard Agreement must be signed, submitted, and fully executed with AHP before initial funding can be disbursed.

III. PROGRAM ADMINISTRATION

Summary of Program Requirements

AHP, with direction from CDSS, will award funds and issue contracts for CCE Preservation Funds to interested counties. AHP will use the web platform to obtain Director's Certifications and Implementation Plans.

Counties accepting funds shall be responsible for and asked to certify to the following:

- Submit a Director's Certification of funds acceptance.
- Identify one county department to manage all CCE Preservation Funds (both OSP and CP grants).
- Submit an Implementation Plan outlining how the program will be administered.
- Ensure program administration is consistent with the attached notice of funding availability (NOFA) and executed contract, including application processes, funding disbursement, and monitoring for funding accepted (OSP, CP, or both) for eligible use.
- Ensure facilities receiving funds are in good standing with CCLD at CDSS.
- Maximize funds for preservation of licensed facilities serving qualified residents and the prioritized population and limiting county administrative costs to 10 percent or less.

- Provide reports to AHP and CDSS upon request. The reporting frequency is generally expected to be quarterly at minimum; however, additional ad hoc reports may be requested.
- Provide match funds for CP funds of at least 10 percent, either provided by the county or contributed by facilities in receipt of CP funds. Note: OSP funds do not require a county match.

Technical Assistance

AHP has been contracted to offer ongoing general training and TA throughout the life of the CCE Preservation Funds, effective immediately. Topics may include, but are not limited to, permit and licensing requirements, construction plans, oversight and management, braiding of funds, workforce development strategies, racial equity, serving diverse and complex individuals, and leveraging Medicaid and other funding sources for sustainability and budgeting best practices. AHP will also conduct informational webinars on topics such as strategies to serve target and prioritized populations, braiding resources to ensure viability, and green/sustainable building practices, as well as addressing concerns common to capital development projects serving the prioritized populations.

Counties may request TA by contacting cce.preservation@ahpnet.com.

Additional information about AHP and CCE is available at https://www.buildingcalhhs.com.

IV. QUESTIONS AND ADDITIONAL INFORMATION

Contact cce.preservation@ahpnet.com with questions about this letter or attachments.

Additional information to address questions will be provided through a public webinar scheduled for June 17, 2022); an announcement will be forthcoming, following the release of this letter.

Community Care Expansion Preservation
Operating Subsidy Payment and Capital Projects

Notice of Funding Availability

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Community Care Expansion Preservation Program
Operating Subsidy Payment and Capital Projects
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Article I – Program Overview

The Community Care Expansion (CCE) Preservation Funds consist of two components: 1) Operating Subsidy Payments (OSP) and 2) Capital Projects (CP).

The unique goals, eligibility, and uses of each component are outlined throughout this attachment. Both components are intended to support the immediate preservation of licensed residential adult and senior care facilities serving qualified residents, defined as applicants or recipients of SSI/SSP or CAPI, including the prioritized population of qualified residents who are experiencing or at risk of homelessness.

Section 101 – Preservation OSP

The intent of the OSP funds is to provide operating subsidies to existing licensed residential adult and senior care facilities to preserve them and avoid their closure, as well as to increase the acceptance of new qualified residents, including the prioritized population. Note: Facilities vendored by a regional center are not eligible for these funds.

OSP funds can cover an eligible licensed facility's potential or projected operating deficits. Operating costs are the costs associated with the day-to-day physical operation (e.g., staffing, utilities, security, maintenance) of qualified facilities. OSP funds will cover operating costs that are not covered by existing revenues. Eligible uses are further defined in Section 205.

Counties accepting OSP funding are required to develop an application, allocation methodology, and award process for eligible licensed facilities consistent with state guidelines outlined in this document. Counties may determine whether they want to provide a set monthly payment or cost reimbursement based on actual costs and expenditures. Examples of each of these options are described below:

- **Set monthly payment:** A county may develop an allocation methodology for a monthly payment based on the number of beds currently occupied by qualified residents. In this scenario, the county shall determine the appropriate monthly amount for the operating subsidy payments that a facility would receive based on local needs. The monthly amount shall be applied at a rate per bed occupied by a qualified resident that month; beds occupied by non-qualified residents may not be included in the allocation methodology. With a set monthly payment, CDSS recommends subsidy payments of at least $1,000 per bed for qualified residents, unless the county determines, based on their local needs assessment, that the amount should be less than $1,000 per bed for qualified residents. For example, if the monthly amount is set at $1,000 and four beds are currently occupied by qualified residents, the facility would receive a total of $4,000 in OSP funds that

month. If in the next month there are only three beds occupied by qualified residents, the facility would receive $3,000.

- **Cost reimbursement:** A county may reimburse facilities based on actual costs and expenditures. The facility can only be reimbursed for the share of eligible operating costs applicable to qualified residents. Counties choosing to use a cost reimbursement method should provide a template tool for facility applicants to project their operating costs and deficits for a set period. For example, if 25 percent of a facility's beds are occupied by qualified residents, then the facility may request reimbursement for 25 percent of that month's eligible operating costs. Each month, the total reimbursed may vary due to changes in monthly operating costs as well as changes in the number of qualified residents in a facility.

Consistent with Welfare and Institutions Code (WIC) section 18999.97, facilities in receipt of OSP shall be deed restricted to provide licensed adult and senior residential care for at least the length of time the county will provide operating subsidy payments. A deed restriction on the title of the property safeguards the property for purposes consistent with the grant for the duration of the contract performance period. A deed restriction must be recorded on the title to the property before the county can approve any OSP. As such, facility operators that are leasing the property must obtain the owner's consent for the deed restriction.

The length of time each county will provide OSP may vary depending on the county's OSP allocation, the number of facilities in receipt of OSP, and the amount of the monthly OSP. For example, a county determines they will provide OSP to eligible facilities over the course of 3 years. This duration of 3 years was determined based on the county's allocation and number of facilities the county prioritized to receive OSP. In this example, all facilities receiving OSP shall be deed restricted to provide licensed adult and senior residential care for at least the 3 years that the county will provide OSP via the CCE Preservation Funds.

Counties may request further technical assistance (TA) regarding how to establish processes to ensure properties are deed restricted, consistent with the statutory requirements, by contacting Advocates for Human Potential, Inc. (AHP) at cce.preservation@ahpnet.com.

Note: OSP must be used to cover the facility's operating deficits. SSI/SSP or CAPI recipients may not receive free or reduced amount for board/room or care or supervision as a result of the OSP funding. OSP funding must not supplant the recipient's payment to the facility or supplement their board/room charge.

Section 102 – Preservation CP

The CP component of the CCE Preservation Funds provides capital funds to preserve facilities in need of repairs or required upgrades, thereby potentially preventing a facility closure and exits to homelessness. Funds can be applied to physical repairs and upgrades on an approved facility's property, including inside or outside the facility, within its property line. The CP funds can also be used for repairs needed for facilities to ensure they are compliant with licensing standards. Eligible uses are further defined in Section 205.

Counties accepting CP funding are required to develop an application, allocation methodology, and award process for eligible licensed facilities that are currently serving qualified individuals.

Article II – Eligible Recipients and Expenditures

CCE Preservation noncompetitive allocations will be distributed to the county department designated by the county, once they are accepted through the process described in Section 302. If both OSP and CP funds are accepted, one county department must manage both programs. Examples of county departments may include, but are not limited to, the housing development department, aging or adult services, or the behavioral health department. The department implementing OSP and/or CP should collaborate closely with behavioral health and homelessness systems of care to implement the program.

The designated county department will be responsible for the program administration, funding disbursement, and monitoring for OSP and CP to eligible licensed facilities, as applicable, as described in Sections 302 and 402, respectively.

Counties accepting OSP and/or CP funds must provide information via an Implementation Plan that outlines how the county's funding application and dissemination process will target facilities that meet the eligibility and prioritization criteria outlined below. More information on the Implementation Plan is included in Section 301.

Section 201 – Preservation OSP Eligible Recipients

OSP funds are intended to provide operating subsidies to existing licensed eligible residential adult and senior care facilities to preserve and avoid their closure, and to increase the acceptance of new qualified residents, including the prioritized population.

To receive OSP funding, facilities must meet the following eligibility criteria:

1. Be an existing licensed Adult Residential Facility (ARF), as defined in Title 22, section 80001(a)(5) of the California Code of Regulations; Residential Care Facility for the Elderly (RCFE), as defined in Title 22, section 87101(r)(5) of the California Code of Regulations; or Residential Care Facility for the Chronically Ill (RCFCI), as defined in Title 22, section 87801(r)(5) of the California Code of Regulations;
2. Currently serve at least one qualified resident;
3. Be in good standing with the Community Care Licensing Division (CCLD) or certify that the capital project funds will bring them into good standing, defined as licensees in "substantial compliance" with licensing statues and regulations per Title 22, sections 80001(s)(8), 81001(s)(8), 87101(s)(9), and 87801(s)(7) of the California Code of Regulations; and
4. Have a critical monthly or annual operating and cash flow gap that places the facility at risk of closure or at risk of reducing the number of beds for qualified residents.

Facilities may certify that they meet these eligibility criteria through a written statement or attestation as part of the application process. Although counties may request further documentation when needed, CDSS encourages counties to develop streamlined and low-barrier applications to facilitate timely awards.

To accept funds, facilities must also agree to meet the following conditions **throughout implementation**:

1. Use funds in accordance with the eligible uses outlined in Article II as well as the program requirements outlined in Article IV and throughout this NOFA.
2. Agree to continue serving applicants or recipients of SSI/SSP or CAPI.
3. Agree to prioritize applications from qualified residents who are currently experiencing or at risk of homelessness.
4. Remain in good standing with CCLD.
5. Consistent with WIC section 18999.97(f), include a deed restriction to provide licensed adult and senior residential care for the length of time the grantee provides operating subsidy payments.

Counties shall monitor adherence to these requirements and ensure that facilities continue to meet the standards outlined above throughout program implementation. Counties will be responsible for reporting on the adherence to these requirements through regular program reports, as further described in Section 401.

Section 202 – Preservation CP Eligible Recipients

CP funds are intended to preserve essential residential adult and senior care facilities in need of resources for repairs or required upgrades and that serve qualified residents and the prioritized population.

To receive CP funding, facilities must meet the following eligibility criteria:

1. Be an existing licensed Adult Residential Facility (ARF), as defined in Title 22, section 80001(a)(5) of the California Code of Regulations; Residential Care Facility for the Elderly (RCFE), as defined in Title 22, section 87101(r)(5) of the California Code of Regulations; or Residential Care Facility for the Chronically Ill (RCFCI), as defined in Title 22, section 87801(r)(5) of the California Code of Regulations;
2. Currently serve at least one qualified resident;
3. Be in good standing with CCLD or certify that the capital project funds will bring them into good standing, defined as licensees in "substantial compliance" with licensing statues and regulations per Title 22, sections 80001(s)(8), 81001(s)(8), 87101(s)(9), and 87801(s)(7) of the California Code of Regulations; and
4. Have a critical gap in their financial ability to make the needed repairs or upgrades, placing the facility at risk of closure or at risk of reducing the number of beds for qualified residents.

Facilities may certify that they meet these eligibility criteria through a written statement or attestation as part of the application process. Although counties may request further documentation when needed, CDSS encourages counties to develop streamlined and low-barrier applications to facilitate timely awards.

To accept funds, facilities must also meet the following conditions **throughout implementation**:

1. Use funds in accordance with the eligible uses outlined in Article II, as well as the program requirements outlined in Article IV and throughout this NOFA.
2. Agree to continue serving applicants or recipients of SSI/SSP and CAPI.
3. Agree to prioritize applications from qualified residents currently experiencing or at risk of homelessness.
4. Remain in good standing with CCLD.

Note: Counties may require that facilities receiving CP funds include a deed restriction on the property that the facility be used to provide licensed adult and senior residential care for a period of time specified by the county. CDSS recommends counties include a deed restriction of 5 years or the length of time the county determines appropriate, relative to the amount of funds awarded to the facility. For example, it may be appropriate to require deed restriction for more than 5 years when a facility receives CP funds in excess of $250,000.

Although CDSS recommends a deed restriction, in some cases it may not be feasible for the operator to agree to a deed restriction. For example, operators receiving CP

funds may not be able to agree to a deed restriction when the operator does not own the facility. In those cases, the county should include another form of agreement specifying the operator will continue to serve the qualified population and prioritize people experiencing or at risk of homelessness, as appropriate.

Counties shall monitor adherence to these requirements and ensure that facilities continue to meet the standards outlined above throughout program implementation. Counties will also be required to report on adherence to these requirements through regular program reports, as further described in Section 401.

Section 203 – Ineligible OSP or CP Recipients

Facilities vendored by regional centers are not eligible for OSP or CP funds.

Section 204 – Facility Prioritization Criteria

Counties shall distribute funds to facilities in a manner that supports the overall goal to preserve eligible facilities and increase beds for qualified residents and the prioritized population. Counties shall use the following criteria to prioritize eligible facilities for CCE Preservation Funds:

1. Facilities at the highest risk of closure that can be prevented through OSP or CP funds.
2. Facilities with the highest percentage or number of qualified residents served.

In addition to the criteria outlined above, counties may establish additional facility prioritization criteria to address local needs and the overall goals of the CCE Preservation Program.

Information on prioritization will be requested as part of the Implementation Plan.

Section 205 – Eligible/Ineligible Expenditures

A. County Uses for OSP and CP:

- Funds must be used to supplement, not supplant, other funding available from existing local, state, or federal programs or grants with similar purposes (i.e., existing funds used to support the prioritized population).
- County administrative costs must be minimized, not to exceed 10 percent.
- The remaining funds outside of administrative costs are to be distributed to the eligible and selected licensed adult and senior care facilities.

B. Eligible OSP Facility Costs:

Operating costs are associated with the day-to-day physical operation of the qualified setting. The OSP is intended to help facilities cover facility operating deficits. These settings often have costs that exceed the revenue totals each month when they are caring for individuals applying for or receiving SSI/SSP or CAPI. Funds must be used to supplement, not supplant, any existing funds used to support the prioritized population.

Eligible uses of OSP funds may include the following:

- Utilities, including heating, water, sewer, telephone, broadband and internet, and common area utilities
- Maintenance and repairs, including supplies, trash removal, snow removal, pest control, grounds upkeep and landscaping, and painting
- Staff and payroll costs required to sufficiently operate the licensed facility, including administrative, maintenance, and security staff/payrolls; staffing costs must be attributed to the facility as a whole and not in direct service or support of any single individual
- Marketing and leasing, including advertising, credit investigations, and leasing fees
- Taxes and insurance, including real estate taxes and property insurance
- Office supplies and expenses
- Accounting, such as tax filings, audits, and reporting to investors associated with the operation of the qualified facility
- Strategic planning and coordination with local health, social services, or homelessness systems of care to support sustainable long-term facility operations

Refer to Section 101 for more information about how to determine a facility's OSP.

C. Excluded OSP Facility Costs:

Expenses that are not eligible to be covered by the OSP funds include the following:

- Expenses unrelated to operational costs
- Sponsor distributions
- Expenses or fees related to change in ownership, limited partner buyout, substitution, or assignment of ownership interest
- Expenses or fees related to tort or contract liability

D. Eligible CP Facility Costs:

CP funds can be applied to physical repairs and upgrades on an approved facility's property, inside or outside the facility, within its property line. Funds must be used to supplement, not supplant, any existing funds used to support the prioritized population.

Examples of common allowable costs could include but are not limited to the following:

- Weather stripping repair
- Outdoor activity space upgrades
- Perimeter fencing
- Delayed egress
- Repairs to holes in walls
- Signal system upgrade (e.g., egress and ingress systems, signals/alarms on doors, integration to personal emergency responses systems)
- Elevator repairs
- Water damage repairs
- Appliance upgrades
- Furniture upgrades
- Locked storage area upgrades
- Fire protection upgrades
- Fire alarm systems upgrades
- Employee accommodations upgrades (e.g., break rooms)
- First aid supply upgrades
- Windows and screens repair and upgrades
- Carpet and flooring upgrades
- Interior paint upgrades
- Roof repairs or replacement
- ADA upgrades and other upgrades to improve mobility and accessibility
- HVAC repairs

- Repairs or upgrades to bedrooms, bathrooms and showers, common areas, kitchens (note: repairs or upgrades may not increase square footage of the facility)
- Seismic upgrades to applicable facility types with two stories or more
- Solar panel purchasing, installation, and other upgrades that will reduce long-term operating costs
- Other sustainable/green or energy-efficient building upgrades

Capital projects may include physical repairs or upgrades that will prevent the facility from closure and place the facility back in good standing with CCLD, when applicable.

E. Excluded CP Facility Costs:

Expenses that are not eligible to be covered by the CP funds include the following:

- Foundations for leased properties
- Projects that would expand or create a new usable space that would increase the square footage of the facility (see the CCE Capital Expansion RFA on the Improving California's Infrastructure website)
- Provision of services
- Operating costs (facilities should apply for OSP funds if they have operating cost needs)

Section 206 – County Allocations

The following table lists the one-time allocation amounts available for all counties with current licensed facilities serving qualified residents according to CCLD.

Director's Certification to accept the base allocation must be submitted in the web portal by July 15, 2022. Counties should review Section II for instructions on how to accept funds.

County	OSP Allocation	CP Allocation
Alameda	$1,519,607	$4,136,116
Alpine	-	-
Amador	$200,000	$200,000
Butte*	-	-
Calaveras	$200,000	$ 200,000
Colusa	-	-
Contra Costa	$1,189,741	$3,238,276
Del Norte	-	-

County	OSP Allocation	CP Allocation
Placer	$200,000	$534,669
Plumas	-	-
Riverside	$1,779,052	$4,842,283
Sacramento	$2,416,546	$6,577,434
San Benito*	-	-
San Bernardino	$2,787,182	$7,586,243
San Diego	$3,346,842	$9,109,544
San Francisco	$1,497,369	$4,075,588

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County	OSP Allocation	CP Allocation
El Dorado	$200,000	$200,000
Fresno	$1,100,789	$2,996,162
Glenn	$200,000	$200,000
Humboldt	$200,000	$200,000
Imperial	$200,000	$413,612
Inyo*	-	-
Kern	$830,224	$2,259,732
Kings	$200,000	$200,000
Lake	$200,000	$200,000
Lassen	$200,000	$200,000
Los Angeles	$19,654,821	$53,497,135
Madera	$200,000	$242,114
Marin	$218,675	$595,197
Mariposa	-	-
Mendocino	$200,000	$200,000
Merced	$200,000	$232,026
Modoc	-	-
Mono	-	-
Monterey	$644,906	$1,755,327
Napa	$200,000	$200,000
Nevada	$200,000	$200,000
Orange	$4,636,655	$12,620,199

County	OSP Allocation	CP Allocation
San Joaquin	$1,337,996	$3,641,800
San Luis Obispo	$200,000	$373,259
San Mateo	$819,105	$2,229,468
Santa Barbara	$263,151	$716,254
Santa Clara	$1,619,679	$4,408,495
Santa Cruz	$478,120	$1,301,363
Shasta	$200,000	$373,259
Sierra	-	-
Siskiyou	$200,000	$200,000
Solano	$574,486	$1,563,654
Sonoma	$340,985	$928,104
Stanislaus	$1,515,901	$4,126,028
Sutter	$544,835	$1,482,949
Tehama	$218,675	$595,197
Trinity	$200,000	$200,000
Tulare	$448,469	$1,220,659
Tuolumne	$200,000	$200,000
Ventura	$563,367	$1,533,389
Yolo	$200,000	$282,466
Yuba	$200,000	$200,000
TOTAL	$54,747,179	$142,488,003

*Counties marked with an asterisk have licensed facilities, but the allocation methodology used did not match the licensed facilities (not vendored by regional centers) with any recipients or applicants of SSI/SSP or CAPI. If the county is aware of eligible adult and senior care facilities not funded by regional centers that are currently serving recipients or applicants of SSI/SSP or CAPI, a base allocation of $200,000 may be requested by contacting cce.preservation@ahpnet.com by July 15, 2022.

Note: CDSS is in the process of developing guidelines and funding available for tribes, which will be outlined in a separate correspondence.

Article III – County Program Implementation Requirements

Section 301 – County Implementation Plan

Counties accepting OSP and CP will be responsible for the administration, dissemination, and monitoring of the CP and OSP grant funds. Counties may select a third-party administrator to facilitate and manage the disbursement of funds. Counties accepting funds are required to submit an Implementation Plan describing how they will

operationalize the CCE Preservation Funds. An initial or draft Implementation Plan is due by October 15, 2022. Counties may submit amended or final Implementation Plans, including approvals by County Board of Supervisors (if required by the county's funding approval processes), no later than January 15, 2023.

The Implementation Plan shall include, but is not limited to, the county's plan to

- Design and implement an application process and/or allocation methodology for OSP and/or CP funds, as applicable;
- Incorporate prioritization criteria into fund distribution process; and
- Monitor use of funds and outcomes in accordance with the guidelines outlined in this section.

AHP will review Implementation Plans as they are received to confirm they are complete and consistent with state guidelines. If needed, AHP will request a consultation with the county to solicit additional information or request edits to the Implementation Plan to be consistent with state guidelines outlined in this letter.

It is important that the county strategy for design and review of eligible CCE Preservation Fund projects is co-designed with persons with lived experience consistent with the county's identified priority populations, which may include, but are not limited to, persons with lived experience of homelessness, behavioral health and/or substance use disorders; people with disabilities; and with other marginalized communities including Black, Indigenous, and people of color (BIPOC) at risk of or experiencing homelessness. County agencies should rely on local data to account for racial inequities and disparities experienced by persons experiencing homelessness in the application evaluation process. Early engagement of key stakeholders with lived experience is essential for establishing equity as the foundation for these settings.

Counties must budget the program appropriately to ensure facilities with the greatest risk of closing and serving the highest proportion of qualified individuals have access to the CCE Preservation Program OSP and CP funds. Counties must minimize administrative costs while maximizing OSP and CP funds to facilities.

Section 302 – Fund Disbursement

The fund disbursement process for counties is outlined below. For the purposes of this section (Section 302 – Fund Disbursement), "subgrantee" refers to the facility (e.g., ARF, RCFE) receiving CP or OSP funds from a county grantee. Additional details will be included in the Standard Agreement issued by AHP upon county acceptance of funds. Please also see Addendum A for examples of various scenarios for CP fund disbursement.

A. Disbursement of OSP Funds to Selected Facilities:

Counties shall follow established county procurement, invoicing, and reimbursement processes and execute formal agreements or contracts with the approved subgrantees to govern the use of the Preservation OSP funds. A Funding and Disbursement Agreement (FDA) is one example of the kind of document that could be issued by counties in this context. Agreements must be executed between the county department providing the funds and the approved facility receiving funds. Execution of the grant agreement award shall not automatically trigger a disbursement of funds.

County agreements with subgrantees should, at minimum, delineate the following:

- The subgrantee's reporting responsibilities, including key metrics and data (see Section 401)
- The uses of OSP funds.
- The conditions under which OSP funds may be accessed.
- The procedures and approvals needed for accessing OSP funds.
- Per WIC section 18999.97(f), a requirement that the facility be deed restricted to provide licensed adult and senior residential care for at least the length of time the county will provide OSP.
- Any conditions that would cause repayment of funds or cancellation of future budgeted funds.
- A requirement that facilities in receipt of CCE Preservation Program grant funds provide their annual audit within 90 days of the end of their fiscal year, if applicable. If a subgrantee meets the threshold for a federal single audit, a copy of the most recent single audit must be provided. Note: any entity expending $750,000 or more of federal funds in a fiscal year is required to have an annual single audit per the federal Super Circular Uniform Guidance (45 CFR Part 75).
- Required reporting, including reporting any material events such as change of key staff, lawsuit filed against the organization, etc. within 30 days of said event occurring.
- A requirement that subgrantees indemnify the county against any claims, suits, etc. that could be made against the entity.

As part of the OSP contract, a system should be established to manage the disbursement of funds. Counties can work with subgrantees to determine frequency and timing of disbursements as long as it is documented in the contract; however, counties are responsible for ensuring that subgrantees continue to meet the program requirements as outlined in this NOFA.

More specific details about contractual pass-through requirements for counties will be outlined in the Standard Agreement upon contract execution with AHP. Detailed

information about disbursement and contract management with subgrantees in receipt of CCE OSP funds is also available through tailored TA upon request. To request TA, contact cce.preservation@ahpnet.com.

B. Disbursement of CP Funds to Selected Facilities:

Counties shall follow established county procurement, invoicing, and reimbursement processes, consistent with State Fiscal Recovery Fund (SFRF) requirements, and execute formal agreements or contracts with the approved facilities to govern the use of the CCE CP funds. Award and disbursement of CP funds requires an executed agreement between the county and subgrantee. Execution of the grant agreement award shall not automatically trigger a disbursement of funds.

County subgrantee agreements should, at minimum, delineate the following:

- The subgrantee's reporting responsibilities, including key metrics and data.
- Potential for requests of information from CDSS and AHP for ad hoc reports, or other required documentation such as eligibility of qualified residents.
- The uses of CP funds.
- The conditions under which CP funds may be accessed.
- The procedures and approvals needed for accessing CP funds, including details on the disbursement and construction draw approvals process.
- The requirements of an open- or closed-bid process.
- Any conditions that would cause repayment of funds or cancellation of future budgeted funds.
- A requirement that facilities in receipt of CCE Preservation Program grant funds provide their annual audit within 90 days of the end of their fiscal year, if applicable. If a subgrantee meets the threshold for a federal single audit, a copy of the most recent single audit must be provided. Note: any entity expending $750,000 or more of federal funds in a fiscal year is required to have an annual single audit per the federal Super Circular Uniform Guidance (45 CFR Part 75).
- Required reporting, including reporting any material events such as change of key staff, lawsuit filed against the organization, etc. within 30 days of said event occurring.
- A requirement that subgrantees indemnify the county against any claims, suits, etc. that could be made against the entity.
- If applicable, the requirement of a deed restriction to provide licensed residential care for a period of time designated by the county.

Counties shall follow their standard disbursement and construction draw processes while ensuring all of the following components required by state and federal regulations, including SFRF requirements, are included in those processes:

- Qualification statements from construction professionals that have been reviewed and approved
- Final plan and cost review that has been approved
- Final, stamped plans and specifications
- Final executed contract and project budget (schedule of values)
- Project scope and timeline
- All final permits
- Prevailing wage attestation
- Payment and performance bond or executed letter of credit

More specific details about contractual pass-through requirements for counties will be outlined in the Standard Agreement upon contract execution with AHP. Detailed information about disbursement and contract management with facilities in receipt of CCE Preservation Program funds is also available through tailored TA upon request. To request TA, contact AHP at cce.preservation@ahpnet.com.

C. Management of CP Funds with Selected Subgrantees:

Counties accepting CP funds will be required to outline how they will manage the funds via the Implementation Plan. Counties are strongly encouraged to reach out to cce.preservation@ahpnet.com if they require TA in implementing the management of CP funds with selected subgrantees.

Counties will be required to describe their intended CP fund management processes in their Implementation Plan, subject to review and approval by AHP. The description must include how the county or third-party administrator will manage the CP application and fund disbursement process. It must also describe circumstances as to when the subgrantee (i.e., facility) would be allowed to manage the construction/rehabilitation project independent of direct oversight from the county or third-party administrator. The county should carefully consider this option to determine when it is appropriate to allow a facility to manage the construction project directly. The county shall only allow this option when the county can ensure that the entity awarded is capable of sufficiently managing the construction process oversight from start to completion. Considerations of a subgrantee's ability to sufficiently manage the process may include the cost of the project, the complexity of the project, or the subgrantee's previous development management experience. Counties considering this option should weigh the risks of individual subgrantee management on a case-by-case basis.

Regardless of how the county decides to manage the funds, the county has ultimate responsibility for compliance with the funding instructions attached to this NOFA.

Counties will be required to include the following details about CP fund management in their Implementation Plan, subject to review and approval by AHP:

- Attestation of the county's capacity and ability to manage the CP application process for construction as part of their Implementation Plan. The county should include detailed administrative plans for project management tasks such as developing and managing a scope of work, general contractor engagement, construction project management, close out, and regular project status reporting. If the county choses to contract administration of this program to a third-party entity, this must be indicated in the Implementation Plan and accompanied by the agreement or contract that outlines oversight plans and expectations.
- Assessment of subgrantee financial feasibility and adherence to program requirements to ensure subgrantees have sufficient staff capacity and financial resources (i.e., working capital/liquidity) to manage the facility during and after construction.
- Clarification of the process, documentation, and approval requirements that will trigger the fund disbursement for approved CP projects.
- Review of the subgrantee's plan to relocate residents (if needed) to maintain levels of care during the capital preservation project period.
- Identification of necessary metrics and dedicated staff for proper monitoring of the CP fund disbursements.
- Development and management of the CP draw process for construction, which includes
    - Verifying all contractors and subcontractors are meeting prevailing wage standards for a public works project and
    - Identifying a process to track change orders.
- Management of post-construction compliance, financial accountability, reporting, and documentation per the requirements of CCE Preservation funding
- Monitoring of subgrantee projects during the 5-year compliance period
- Management and retention of all project, monitoring, and reporting documentation for the required archival period.

To further mitigate construction risks, it is recommended general contractors registered with the California Department of Industrial Relations (DIR) provide the following documents to counties:

- **Payment & Performance (P&P) Bond:** A P&P bond is required for all construction projects of $1,000,000 or more. The bond must be issued by a rated company, for both payment and performance, as Dual Obligee with the county or its designee as additionally insured. Any exception to this must be stated within the grant agreement and be approved by the State.
- **Letter(s) of Credit:** In the event a project is small, or the risk is determined to be low, an irrevocable letter of credit may be accepted in lieu of a P&P bond.

- **Certification of Compliance:** General contractors must submit a certification of compliance to the awarding county department certifying that the construction contractor shall comply with California's prevailing wage and working hours laws (including posting job notices, as required by Labor Code section 1720). From time to time, additional documents that are not stated here may be required, depending on the unique risks of the transaction.
- **Prevailing Wage Attestation:** Contractors provide this to the administering oversight body as part of the contract execution process, certifying compliance with California's prevailing wage and working hours laws and all applicable federal prevailing wage laws.

Additional documents that are not stated here may be required depending on the unique risks of the transaction.

Section 303 – Preservation Capital Projects Funding Match

Counties are required to match at least 10 percent of the CP funds accepted and awarded to them. Match may be provided by the county or contributed in whole or in part by the subgrantee awarded CP funds. However, counties are responsible for ensuring that the 10 percent match is met. For example, a county awarding a project that will cost $50,000 could contribute $5,000 in county American Rescue Plan Act (ARPA) funds to the project or require that the applicable subgrantee contribute $5,000 in cash to the project.

Note: Match is not required for OSP funds.

Counties will describe their proposal for matching CP funds in the Implementation Plan, including identifying whether the county will provide the match itself or whether all or a portion of the match will be contributed by facilities awarded CP funds. Counties will also be required to certify that match requirements will be met and include any match sources committed to this contract in the Standard Agreement executed with AHP. If facilities will be required to contribute any part of the match, this must also be outlined in the Standard Agreement with the county.

Match in the form of cash and in-kind contributions, including the real costs previously incurred by a project, will be allowed. All "in-kind" amounts must be well documented and notarized. CDSS must approve all match sources that are not described below.

Cash match may come from

- ARPA funds granted to counties and cities,
- Local funding,
- Mental Health Services Act funds in the 3-year plan (considered "other local"),

- Foundation/philanthropic support,
- Loans or investments,
- Cash on hand, and
- Incentive payments from managed care plans

"In-kind" match may be in the form of

- Sunk costs directly related to a development project, or costs directly related to a development project that have already been incurred and cannot be recovered, with documentation of paid invoices for professional services related to pre-development of the specific grant application, as approved on a case-by-case basis by CDSS. Any match claimed under sunk cost must supplement, not supplant, other fund sources.
- Donations of professional design-build services, materials directly related to the development project.

Services to clients will not be allowed as match. State general funds may not be used as match.

Section 304 – Service Use Terms

For the purpose of this section, "service use terms" means a deed restriction on the title of the property, safeguarding the property for purposes consistent with the grant for the duration of the contract performance period. A deed restriction must be recorded on the title to the property before the county can approve any OSP payments. As such, facility operators that are leasing the property must obtain the owner's consent for the deed restriction. The county, at their discretion, may also require that a deed restriction be recorded on the title to the property before approving CP projects. However, deed restrictions are required by statute for only those facilities in receipt of OSP funds.

Article IV – Preservation Program Requirements

Section 401 – Data Collection and Reporting

A. Data Reports:

Counties will be required to report on items related to use of funds and number of beds preserved. Examples of OSP and CP data collection items may include, but are not limited to, the following:

- The number of facilities requesting OSP or CP reimbursement and amount of funds requested
- The number of facilities receiving funds and amount of funds awarded

- The number of retained residents who are receiving or applying for SSI/SSP or CAPI benefits
- The total number of residents, the number of current qualified residents, and any new qualified residents who move into the facility
- A brief description of how the CP or OSP funds were used to benefit the qualified residents and prioritized population

B. The HUB – Data Reporting System:

The HUB is a data portal that will be made available to all counties, through AHP, for the purpose of reporting data and meeting programmatic as well as federal fiscal reporting requirements. Each county will then provide subgrantee facilities with a separate secure portal for uploading and providing all required monitoring information. The site will also provide business-hour access to liaison staff who can answer questions related to the completion of required forms.

C. American Rescue Plan Act (ARPA) Data Reporting Requirements:

Counties will be required to follow the U.S. Treasury Department rules on ARPA uses, data collection, and reporting requirements. CDSS reports expenditures and outcomes on behalf of grantees, and requested information included in the reporting is subject to change.

Section 402 – Monitoring and Program Oversight

As recipients of state and federal funding from pass-through entities (CDSS and AHP), counties are responsible for compliance with federal and state regulations attached to the funding accepted, including fund administration, fiscal and project management, reporting, and compliance monitoring.

Each participating county department will be responsible for managing the day-to-day operations of its CCE Preservation Funds program, including establishing methods, processes, and procedures to determine best practices for the efficient delivery of CCE Preservation Funds. Counties will likewise be expected to ensure that these funds are used in accordance with program requirements and written agreements and to take appropriate action, should any performance problems arise. County procedures must include a corrective action plan for assessing risk of activities and projects and for monitoring facilities to ensure that the requirements in this section are met.

Each county must, insofar as is feasible, distribute CCE funds geographically within its boundaries, according to the priorities of needs identified by the county analysis of facilities at highest risk for closure serving qualified residents.

The county shall be subject to monitoring by CDSS, its contractor AHP, and/or its community development financial institution (CDFI) subcontractor for compliance with the provisions of this NOFA and the executed contract. Such monitoring activities may include, but are not limited to, inspection of the county's grantees' and/or subgrantees' services, procedures, books, and records, as CDSS or AHP deems appropriate. CDSS or AHP may conduct monitoring activities at any time during the county's contractors' and/or subcontractors' normal business hours. CDSS may conduct a review of the county's contractors' and/or subcontractors' records to determine if any of the claimed expenditures were an improper use of grant funds.

Article V – Authorizing and Applicable Law

Authorizing law for CCE Preservation OSP and CP: Assembly Bill (AB) 172 (Chapter 696, Statutes of 2021

Section 501 – Federal and State Program Requirements

A. ARPA:

Counties will be required to follow the Treasury rules on ARPA uses, data collection, and reporting requirements.

B. Reporting Requirements:

Reporting requirements will include quarterly reports and a final report, along with an annual CCE Preservation Program and Expenditure Report. The annual report will be due no later than January 31, for the prior calendar year of January 1 to December 31. The reports and data entered in the HUB data portal shall be in such form and contain such information as required by CDSS, as appropriate, in its sole and absolute discretion.

These requirements will be fully detailed upon award. In addition to the foregoing, each county shall submit to CDSS or AHP such periodic reports, updates, and information as deemed necessary by CDSS to monitor compliance and/or perform program evaluation. Any requested data or information shall be submitted electronically in a format provided by CDSS or its administrative entity, AHP. Additional reporting requirements may be required by CDSS for up to the applicable service use terms after completion of project construction.

C. Prevailing Wage:

All "projects" that receive preservation capital funds over $1,000 must utilize Prevailing Wage Rates as defined by the Prevailing Wage Law (Labor Code section 1720, et seq.). It is the contractor's responsibility to abide by the apprenticeship requirements and reporting under that law. Projects are subject to compliance monitoring and enforcement by DIR. County departments will be required to submit a Certification of Compliance to AHP as part of the contract execution process, certifying that the county shall comply with all applicable local, state, and federal prevailing wage and working hours laws. The Certification of Compliance will also state that the county shall maintain its labor records in compliance with all applicable local, state, and federal laws, and shall make all labor records available to DIR and any other applicable enforcement agencies upon request.

D. Local Building Codes:

All preservation and construction projects must meet state or local residential and building codes, as applicable, or, in the absence of a state or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council. The housing must meet the applicable requirements upon project completion.

E. Reasonable Costs:

Consistent with county procurement processes, each county shall ensure there is a systematic process in place for determining and confirming "reasonable costs" within and throughout each project, as well as a systematic check-and-balance method for distributing funds to facilities.

F. Land Use Exemption:

Any project that receives CCE Preservation Program funds shall be deemed consistent and in conformity with any applicable local plan, standard, or requirement, and any applicable coastal plan, local or otherwise, and allowed as a permitted use, within the zone in which the structure is located, and shall **not** be subject to a conditional use permit, discretionary permit, or to any other discretionary reviews or approvals, and shall be deemed a ministerial action under the California Environmental Quality Act (CEQA) (Public Resources Code section 21080) and under section 15268 of Title 14 of the California Code of Regulations (WIC section 18999.97(l); see also CEQA Guidelines).

G. Low-Rent Housing Project Exemption:

In accordance with WIC sections 5960.35(b)(1) and 18999.98, a project funded with a CCE grant shall not be considered a "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, if the project meets any one of the following criteria:

- The project is privately owned housing, receiving no ad valorem property tax exemption, other than exemptions granted pursuant to subdivision (f) or (g) of section 214 of the Revenue and Taxation Code, not fully reimbursed to all taxing entities, and not more than 49 percent of the dwellings, apartments, or other living accommodations of the project may be occupied by persons of low income.
- The project is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.
- The project is intended for owner-occupancy, which may include a limited-equity housing cooperative as defined in section 50076.5 of the Health and Safety Code, or cooperative or condominium ownership, rather than for rental-occupancy.
- The project consists of newly constructed, privately owned, one-to-four-family dwellings not located on adjoining sites.
- The project consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.
- The project consists of the rehabilitation, reconstruction, improvement, or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower-income households, as defined in section 50079.5 of the Health and Safety Code.
- The project consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a project which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

If a project funded with a CCE grant is a "low-income housing project" as defined by Section 1 of Article XXXIV of the California Constitution but does not meet any of the criteria listed above, then the applicant shall comply with the requirements set forth in that section of the California Constitution.

H. State and Federal Relocation Assistance:

As applicable, all projects must comply with federal and state laws pertaining to relocation assistance and protections that must be provided to people who move as a

result of government-funded projects (California Government Code (GOV) sections 7260-7277; 42 U.S.C. section 4601 et seq.).

Section 502 – Collaboration, Racial Equity, and Fair Housing

A. Collaboration:

Counties are strongly encouraged to collaborate with other partners, such as local behavioral health and emergency response systems, local Medi-Cal managed care plans, legal aid organizations, and other relevant networks, to maximize available funding to preserve residential facilities, increase referrals, coordinate care, and maximize resources and available supportive services. Information on these collaborations will be requested in future program updates. Counties may not supplant the CCE Preservation Funds with any other funding sources such as the Assisted Living Waiver program or other service use funding provided by the county or other programs.

B. Racial Equity:

It is important that the county department address racial disparities in program design, development, and implementation. It is vital to have early engagement with stakeholders with lived experience of homelessness or mental and/or substance use disorders, people with disabilities, and with other marginalized communities including BIPOC at risk of or experiencing homelessness. County departments should rely on local data to account for racial inequities and disparities experienced by persons experiencing homelessness in the application evaluation process and/or allocation methodology.

C. Fair Housing:

Additionally, per Government Code section 8899.50, each county must also operate its CCE program in a manner that affirmatively furthers fair housing. This means that CCE must be operated in a way that takes "meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."

Counties should review the reports and resources below for examples of how housing and homelessness programs have incorporated racial equity into programming. Counties are encouraged to seek meaningful input and participation from current and former SSI/SSP or CAPI recipients or applicants, including individuals of color, that go beyond identifying disparities to identify causes of such disparities from individuals with lived experience. Additionally, CDSS or AHP will provide TA opportunities to help counties address racial equity within the CCE program.

Reports

- Racial Inequalities in Homelessness, by the Numbers
- Supporting Partnerships for Anti-Racist Communities (SPARC) Phase One Study Findings
- A Brief Timeline of Race and Homelessness in America
- Report and Recommendations of the Ad Hoc Committee on Black People Experiencing Homelessness

Resources

- Equity-Based Decision-Making Framework
- Framework for an Equitable COVID-19 Homelessness Response
- Advancing Racial Equity through Assessments and Prioritization (HUD)
- California Department of Housing and Community Development's Guidance on Affirmatively Furthering Fair Housing
- California Business, Consumer Services and Housing Agency's Homeless Data Integration System

Key Definitions

Qualified resident: For the purpose of this NOFA, per the state statute, applicants or recipients of the Supplemental Security Income/State Supplementary Payment (SSI/SSP) pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code and Welfare and Institutions Code (WIC) section 12000 et seq., and applicants or recipients the Cash Assistance Program for Immigrants (CAPI) pursuant to WIC section 18937 et seq., who need the care and supervision that is provided by the licensed facility that receives the grant. "Qualified resident" shall not include SSI/SSP or CAPI applicants or recipients who are receiving services through a regional center.

Prioritized population: Qualified residents who are experiencing, or at risk of experiencing, homelessness.

Adult Residential Facility (ARF): "ARF" has the same meaning as in Title 22 of the California Code of Regulations Section 80001: "any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to the following: (A) persons 18 years of age through 59 years of age; and (B) persons 60 years of age and older only in accordance with Section 85068.4."

Residential Care Facility for the Elderly (RCFE): "RCFE" has the same meaning as in Title 22 of the California Code of Regulations Section 87101: "a housing arrangement

chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents."

Residential Care Facility for the Chronically Ill (RCFCI): "RCFCI" has the same meaning as in Title 22 of the California Code of Regulations Section 87801: "any place, building, or housing arrangement which is maintained and operated to provide care and supervision to all or any of the following: (A) Adults with HIV disease or AIDS, (B) Emancipated minors with HIV disease or AIDS, or (C) Family units as defined in Section 87801(f)(1) with adults or children or both with HIV disease or AIDS."

California Prevailing Wage: The director of the Department of Industrial Relations (DIR) determines the general prevailing rate of per diem wages in accordance with the standards set forth in Labor Code section 1773. (Labor Code section 1770). Except for "public works," "projects" of one thousand dollars ($1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works. (Labor Code section 1771). Prevailing wage is applicable only to work performed under contract, including contracts let for maintenance work, and is not applicable to work carried out by a public agency with its own forces.

Capitalized Operating Subsidy Reserve (COSR [for OSP]): Capitalized operating subsidy reserve means an interest-bearing account maintained by the qualified grantee, the residential adult or senior care facility, or a third-party entity created to cover potential or projected operating deficits on a facility that is deed restricted to provide licensed residential care for at least the term of the reserve. The department shall develop guidelines on the qualified grantees' use of COSRs to ensure safeguards for those reserves, based on use in other state programs.

Acronyms

AHP	Advocates for Human Potential, Inc. – CDSS's third-party contractor
ARF	Adult Residential Facility
ARPA	American Rescue Plan Act
CAPI	Cash Assistance Program for Immigrants
CCE	Community Care Expansion
CCLD	Community Care Licensing Division
CDFI	Community Development Financial Institution
CDSS	California Department of Social Services
CEQA	California Environmental Quality Act
CP	Capital Projects
FDA	Funding and Disbursement Agreement
OSP	Operating Subsidy Payments
RCFCI	Residential Care Facility for the Chronically Ill
RCFE	Residential Care Facility for the Elderly
SFRF	State Fiscal Recovery Fund
SSI/SSP	Supplemental Security Income/State Supplementary Payment

Addendum A

Examples of CCE CP Fund Disbursement Procedures

Counties shall follow established county procurement, invoicing, and reimbursement processes, consistent with SFRF requirements, and execute formal agreements or contracts with the approved subgrantees to govern the use of the CCE CP funds.

The program management responsibility includes, but is not limited to, ensuring program compliance per the funding source, both for project delivery costs and within each awarded construction project; financial management, including management of the approved administrative budget and grant/loan budget, for each subgrantee by funding source; required data reporting and data retention, documentation, and recordkeeping per CDSS and federal specifications, both for the program and for each subgrantee; and the performance of the program according the county's approved Implementation Plan, budget, and unit completion goals.

The following scenarios are offered as examples in the absence of an established county process. If TA is needed to establish fund disbursement procedures, please

request support in the AHP CCE Preservation Acceptance web portal, or by email at cce.preservation@ahpnet.com. For the purposes of this section, "subgrantee" refers to the facility or entity awarded CCE CP funds.

Scenario #1 – The county establishes the management of each project, including bidding and supporting the selection of contractors and disbursement of funds for rehabilitation/construction scopes of work. This also includes the direct management of funds and contracts with trades and construction firms completing the approved rehabilitation and reconstruction. In this scenario, the county would contract with trades on behalf of the subgrantee (the ARF or RCFE) and act as project manager to monitor the completion of the approved improvement/project.

In this scenario, the county operates in the role similar to that of a general contractor. If a county uses this approach, the county department or agency administering the program should have preexisting experience overseeing construction and development projects of a similar size and complexity as the proposed projects to be funded with CCE CP funds.

Note: It is recommended that the county leverage existing procurement and management systems that currently govern similar capital projects such as HOME, the Community Development Block Grant Program (CDBG), or home improvement projects where the county is designating funds for a specific project with restricted use. AHP can provide TA upon request to assess and advise the applicability, scope, or feasibility of using the county's existing systems for this project.

In this scenario, the county will work with the approved subgrantee (the ARF or RCFE) to 1) develop a scope of work, 2) select a licensed and certified general contractor through the county procurement process, and 3) manage the construction process. All construction and rehabilitation contracts will be made between the subgrantee (ARF or RCFE) and the general contractor, but the county will manage and disburse the funds upon successful completion of the work.

Under this scenario, the construction management and funds disbursement will follow these steps:

1. **Site inspection and drafting the scope of work:** Upon approval of allocated grant funds, the county will conduct an initial site inspection by a certified construction analyst. Based upon the inspection, the analyst will develop a detailed draft scope of work and review it with the subgrantee.
2. **Bidding and selecting a construction contractor:** Upon approval of this initial scope of work by the county and the subgrantee, the county will conduct a bid conference on site with the subgrantee and interested construction contractors. Within an acceptable period of time after the bid conference, contractors will

submit construction bids to the county. The county will meet with the subgrantee to have them select their preferred construction contractor.

3. **Finalizing scope of work:** Upon selection of the construction contractor, the scope will be finalized with the subgrantee, and an internal review and approval package will be developed by county staff. Through the CCE program, the subgrantee has been exempted from Environmental Review and an expedited internal approval process for these grantees should be developed in collaboration with other agencies, including the planning agency. *Note: In this scenario, funds are approved but not transferred or allocated directly to the approved subgrantee. This allows the county to mitigate risk involving the use of funds and ensure funds are being used in accordance with the program requirements.*
4. **Signing agreements:** When the above processes are complete, the subgrantee is contacted to sign key documents, including the subgrantee agreement and the construction contract.
5. **Getting started:** Approval of work begins, with county oversight. The contractor is then provided with a Notice to Proceed, and construction can begin. Variance between estimated construction cost at time of bidding and actual cost when work begins can be mitigated through close collaboration between the subgrantee and the county.

In the scenario described above, the county will be responsible for construction management, close out, reviewing the facility's plan for the relocation of residents to a commensurate level of care as necessary, warranty enforcement, and post-construction responsibilities. Where there are already established residents whose service needs may be impacted, the county will collaborate with the subgrantee to ensure disruptions to continuity of care are minimized.

The county will ultimately be responsible for processing all applications from the stage of submission through review, decision/approval, settlement, construction completion, and ongoing program administration.

Scenario #2 – The county contracts with a third party for full management of subgrantee awards

In this scenario, the contracted third party will be responsible for the steps outlined above. County agencies with limited capacity to manage the CCE award and monitoring requirements may want to consider contracting with a third-party organization experienced in developing or rehabilitating residential care facilities to manage the construction bidding, selection of contractors, development of the project scope of work, bidding and validation of eligible expenditures, and final reporting with documentation on use of funds and completion of intended and approved use. In this scenario, all construction bidding processes, direct 1:1 oversight of projects to completion, and

management of the draw review process could be the responsibility of a third party. Subgrantee award agreements will be executed between the awarded subgrantee and the county and managed with the assistance of a third party.

Scenario #3 – Subgrantee manages awarded funds
In this scenario, the county has determined the awarded subgrantee has the capacity and ability to manage the capital preservation/rehabilitation project. Subgrantees with prior experience rehabilitating or managing tenant improvements can manage the funds either through their own staff or through a memorandum of understanding with an experienced real estate developer or construction manager.

This scenario requires oversight by the county to ensure the subgrantee can document their prior experience or capacity to manage these funds and bring projects to fruition. Attestation of the subgrantee's ability and capacity to manage prevailing wage oversight, provide regular accounting of the funds expended for eligible uses, understand approvals and permitting needed, obtain these approvals and permits, and report on key data points required by the CCE program is recommended. A system to collect and monitor, including onsite inspection, will support the county to manage the grant funds under this scenario.

AWARD LETTERS

August 15, 2022

San Bernardino County
Attn: Leonard Hernandez, County Chief Executive Officer
County Administrative Office
385 N. Arrowhead Avenue
San Bernardino, CA, 92415

SUBJECT: Community Care Expansion Preservation Program Award Letter

Dear Leonard Hernandez:

Thank you for your interest in the California Department of Social Services (CDSS) Community Care Expansion (CCE) Preservation Program. CDSS is pleased to inform you that San Bernardino County is awarded the following allocation(s) to administer and implement the CCE Preservation Program:

- **$2,787,182** is awarded for the Operating Subsidy Payment (OSP) program
- **$7,586,243** is awarded for the Capital Project (CP) program

According to the Director Certification submitted by your county, the CCE Preservation Program will be administered by County Administrative Office. The Director Certification also indicated that your county could accept additional OSP funds and additional CP funds, should they become available. Additional information relating to any additional funds will be released under separate cover.

CCE Preservation Program funds must be used consistent with the program guidelines outlined in the Notice of Funding Availability (NOFA) to immediately preserve and avoid the closure of licensed residential adult and senior care facilities serving qualified residents, defined as applicants or recipients of Supplemental Security Income/State Supplementary Payment (SSI/SSP) or Cash Assistance Program for Immigrants (CAPI), including those who are experiencing or at risk of homelessness.

Advocates for Human Potential, Inc. (AHP), the CCE administrative entity will collect an Implementation Plan and issue a Standard Agreement contract. The Standard Agreement will outline expectations and responsibilities related to acceptance of the award, including incorporation of funding terms and conditions outlined in the NOFA and the signed Director Certification. The CCE Preservation Program grant award is not

final, and no funding will be disbursed, until a contract has been fully executed, which occurs when the contract is signed by authorized representatives for both San Bernardino County and AHP. Prior to that time, the CDSS and AHP have the right to conduct additional due diligence to ensure fulfillment of all programmatic and fiscal requirements, including but not limited to, eligibility and award amount. Any costs incurred outside the performance period of a fully executed contract may not be reimbursed.

CDSS appreciates your interest and partnership in implementing the CCE Preservation Program. If you have any questions, please contact the AHP team at cce.preservation@ahpnet.com.

Sincerely,

Julie McQuitty
Chief, Program Policy and Quality Assurance Branch
Housing and Homelessness Division
California Department of Social Services

April 7, 2023

San Bernardino County
Leonard X. Hernandez, Chief Executive Officer
County Administrative Office
385 N. Arrowhead Avenue
San Bernardino, CA 92415

SUBJECT: Community Care Expansion (CCE) Preservation Program Fiscal Year (FY) 2022-23 Award Letter and Final Award Amount

Dear Chief Executive Officer Leonard X. Hernandez:

Thank you for your continued interest in the California Department of Social Services (CDSS) Community Care Expansion (CCE) Program. CDSS is pleased to inform you that San Bernardino County is awarded an additional **$2,816,833** in CCE Preservation Operating Subsidy Payment (OSP) funds from the FY 2022-23 budget appropriation.

The Director Certification submitted by your county indicated that your county could accept additional OSP funds and additional Capital Project (CP) funds, should they be available. The remaining program funds from the CCE Preservation FY 2021-22 for OSPs and CPs are now available to participating counties. CDSS is distributing these remaining funds consistent with the need-based methodology described in Section IV of the All County Welfare Directors Letter (ACWDL) dated December 14, 2022.

In addition to the FY 2022-23 augmentation outlined above, San Bernardino County is awarded **$350,182** in additional OSP funds and **$292,666** in additional CP funds from the remaining FY 2021-22 appropriation. These funds were also redistributed consistent with the need-based methodology described in Section IV of the All County Welfare Directors Letter (ACWDL) dated December 14, 2022

In total, San Bernardino County is awarded the following allocation(s) to administer and implement the CCE Preservation Program:

- **$5,954,197** for OSP funds
- **$7,878,909** for CP funds

Funds must be used to support CCE Preservation operations as described in the Notice of Funding Availability (NOFA) dated June 10, 2022, and the ACWDL dated December 14, 2022. Funds used for the purpose of OSPs must be obligated no later than June 30, 2027 and liquidated no later than June 30, 2029. Funds used for the purposes of CPs must be obligated no later than June 30, 2024 and liquidated no later than December 31, 2026.

Following the release of this award letter, Advocates for Human Potential, Inc. (AHP) will issue a Program Funding Agreement. The Program Funding Agreement will outline expectations and responsibilities related to acceptance of the award, including incorporation of funding terms and conditions outlined in the NOFA, ACWDL, and the signed Director's Certification. The CCE Preservation Program grant award is not final, and no funding will be disbursed, until a Program Funding Agreement has been fully executed, which occurs when the Program Funding Agreement is signed by authorized representatives for both San Bernardino County and AHP. Prior to that time, the CDSS and AHP have the right to conduct additional due diligence to ensure fulfillment of all programmatic and fiscal requirements, including but not limited to, eligibility and award amount. Any costs incurred outside the performance period of a fully executed Program Funding Agreement may not be reimbursed.

Please contact AHP at cce.preservation@ahpnet.com with any questions.

Sincerely,

Julie McQuitty

JULIE MCQUITTY, Branch Manager
Program Policy and Quality Assurance Branch
Housing and Homelessness Division
California Department of Social Services

CC:
Matthew Erickson, Chief Financial Officer
Morvarid Naghshineh, MPPM, ARPA Evaluation Officer