



Contract Number
20-596 A-2

SAP Number

County Administrative Office

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| Department Contract Representative Telephone Number | Matthew Erickson (909) 387-5423 |
| Contractor | San Bernardino County Fire Protection District DUNS No. 027766398 |
| Contractor Representative Telephone Number | Fire Chief Dan Munsey (909) 387-5779 |
| Contract Term | Effective Date through June 30, 2022 |
| Original Contract Amount | \$2,835,862 |
| Amendment Amount | |
| Total Contract Amount | \$2,835,862 |
| Cost Center | |

AMENDMENT NO. 2 TO AGREEMENT BETWEEN THE COUNTY OF SAN BERNARDINO AND THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT RELATED TO THE CARES ACT CORONAVIRUS RELIEF FUND FOR LOCAL GOVERNMENTS

WHEREAS, on March 4, 2020, the State of California declared a state of emergency as a result of the Coronavirus Disease 2019 (COVID-19) outbreak and on March 10, 2020, the County of San Bernardino (County) proclaimed the existence of a local emergency resulting from COVID-19; and

WHEREAS, on March 27, 2020, the United States Congress passed the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act in response to the COVID-19 pandemic; and

WHEREAS, pursuant to Section 5001 of the CARES Act, the County received a disbursement from the United States Department of the Treasury of money associated with the Coronavirus Relief Fund (Fund) for Local Governments under Section 601(a) of the Social Security Act, some of which may be transferred to other public entities for certain CARES Act purposes; and

WHEREAS, the Federal Catalog of Federal Domestic Assistance (CFDA) number for the Fund is 21.019; and

WHEREAS, the CARES Act provides that payments from the Fund may only be used to cover costs that: i) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and iii) were incurred during the period that begins March 1, 2020, and ends December 31, 2021, as amended by the Consolidated Appropriations Act, 2021; and

WHEREAS, on May 19, 2020 (Item No. 103), the Board of Supervisors for the County approved and the Board of Directors for the San Bernardino County Fire Protection District (SBCFPD) accepted the transfer from Fund in the amount of \$289,862 for the purchase of various equipment to assist the SBCFPD's Incident Management Team with responding to the COVID-19 pandemic; and

WHEREAS, on July 14, 2020 (Item No. 65), the Board of Supervisors for the County and the Board of Directors for SBCFPD approved County Contract No. 20-596 (Agreement) that authorized the transfer of CARES Act Fund dollars for SBCFPD expenditures identified in Exhibit "1," and CONFIRE expenditures identified in Exhibit "A," in order to provide additional COVID-19 emergency response to the residents of the County and SBCFPD; and

WHEREAS, on December 8, 2020 (Item No. 54), the Board of Supervisors for the County and the Board of Directors for SBCFPD approved Amendment No. 1 to the Agreement to reflect that the Chino Valley Independent Fire District will provide the project management nurse services for the Nurse Triage Program; and

WHEREAS, the CARES Act originally required that costs be incurred by December 30, 2020; and

WHEREAS, as referenced above, on December 27, 2020, President Trump signed into law the Consolidated Appropriations Act, 2021 that extended the date costs are required to be incurred under the CARES Act, from December 30, 2020 to December 31, 2021; and

WHEREAS, based on this extension, the first purpose of this Amendment No. 2 is to retroactively extend the cost incurred date in the Agreement to be consistent with the new cost incurred date of December 31, 2021; and

WHEREAS, the second purpose of this Amendment No. 2 is to provide additional reporting dates and clarify when a cost is incurred; and

WHEREAS, the third and final purpose of this Amendment No. 2 is to extend the term of the Agreement by one year, from June 30, 2021 to June 30, 2022, to account for the continued COVID-19 emergency, the extension of the CARES Act deadline to incur costs, from December 30, 2020 to December 31, 2021, and the need for additional time to close out this Agreement.

NOW, THEREFORE, in consideration of the above, the County and SBCFPD agree to amend the Agreement as follows:

1. DELETE Section 1 and replace it with a new Section 1, which provides as follows:

1. The CARES Act Fund.

a. This Agreement applies to following CARES Act Fund transfers:

- i. The transfer by the County of \$289,862 to SBCFPD for the purchase of various equipment to assist the SBCFPD's Incident Management Team with responding to the COVID-19 pandemic.

- ii. The transfer by the County of an amount not to exceed \$2,546,000 to SBCFPD on a reimbursement basis for SBCFPD expenditures identified in Exhibit "1", CONFIRE expenditures identified in Exhibit "A," and CVFD expenditures identified in Exhibit "I." Exhibit "1", Exhibit "A", and Exhibit "I" are attached hereto and incorporated herein by this reference. County acknowledges and agrees that SBCFPD will be administering the transfer of funds for the expenditures identified in Exhibit "A" and Exhibit "I" by separate agreements between SBCFPD and CONFIRE, as well as SBCFPD and CVFD, respectively. In the separate SBCFPD and CONFIRE agreement, CONFIRE shall provide SBCFPD on or before October 31, 2021, and on or before November 30, 2021, a report of actual cash expenditures to date under this Agreement, and estimated cash expenditures through December 31, 2021. SBCFPD shall provide said CONFIRE reports to County. County, through its Chief Executive Officer (CEO), in the CEO's sole discretion, reserves the right to reduce the transfer amount identified in this Agreement with fifteen (15) days advance written notice provided to SBCFPD. The reduction would be based: A) on CONFIRE's estimated cash expenditures through December 31, 2021, as identified in the October 31, 2021 and November 30, 2021 reports; or B) a later determination by the United States Department of the Treasury, County, or SBCFPD that the costs identified in this Agreement are ineligible for CARES Act funding.
- b. SBCFPD certifies that the use of funds submitted for reimbursement from the Fund under Paragraph 1.a.i. and Exhibit "1" of this contract will be used only to cover those costs that: i) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and iii) were incurred during the period that begins March 1, 2020, and ends December 31, 2021. **For purposes of this Agreement, a cost is "incurred" as determined and provided by the United States Department of Treasury.**
- c. Based on a certification SBCFPD received from CONFIRE through an agreement between SBCFPD and CONFIRE, SBCFPD certifies that the use of funds submitted for reimbursement from the Fund under Exhibit "A" of this contract will be used only to cover those costs that: i) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and iii) were incurred during the period that begins March 1, 2020, and ends December 31, 2021.
- d. Based on a certification SBCFPD received from CVFD through an agreement between SBCFPD and CVFD, SBCFPD certifies that the use of funds submitted for reimbursement from the Fund under Exhibit "I" of this contract will be used only to cover those costs that: i) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and iii) were incurred during the period that begins March 1, 2020, and ends December 31, 2021.
- e. SBCFPD agrees that the funds provided pursuant to this Agreement cannot be used: i) as a revenue replacement for lower than expected tax or other revenue collections; or ii) for expenditures for which SBCFPD has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.

- f. SBCFPD shall prepare and submit to County an invoice for reimbursement of eligible funding expenses identified in Paragraph 1.a., above. Invoices may be submitted to County as frequently as monthly. County shall reimburse to SBCFPD the amount of the invoices submitted within thirty (30) days of receipt.
- g. Both County and SBCFPD agree to comply with any and all CARES Act requirements, as well as any and all applicable County, SBCFPD, State, and Federal laws, regulations, policies and procedures pertaining to the funding described in this Agreement. County and SBCFPD shall comply with 2 CFR Part 200, including, but not limited to 2 CFR 200.303 (internal control), 200.330 through 200.332 (subrecipient monitoring and management), and subpart F (audit). The use of funds must also adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Any funds expended by SBCFPD or its subcontractor(s) in any manner that does not adhere to official federal guidance shall be returned to the County. County and SBCFPD also agree that as additional federal guidance becomes available, a contract amendment to this Agreement may become necessary.
- h. SBCFPD shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with §200.333 Retention requirements for records of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Such documentation shall be produced to County upon request and may be subject to audit. Unless otherwise provided by Federal or State law (whichever is the most restrictive), SBCFPD shall maintain all documentation connected with its performance under this Agreement for a minimum of five (5) years from the date of the last payment made by County or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of the County, the State or the United States Government during normal business hours at SBCFPD. Copies will be made and furnished by SBCFPD upon written request by County.
- i. SBCFPD shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support SBCFPD's requests for reimbursement which segregate and accumulate costs of SBCFPD and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by SBCFPD. SBCFPD shall provide a monthly report of expenditures under this Agreement no later than the 20th day of the following month.
- j. SBCFPD shall cooperate in having an audit completed by County, at County's option and expense. Any audit required by the CARES Act will be completed by SBCFPD and/or CONFIRE, and/or CVFD, as applicable, at SBCFPD and/or CONFIRE and/or CVFD's expense.
- k. SBCFPD shall repay to County any reimbursement for CARES Act funding that is determined by subsequent audit to be unallowable under the CARES Act within the time period required by the CARES Act, but no later than one hundred twenty (120) days of SBCFPD receiving notice of audit findings, which time shall include an opportunity for SBCFPD to respond to and/or resolve the findings. Should the findings not be otherwise resolved and SBCFPD fail to reimburse moneys due County within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both parties or required by the CARES Act, County reserves the right to withhold future payments due SBCFPD from any source under County's control.

2. DELETE Section 3 and REPLACE it with a new Section 3, which provides as follows:

3. This Agreement is from the Effective Date defined in Paragraph 10 through June 30, 2022. **County shall only reimburse costs incurred through the dates identified in Exhibit "1", Exhibit "A", and Exhibit "I".** Paragraphs 1g through 1k, 4 and 5 shall survive the termination of this Agreement. The costs to be reimbursed under this Agreement do not include Research and Development as defined in 2 CFR 200.87, nor do they include indirect costs.
3. REPLACE Exhibit "1", Exhibit "A", and Exhibit "I" with a new Exhibit "1", Exhibit "A", and Exhibit "I" to the Agreement, all of which are attached hereto and incorporated herein by this reference.
4. The recitals of this Amendment No. 2 are incorporated into the Agreement by this reference.
5. All other terms and conditions of the Agreement shall remain the same.
6. This Amendment No. 2 may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Amendment. The parties shall be entitled to sign and transmit an electronic signature of this Amendment (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Amendment upon request.
7. This Amendment No. 2 shall take effect on the date it is signed and approved by authorized representatives of both SBCFPD and the County.

IN WITNESS WHEREOF, the County of San Bernardino and the San Bernardino County Fire Protection District have each caused this Amendment No. 2 to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

►

Curt Hagman, Chairman, Board of Directors

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

Lynna Monell, Secretary

By _____
Deputy

COUNTY OF SAN BERNARDINO

►

Curt Hagman, Chairman, Board of Supervisors

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

Lynna Monell, Clerk

By _____
Deputy

FOR COUNTY USE ONLY

Approved as to Legal Form

►

Scott Runyan, Supervising Deputy County
Counsel

Date _____

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

►

Dan Munsey, Fire Chief/Fire Warden

Date _____