

**CITY OF SAN JOSE
HOUSING DEPARTMENT
ARPA AND MEASURE E GRANT AGREEMENT**

SUMMARY PAGE

Grant Type:	ARP	Contract No:	ARP-23-001
Grantee Name:	Sacred Heart Community Service		
Project Name:	Eviction Diversion and Settlement Program		
Project Description:	<p>The GRANTEE will administer a Rental Assistance Program as an emergency response to COVID-19. Duties include, but are not limited to:</p> <ul style="list-style-type: none"> • Providing rental assistance. • Providing and coordinating supportive services for ongoing housing stability. <p>The parties desire to enter into a retroactive Grant Agreement from October 1, 2022 to June 30, 2023.</p>		
Funding Source:	American Rescue Plan Act (ARPA) Measure E		
Grant Award Not to Exceed: Fiscal Year 2022-2023	\$435,335 (ARPA) \$1,851,565 (Measure E)		
Total Grant Award Not to Exceed:	\$ 2,286,900		
Resolution/Authority	City Council Agenda: 12/13/22 – Item #: 2.19; Resolution No. 80817, Ordinance No. 30860		
Extensions Authorized	N/A		
Payment Terms:	See EXHIBIT D		
Agreement Term:	Start Date:	10/01/2022	End Date: 6/30/2023

PARTIES TO AGREEMENT:

	GRANTEE	CITY OF SAN JOSE
Agency Name:	Sacred Heart Community Service	Housing Department
Address for Legal Notice: City/State/Zip Code:	1381 South First Street San Jose, CA 95110	200 E. Santa Clara St., 12 th Floor San José, CA 95113-1907
Attention:	Poncho Guevara, Executive Director	Jacky Morales-Ferrand, Director
Email Address:	ponchog@sacredheartcs.org	<u>Jacky.Morales-Ferrand@sanjoseca.gov</u>
Telephone No:	(408) 278-2160	(408) 535-3855
Taxpayer ID	23-7179787	
DUNS No.:	556253680	
Type of Entity:	501(c)(3) – Public Benefit Corporation	
State of Incorporation or Residency:	California	

CONTACT INFORMATION

GRANTEE Contract Manager:	Erin Stanton
Title:	Director of Family Assistance
Telephone No:	(408) 916-5025
Email:	Erins@sacredheartcs.org

CITY Representative:	Myranda Burciaga
Title:	Analyst II
Telephone No:	(408) 834-6880
Email:	Myranda.burciaga@sanjoseca.gov

EXHIBIT LIST

YES N/A

- | | | | |
|-------------------------------------|--------------------------|------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit A: | Scope of Services |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit B: | Performance Measures/Numeric Goals for FY22-23 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit C: | Budget Summary |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit D: | Payments to Grantee |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit E: | General Grant Conditions and Reporting Schedule |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit F: | Employee/Volunteer Clearance Verification and Compliance |

- | | | | |
|-------------------------------------|-------------------------------------|------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Exhibit G: | with the Child Abuse and Neglect Reporting Act
Federal Guidelines for Minority-Owned and Women-Owned
Business Enterprises (MBE/WBE) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit H: | Insurance Requirements |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit I: | Retroactive Services |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit J: | Federal Fund Provisions |

To the extent applicable, the following grant provisions are required for this AGREEMENT:

REQUIRED LANGUAGE ATTACHMENT

- | YES | N/A | |
|-------------------------------------|-------------------------------------|--------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | City of San José Funding |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Federal |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | State |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | County |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other Public Agency |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Private Funding Agency |

The Exhibits and Certifications marked above are attached hereto and incorporated herein. I certify that I have read and hereby consent to all the terms and provisions contained in the attached AGREEMENT, including without limitation, all exhibits. Said AGREEMENT is hereby incorporated.

WITNESS THE EXECUTION HEREOF the day and year first herein below written.

SACRED HEART COMMUNITY SERVICE, a California nonprofit public benefit corporation



Email: ponchog@sacredheartcs.org
Date: 02/17/2023 GMT

GRANTEE Signature: _____ Date: _____
Print Name: Poncho Guevara
Title: Executive Director



Email: darrens@sacredheartcs.org
Date: 02/17/2023 GMT

GRANTEE Signature: _____ Date: _____
Print Name: Darren Seaton
Title: Deputy Director

CITY OF SAN JOSE, a California municipal corporation

SARAH ZARATE
Director

Sarah Zarate

Email: sarah.zarate@sanjoseca.gov
Date: 02/24/2023 GMT

Date: _____

APPROVED AS TO FORM:

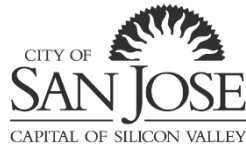
CHRISTOPHER
ALEXANDER
Deputy City Attorney

Attorney
Christopher Alexander
Deputy City Attorney III U

Christopher Alexander

Email: christopher.alexander@sanjoseca.gov
Date: 02/21/2023 GMT

Date: _____



**CITY OF SAN JOSE
HOUSING DEPARTMENT
GRANT AGREEMENT**

**CITY OF SAN JOSE HOUSING DEPARTMENT
ARPA AND MEASURE E GRANT AGREEMENT**

This ARPA and MEASURE E GRANT AGREEMENT (“AGREEMENT”) is made and entered upon execution by CITY, by and between the CITY OF SAN JOSE, a municipal corporation of the State of California (“CITY”), and Sacred Heart Community Service, a California nonprofit public benefit corporation (“GRANTEE”). CITY and GRANTEE are sometimes collectively referred to as “Parties” and individually as “Party”.

RECITALS

WHEREAS, on March 11, 2021 President Biden signed the American Rescue Plan Act (“ARPA”), that includes direct funding to Cities and States. Section 3201 of Subtitle B of Title III of ARPA established the federal Emergency Rental Assistance Program (“**ERA2**”), and authorized the direct allocation of emergency rental assistance funds to states, units of local governments, territories, and high-need grantees. The ERA2 funds are intended to assist households that are unable to pay rent and utilities during or due to the novel coronavirus disease (COVID-19) pandemic. The City of San José received \$435,335 under California Assembly Bill No. 832, (Chapter 27, Statutes of 2021) (“AB 832”) the State of California’s program for administering its share of ERA2 funds (the “State Rental Assistance Program- Round 2,” “SRA2,” or “SRA2 Funds”).

WHEREAS, on December 13, 2022, the San José City Council (“City Council”) adopted a resolution authorizing the CITY to enter into this AGREEMENT and appropriating \$435,335 in ARPA funds and \$1,851,565 in Measure E funds for a total grant award not to exceed \$2,286,900, for a Eviction Diversion and Settlement Program; and

WHEREAS, GRANTEE has the necessary professional expertise and skill to perform such services; and

WHEREAS, CITY desires to grant ARPA and Measure E funding for the services in this AGREEMENT to be provided by GRANTEE; and

WHEREAS, CITY's Director (“DIRECTOR”), including the DIRECTOR's authorized designees, are charged with the administration of this AGREEMENT.

WHEREAS, it is understood and agreed that GRANTEE has commenced work and incurred costs prior to execution of this AGREEMENT in anticipation of its execution; and

WHEREAS, CITY agrees to reimburse GRANTEE for those costs in accordance with the terms of this AGREEMENT. However, in no event shall GRANTEE be reimbursed for costs incurred prior to October 1, 2022 and

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WHEREAS, these Recitals are incorporated and made a part of this AGREEMENT;

NOW, THEREFORE, the purpose of this AGREEMENT is to retain GRANTEE to perform those services specified in **EXHIBIT A** of this AGREEMENT as follows:

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1: PROGRAM COORDINATION

A. **CITY:** The CITY'S DIRECTOR, or his or her designee, also identified on the Summary Pages, shall be the CITY official responsible for the Program and shall render overall supervision of the progress and performance of this AGREEMENT by CITY. All services agreed to be performed by CITY shall be under the overall direction of the DIRECTOR.

B. **GRANTEE:** GRANTEE shall identify a single project director who shall have overall responsibility for the progress and execution of this AGREEMENT ("GRANTEE Contract Manager") as also identified on the Summary Pages. Additionally, GRANTEE shall immediately notify CITY in writing should circumstances or conditions subsequent to the execution of this AGREEMENT require a substitute GRANTEE Contract Manager. GRANTEE Contract Manager and GRANTEE staff will fully cooperate with the DIRECTOR relating to the work or services provided hereunder.

SECTION 2: TERM OF AGREEMENT AND GRANT AWARD

A. The term of this AGREEMENT ("Term") shall commence on the Start Date and shall expire on the End Date, as also set forth in the Summary Pages, unless extended or sooner terminated in accordance with the terms of this AGREEMENT. Regardless of the date of execution of this AGREEMENT, this AGREEMENT is effective as of the Start Date. GRANTEE shall not receive payment for work performed prior to the Start Date.

B. If this AGREEMENT is extended, a request to extend this AGREEMENT along with a description of the revised Scope of Services (attached hereto as **EXHIBIT A**) should be submitted by GRANTEE to the CITY no less than forty-five (45) days prior to the End Date. An extension must be set forth in a written amendment to this AGREEMENT, signed by authorized representatives of CITY and GRANTEE. Nothing herein commits or binds the CITY to extend this AGREEMENT which shall be at the sole discretion of CITY, and if additional funds are required, shall be subject to appropriation of funds by the Council of CITY.

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SECTION 3: GRANT SERVICES

GRANTEE shall perform those services as specified in detail on **EXHIBIT A** titled “Scope of Services” (“Grant Services”), which is attached hereto and incorporated herein, and shall comply with the terms and conditions of this AGREEMENT.

SECTION 4: PAYMENTS

A. CITY agrees to pay GRANTEE an amount not to exceed the amount set forth on the Summary Pages (“Grant Award”), for the services described in EXHIBIT A entitled “Scope of Services”, and which payment is subject to the terms and conditions set forth in EXHIBIT C, entitled “Budget Summary” and EXHIBIT D, entitled “Payments to GRANTEE and Reporting Schedule.” Any costs incurred by GRANTEE above the Grant Award shall be at GRANTEE’s sole cost and expense.

B. GRANTEE will provide CITY with invoices or financial reports signed by the GRANTEE Contract Manager or other authorized GRANTEE representative with authority to confirm the accuracy of reported expenditures on a form approved by CITY, with applicable invoices and/or financial reports in sufficient detail to determine actual costs incurred, hours, services provided and any indirect, overhead or administrative costs charged to the CITY.

C. CITY will review invoices or financial reports for adherence to AGREEMENT requirements and services, and authorize and release payment to GRANTEE based upon claims submitted and within thirty (30) calendar days from receipt of invoice or financial reports and complete supporting documentation which includes but is not limited to signed timecards, personnel activity reports, paid invoices, receipts, executed contracts, signed leases, payroll records, or any other documentation to prove the costs claimed for reimbursement, provided that GRANTEE is not in default under any provisions of this AGREEMENT.

D. CITY will not pay for unauthorized services rendered by GRANTEE or for claimed services which GRANTEE has not provided as required by this AGREEMENT. GRANTEE shall in no event be reimbursed for costs incurred prior to Start Date.

E. City’s Manager or designee may, without prior notice to GRANTEE, at any time in his or her absolute discretion, elect to suspend or terminate payment to GRANTEE, in whole or in part, terminate work or expenditures by GRANTEE under this AGREEMENT, or not to make any particular payment under this AGREEMENT or take any other action available in the event of any of the following occurrences:

1. If GRANTEE (with or without knowledge) shall have made any material misrepresentation of any nature with respect to any information or statements furnished to CITY in connection with this AGREEMENT;

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2. If there is pending litigation with respect to the performance by GRANTEE of any of its duties or obligations under this AGREEMENT which may materially jeopardize or adversely affect the undertaking of or the carrying out of the Grant Services;
3. If GRANTEE, without having obtained CITY approval, has taken any action pertaining to the Grant Services which requires CITY approval;
4. If GRANTEE makes improper use of the Grant Award;
5. If GRANTEE fails to comply with any of the terms and conditions of this AGREEMENT including without limitation, GRANTEE's failure to carry out the Grant Services or other obligations as described in any Exhibit to this AGREEMENT; or
6. If GRANTEE submits to CITY any report which is incorrect or incomplete in any material respect or is untimely.

SECTION 5: DEFAULT AND TERMINATION OF AGREEMENT

A. Termination for Convenience. CITY may, through its Director, terminate this AGREEMENT without cause by giving GRANTEE thirty (30) calendar days' written notice.

B. Termination for Cause. Each of GRANTEE's obligations under this AGREEMENT shall be deemed material. If GRANTEE fails to perform any of its obligations under this AGREEMENT, or any other AGREEMENT with the CITY, CITY may terminate this AGREEMENT upon ten (10) days advance notice ("Notice Period") to GRANTEE, specifying GRANTEE's breach and providing GRANTEE with the opportunity to cure the specified breach within the Notice Period or in those instances where the specified breach cannot reasonably be cured within the Notice Period, the opportunity to commence to cure the specified breach. In the event GRANTEE fails to cure or to commence to cure the specified breach within the Notice Period, this AGREEMENT shall be terminated. Without limiting the generality of the foregoing, the occurrence of any one of the following events shall constitute a default of this AGREEMENT for which CITY may exercise its right of termination:

1. GRANTEE's breach of any of the representations or warranties contained in this AGREEMENT;
2. The occurrence of any of the events set forth in Section 4 for suspension or termination of CITY's payment of the Grant Award.

C. Termination for Unavailability of Funds. In the event of reduction, suspension, discontinuance or other unavailability of funds, CITY unilaterally may take appropriate

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action(s) including, but not limited to, immediately canceling or reducing existing service authorization, stopping or reducing further referrals of individuals, and/or reducing the maximum dollar amount of this AGREEMENT. CITY shall give GRANTEE no less than sixty (60) business days' advance written notice of the action(s) CITY intends to take as a result of the unavailability of funds. CITY shall not be liable for start-up costs, or lost profits in the event of early termination.

D. In the event of termination under this Section 5, GRANTEE shall have the following obligations:

1. No later than thirty (30) days following the date of termination, GRANTEE shall refund to CITY any unused portion of the Grant Award, included interest accrued, except that GRANTEE shall have no obligation to refund to CITY any portion of the Grant Award that was distributed in accordance with the terms of the AGREEMENT. GRANTEE shall also provide CITY with a written report detailing the expenditures, if any, from the Grant Award, including an accounting of its administrative expenses to the date of termination. GRANTEE shall refund to CITY any portion of the Grant Award designated for GRANTEE's administrative expenses which was not expended as of the date of termination.

Nothing in this AGREEMENT shall be deemed to be a waiver of CITY's right to recover from GRANTEE any portion of the Grant Award that has not been spent in accordance with this AGREEMENT. Upon receipt, GRANTEE will be paid for services performed and reimbursable expenses incurred in compliance with the terms of this AGREEMENT to date of termination.

2. Upon termination, GRANTEE shall immediately deliver to CITY any and all copies of materials used or developed for this grant including, but not limited to, all data collection forms, reports, studies and other work performed, whether or not completed by GRANTEE or GRANTEE's subcontractor, if any, under this AGREEMENT.

E. Nothing in this AGREEMENT shall be construed so as to deprive CITY of its rights and remedies at law or in equity against the other party.

F. The Director is authorized to terminate this AGREEMENT on CITY's behalf.

G. If the term of this AGREEMENT is more than three hundred sixty-five (365) days, the funding in any year after the first year may be contingent upon past and pending performance as well as future appropriation by the Council of the CITY, in its sole discretion. If the funding required to pay for Grant Services for the next fiscal year has not been appropriated by June 30 of any year, this AGREEMENT will automatically terminate, effective June 30.

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H. CITY may, at its sole option, pursue a course correction process with GRANTEE to address issues with GRANTEE's performance under this AGREEMENT. However, CITY is under no obligation to pursue a course correction prior to exercising its rights to suspend payment to GRANTEE or to terminate this AGREEMENT except as provided for in this section to cure a breach during the Notice Period.

SECTION 6: ACCOUNTING AND FINANCIAL RECORDS

GRANTEE shall establish and maintain at all times, on a current basis in connection with the provision of Grant Services, an adequate accounting system in accordance with generally accepted accounting principles and standards and acceptable to Director covering all revenues, costs, and expenditures with respect to GRANTEE's performance under this AGREEMENT. GRANTEE shall maintain its accounting system and shall provide CITY with reports that separate costs and expenses incurred by GRANTEE with CITY funds as distinguished from costs and expenses paid for from other funding sources.

SECTION 7: REPORTING REQUIREMENTS

GRANTEE shall submit reports related to GRANTEE's performance under this AGREEMENT prepared in accordance with EXHIBIT B and, to the extent applicable, on the schedule specified in EXHIBIT D and EXHIBIT E. The format of the reports shall be as provided in this AGREEMENT unless otherwise directed by the Director. A final report shall be delivered to CITY prior to expiration of this AGREEMENT, as may be further described in EXHIBIT B.

SECTION 8: RIGHT OF EXAMINATION AND AUDIT AND PRESERVATION OF RECORDS

GRANTEE agrees that the CITY's Manager, Auditor, Attorney or the Director, or any of their duly authorized representatives, shall have access to and the right to examine all facilities and activities of GRANTEE related to GRANTEE's performance of this AGREEMENT, including the right to audit, examine and make excerpts or transcripts of all contracts, subcontracts, invoices, payroll records, personnel records, and all other data or financial records relating to matters covered by this AGREEMENT at any time during the term of this AGREEMENT. GRANTEE shall cooperate with CITY in such audit, examination, further review and shall provide CITY with access to GRANTEE's staff and to all relevant records, documents, and data, including but not limited to, management letters, board minutes, and payroll.

GRANTEE shall comply with any audits by appropriate monitoring agencies at GRANTEE's sole expense. The CITY shall monitor the GRANTEE a minimum of once per year, which shall include a desk review and an annual site visit. GRANTEE shall submit an audit report within thirty (30) days in the event the AGREEMENT is terminated,

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voluntarily or involuntarily, before the end of the term. GRANTEE shall pay to CITY, from neither CITY nor federal funds, the full amount of liability resulting from disallowances or other audit or monitoring exceptions which are attributed to GRANTEE's error, omission, or violation of any provision of this AGREEMENT

EXHIBIT B, titled "PERFORMANCE MEASURES/NUMERIC GOALS", may set forth additional standards regarding the CITY's right to audit, and GRANTEE's obligation to deliver to the CITY reports which may include audited financial reports. GRANTEE further agrees that GRANTEE shall preserve all records related to the performance of this AGREEMENT and that CITY's right to examine or audit the GRANTEE's records, facilities or activities shall continue as specified in **EXHIBIT B**.

SECTION 9: CITY ACKNOWLEDGMENT

GRANTEE shall acknowledge the support of CITY, where appropriate, in written documents and informational materials regarding Grant Services, the Grant Award or this AGREEMENT.

SECTION 10: INSURANCE

GRANTEE agrees to have the policies set forth in the attached **EXHIBIT G**, entitled "INSURANCE", which is attached and incorporated herein, not later than the date of execution of this AGREEMENT and to maintain such policies throughout the term of this AGREEMENT. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the CITY as to form and content. These requirements may not be amended or waived unless approved in writing by the CITY's Risk Manager. GRANTEE agrees to provide CITY with a copy of said policies, certificates and/or endorsements upon execution of this AGREEMENT.

SECTION 11: INDEMNIFICATION AND HOLD HARMLESS

A. GRANTEE shall defend, indemnify and hold harmless the CITY, its officers, employees and agents from and against any and all claims, loss, demands, causes of action, or liabilities arising from, in whole or in part, directly or indirectly, GRANTEE's acts or omissions under this AGREEMENT. In any action or claim against CITY in which GRANTEE is defending CITY, CITY shall have the right to approve legal counsel providing CITY's defense and such approval shall not be unreasonably withheld. GRANTEE further agrees to release CITY from any and all claims for any damages, including property damage, injury or death occurring or arising out of use of CITY's property, except as may be caused by the CITY's sole, active negligence or willful misconduct.

B. The GRANTEE's obligations under this indemnification provision shall survive the expiration or termination of this AGREEMENT.

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SECTION 12: NOTICES

A. Any communication or notice to either Party shall be in writing and shall be either personally delivered or mailed in the United States mail, postage prepaid, or by facsimile, or electronic mail, to the respective Parties addressed as referenced on the Summary Page of this AGREEMENT.

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

B. Either Party may change its address by sending written notice of the new address to the other Party pursuant to this Section 12.

SECTION 13: INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS

Unless otherwise authorized by this AGREEMENT, amendments to the terms and conditions of this AGREEMENT and any such adjustment to this AGREEMENT shall be effective only upon the mutual AGREEMENT in writing of the authorized representatives of the Parties.

SECTION 14: COMPLIANCE WITH LAWS/NONDISCRIMINATION

A. GRANTEE shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments and with applicable CITY policies.

B. GRANTEE shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, actual or perceived gender identity, sexual orientation, disability, ethnic or national origin pursuant to anti-discrimination laws, including Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, Section 109 of the Housing and Community Development Act of 1974, and Section 504 of the Rehabilitation Act of 1973, and in connection with or related to the performance of this AGREEMENT.

C. GRANTEE shall fully implement and comply with its City-approved Language Access Plan to ensure that Limited English Proficient clients have equal access to community programs and services.

D. GRANTEE shall include in all outreach and marketing materials, including public websites, an affirmative statement that they will provide services or benefits to all persons, including persons of the following protected categories: race, sex, color, age, religion, actual or perceived gender identity, sexual orientation, disability, ethnic or national origin, or familial status. Should the organization not comply with this requirement, the CITY will withhold any and all federal funding until such time as the organization is in compliance.

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E. GRANTEE will also obtain and maintain all licenses and permits appropriate to its proper and effective performance of this AGREEMENT prior to the date of commencement, including, but not limited to a City of San José business tax certificate or exemption, if applicable, with the CITY's Finance Department to operate in the CITY. GRANTEE is responsible for contacting the appropriate offices and filing the necessary documents to comply with these requirements.

F. GRANTEE shall comply with the provisions of CITY's Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code. Moreover, nether CITY nor GRANTEE shall make any payments that would be in violation of any law existing during the term of this AGREEMENT, including but not limited to any maximum amount of administrative fee(s).

G. In the event there are conflicting terms in this AGREEMENT or if the terms of this AGREEMENT conflict with laws existing during the term of this AGREEMENT the stricter terms shall take precedent over the more lenient, unless otherwise stated. The following examples are intended to provide clarity on this point: (i) if the maximum administrative fee allowed under the agreement is ten (10%), but federal law allows for only seven (7%), then the stricter seven (7%) maximum under federal law would govern; or, (ii) if the agreement provides GRANTEE retain records for five (5) years, but the federal regulations are amended during the term to be seven (7) years, then the stricter seven (7) year retention requirement governs.

SECTION 15: RELATIONSHIP OF PARTIES/INDEPENDENT CONTRACTOR

A. It is understood and agreed that GRANTEE in the performance of this AGREEMENT, shall not act nor is it at any time authorized to act, as the agent or representative of CITY in any matter. GRANTEE further agrees that it will not in any manner hold itself out as the agent or representative of CITY or act in such a fashion as would give the impression to a reasonable person that GRANTEE is acting in such a capacity.

B. The Parties agree that GRANTEE and GRANTEE's employees, in the performance of this AGREEMENT, shall be at all times independent contractors and not agents or employees of the CITY, and that GRANTEE and GRANTEE's employees shall not be entitled to any salary, fringe benefits, pension, Workers' Compensation, sick leave, insurance or any other benefit or right connected with employment by the CITY, or any compensation other than as prescribed herein, and GRANTEE and GRANTEE's employees expressly waive any claim it/they may have to any such rights.

C. Under no circumstances shall this AGREEMENT be construed as one of partnership, joint venture, or employment between GRANTEE and CITY. Each Party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other Party in any way.

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SECTION 16: WAIVER

A. In no event shall any payment by CITY or any acceptance of payment by GRANTEE hereunder constitute or be construed to be a waiver by CITY of any breach of covenants or conditions of this AGREEMENT or any default which may then exist on the part of GRANTEE, and the making of any such payment or the acceptance of any such payment while any such breach or default exists, shall in no way impair or prejudice any right or remedy available to CITY with respect to such breach or default.

B. The waiver by any Party of a breach of any provision of this AGREEMENT shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this AGREEMENT.

SECTION 17: CORPORATE AUTHORITY/AUTHORIZED REPRESENTATIVES

GRANTEE represents and warrants that it has the authority to enter into this AGREEMENT. GRANTEE further represents and warrants that its signatory to this AGREEMENT is authorized to execute this AGREEMENT on GRANTEE's behalf.

SECTION 18: INTEGRATED DOCUMENT

This AGREEMENT, including the Summary Pages and any exhibits, are incorporated herein and embody the entire AGREEMENT between CITY and GRANTEE. No oral agreements or conversations with any officer, agent or employee of CITY shall affect or modify any of the terms or obligations contained in any documents comprising this AGREEMENT. Any such oral agreement shall be considered as unofficial information and in no way binding upon CITY. In the event that the terms specified in the SUMMARY PAGE or any of the Exhibits and Certifications attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control.

SECTION 19: SEVERABILITY OF PROVISIONS

If any part of this AGREEMENT is for any reason found to be unenforceable by a court of competent jurisdiction, all other parts nevertheless remain enforceable. CITY and GRANTEE agree that to the extent that the exclusion of any unenforceable provisions from this AGREEMENT affects the purpose of this AGREEMENT, then the Parties shall negotiate an adjustment to this AGREEMENT in order to give full effect to the purpose of this AGREEMENT or either Party may terminate this AGREEMENT. In the event of termination, the provisions of Section 5 as related to repayment of the Grant Award shall apply.

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SECTION 20: VENUE

The Parties agree that this AGREEMENT shall be governed and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either Party to this AGREEMENT, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 21: CONFLICT OF INTEREST

GRANTEE shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. GRANTEE shall comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified in California Government Code Section 87000, *et seq.*), with the conflict of interest provisions of Government Code Section 1090 *et seq.* and with the CITY's Code of Ethics, set forth in City Council policy 0-15. GRANTEE shall promptly advise CITY of the facts and circumstances concerning any disclosure made to it or any information obtained by it relating to conflicts of interest.

SECTION 22: RELIGIOUS/POLITICAL ACTIVITIES

A. GRANTEE shall not expend any portion of the Grant Award to inhibit or promote religion and the Grant Services funded by the Grant Award must not be used to convey a religious message. Any portion of the Grant Award used in contradiction to the provisions of this Section 22, shall be deemed a disallowed cost.

B. GRANTEE shall not expend any portion of the Grant Award for political advocacy efforts, whether for or against a political candidate, ballot measure or bill.

SECTION 23: ASSIGNABILITY

The Parties agree that the expertise and experience of GRANTEE are material considerations for this AGREEMENT. Unless specifically authorized by this AGREEMENT, GRANTEE may not assign the performance of any obligation or interest under this AGREEMENT, including subcontracting, without the prior written consent of CITY. Any attempt by GRANTEE to assign this AGREEMENT, in violation of this Section 23, will be voidable at CITY's sole option. In the event CITY determines that any of the rights, duties or obligations under this AGREEMENT have been subcontracted or assigned to another vendor or grantee by GRANTEE, without the written consent of CITY, then CITY may exercise its right to take any appropriate remedy identified in Section 10, entitled "DEFAULT AND TERMINATION OF AGREEMENT", including without limitation, termination of the entire AGREEMENT.

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SECTION 24: SUBCONTRACTS

- A. No subcontract will alter in any way any legal responsibility of GRANTEE to provide services under this AGREEMENT.
- B. GRANTEE will monitor the subcontractor(s) to ensure compliance with the terms and conditions of this AGREEMENT and provide records of their compliance as requested.
- C. GRANTEE will assure that the subcontractor(s) maintain(s) current licensure and indemnity insurance appropriate for obligations undertaken by subcontractor(s) and will provide copies of such to CITY.
- D. GRANTEE will provide CITY with records of reimbursement to subcontractor(s) for obligations incurred under subcontract.
- E. CITY has the right to refuse reimbursement for obligations incurred under any subcontract that does not comply with the terms of this AGREEMENT.

SECTION 25: EMPLOYEES/VOLUNTEERS

- A. Any and all personnel employed, or volunteers retained by GRANTEE in conducting the operations of GRANTEE's program shall be qualified to perform the duties assigned to them by GRANTEE.
- B. GRANTEE shall not hire employees or volunteers who will have supervisory or disciplinary authority over minors who have been convicted of any offense identified in California Public Resources Code Sections 5164. GRANTEE shall fully indemnify, defend, and hold harmless CITY for any such hiring. GRANTEE shall notify CITY in writing of any violation of this provision as soon as is reasonably practicable.
- C. GRANTEE shall also not employ any person who is permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the tuberculosis (TB) testing requirements set forth in Section 5163 of the California Public Resources Code.
- D. Regardless of whether services have been provided prior to full execution of this AGREEMENT, GRANTEE certifies to the CITY that all services were provided in full compliance with the terms and provisions of this AGREEMENT.
- E. To give effect to California Public Resources Code Sections 5163 and 5164, GRANTEE shall follow the procedures contained in **EXHIBIT F** attached hereto. In the event GRANTEE chooses a different national criminal database for complying with the

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Federal Bureau of Investigation (FBI) requirement for background checks, then such alternative database shall be subject to the CITY's prior written approval.

SECTION 26: GRANTEE'S FINANCIALS

A. City Council requires that each non-profit organization receiving Three Hundred Twenty Thousand Dollars (\$320,000) or more in funds from the CITY (in the aggregate) during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and make available for public view on the internet, annual audited financial statements. The audited financial statements must be made available for view within one hundred fifty (150) days from the end of the non-profit's fiscal year (which period may be extended by the CITY's Manager based upon a showing of hardship or other good cause) and must be submitted to the CITY's Housing Department and posted at the GRANTEE's website at an easily accessible location. All audits must be performed by a certified public accountant currently licensed to practice in the State of California, must conform to generally accepted auditing standards and otherwise be in a form acceptable to the CITY.

B. Non-profits shall be required to comply with this requirement at the time that the non-profit has entered into one or more grant agreements or subsidy agreements with the CITY, which provide for the payment of an aggregate amount that equals or exceeds Three Hundred Twenty Thousand Dollars (\$320,000) in grant and/or subsidy funds in any one fiscal year. Non-profits covered by this requirement must exert due diligence in determining when they have reached the aggregate funding threshold of Three Hundred Twenty Thousand Dollars (\$320,000). The provisions of the financial posting requirements shall be interpreted broadly to effectuate the purpose of making available to the public information on recipients of substantial CITY funds. These provisions shall apply not only to grant agreements or operating agreements but shall also apply, without limitation, if any amendments to such agreements brings the total annual funding to equal or exceed Three Hundred Twenty Thousand Dollars (\$320,000), and also to any other agreements with the CITY that are equivalent in purpose to a grant agreement or an operating subsidy agreement, regardless of the title of the agreement.

C. This posting requirement shall remain in effect until an entire fiscal year passes in which the non-profit does not have contracts with the CITY which provide for grants and/or subsidies from the CITY in an aggregate amount equaling or exceeding Three Hundred Twenty Thousand Dollars (\$320,000). Without limitation of any other remedy, GRANTEE's failure to comply with this requirement may be taken into consideration when evaluating GRANTEE's request for future grant funds or subsidies.

D. Organizations receiving an aggregate amount of Twenty-Five Thousand Dollars (\$25,000) or more in funds from the CITY during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and submit via the CITY's WebGrants grant management

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system, ("WebGrants"), a completed Financial Dashboard. CITY's project director will provide a CITY approved Financial Dashboard template upon request. The Financial Dashboard must be submitted via WebGrants within six (6) months from the end of GRANTEE'S fiscal year. This includes the GRANTEE's previous fiscal year, if that year ended within six (6) months of the commencement of this AGREEMENT.

SECTION 27: ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

A. GRANTEE agrees that, in the performance of this AGREEMENT, GRANTEE shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the policy can be found on the CITY's website at the following link:<https://www.sanjoseca.gov/your-government/environment/business-school-resources/for-schools/environmentally-preferable-procurement>.

B. Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

1. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.).
2. Use of Energy Star Compliant equipment.
3. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.).
4. Internal waste reduction and reuse protocol(s).
5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 28: GIFTS

A. GRANTEE is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the CITY Municipal Code.

B. GRANTEE agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.

C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by GRANTEE. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in Section 5 of this AGREEMENT.

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SECTION 29: DISQUALIFICATION OF FORMER EMPLOYEES

GRANTEE is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the CITY Municipal Code (“Revolving Door Ordinance”). GRANTEE shall not utilize either directly or indirectly any officer, employee or agent of GRANTEE to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 30: NO THIRD PARTY RIGHTS

This AGREEMENT does not constitute a binding commitment to any client or agency except CITY and GRANTEE. No third party rights are created for clients or other individuals.

SECTION 31: OWNERSHIP OF MATERIALS; APPLICANT/CLIENT REPORTS

GRANTEE agrees that it shall provide to CITY information regarding applicants or clients who applied for or received services under this AGREEMENT as needed for reporting and tracking required by applicable federal and state laws. Such information shall be reported in a format that does not identify the individual applicant or client. Training information or reports assembled by CITY from information provided by GRANTEE including, but not limited to, the number of clients enrolled; the number of clients that have completed training; and the number of clients who have entered employment in the area in which they have been trained is the property of CITY without restriction or limitation upon their use including the publication of such information.

SECTION 32: RECORDS

GRANTEE shall be solely responsible to implement internal controls and record keeping procedures that comply with this AGREEMENT and all applicable laws. GRANTEE’s administrative, programmatic and financial records pertaining to the Program, or the AGREEMENT collectively, must sufficiently support the determination that expenditures are allowable. GRANTEE shall retain all records pertinent to this AGREEMENT for a period of five (5) years from the date of final payment for each fiscal year. GRANTEE shall retain such records beyond five (5) years so long as any litigation, audit, dispute or claim is pending.

SECTION 33: MISCELLANEOUS

A. The headings of the sections and subsections of this AGREEMENT are inserted for convenience only.

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B. Where this AGREEMENT refers to CITY and no officer of the CITY is named, CITY's Manager shall have the authority to act on CITY's behalf.

C. This AGREEMENT may be executed in any number of separate counterparts and by each party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall constitute one and the same instrument.

D. Unless otherwise prohibited by law or CITY policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a writing as set forth in Evidence Code Section 1550. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the CITY.

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EXHIBIT A

SCOPE OF SERVICES

1.01 Project.

OVERVIEW:

GRANTEE shall implement the Eviction Diversion and Settlement Program (“Project”) in accordance with the provisions of the grant agreement by and between the CITY and **Sacred Heart Community Service** and all rules and regulations pertaining now and hereinafter adopted with respect to the Measure E and ARPA funds. The primary purpose of the project is to implement financial assistance for families at imminent risk of eviction.

PROJECT:

The AGREEMENT will support PARTIES to assist families in San José with prevention services. Activities include:

1. Eviction Prevention Assistance

GRANTEE will provide financial and emergency assistance to low-income families at risk of losing their housing. Families will be identified via CITY referrals, and other community safety-net service networks.

2. Housing Relocation and/or Stabilization Service

GRANTEE may provide housing relocation and stabilization services if funding is available. Services may include enrollment in the Homelessness Prevention System, assistance with security deposits, short term rental assistance, landlord mediation, credit counseling, utility deposits, utility payments, moving cost assistance and financial literacy services.

GRANTEE shall pay up to 100% of past due rent and other expenses related to housing.

Other financial assistance may include separately stated charges related to the occupancy of rental property, including electricity, gas, water, sewer, and trash removal or other available assistance that will allow clients to remain housed. Other expenses related to housing may include relocation expenses, reasonably accrued late fees, reasonable attorney fees and costs incurred by the landlord relating to filing an unlawful detainer action, internet service, and hotel or motel rooms.

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1.02 Project Area.

The Project Area is the incorporated area of the City of San José.

1.03 Location of Project.

Unless otherwise indicated, the Grant Services specified below will be offered at the following location:

Site Name
Within San Jose City Limits

1.04 Eligibility.

Eligible clients under this AGREEMENT shall be low-income households of all ethnic groups residing in the Project Area. Low-income is defined as household income at or below 80% of the median income for San Jose as defined by the Secretary of HUD. This includes low-income which is defined as household income that exceeds 30% but does not exceed 50% of the HUD median income for San Jose and extremely low-income which is defined as household income that is 30% or lower of the HUD median income for San Jose. Participant income shall be verified by the CITY before assistance can be provided and uploaded by GRANTEE for payment processing. Income limits are established by the household size and revised annually by HUD. Income documentation requirements will follow Department of Treasury American Rescue Plan Act guidelines and will allow self-certification of income.

GRANTEE will upload the following documentation for proof of eligibility:

- 1) Proof of adult identification
- 2) Proof of previous income
- 3) Proof of loss of income, financial hardship and/or risk of homelessness and housing instability
- 4) Lease agreement or court documents with the first page showing proof of tenancy.

PARTIES will prioritize tenants in an active unlawful detainer action pending where parties are open to settlement.

Outreach under this AGREEMENT shall be conducted in accordance with the City's Language Access Plan. The City's Language Access Plan is posted at:

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<https://www.sanjoseca.gov/your-government/departments/housing/memos-reports-plans/hud-reports>.

1.05 Description of Services:

Activity # 1 – Homelessness Prevention Assistance (*rental payments, rental arrears, utility payments, etc.*) provided to one household.

GRANTEE will provide financial and emergency assistance to low-income families at risk of losing their housing.

Activity # 2 – Housing Relocation and/or Stabilization Service (*rental payments, rental arrears, utility payments, etc.*) provided to one household.

GRANTEE may provide housing relocation and stabilization services. Services may include enrollment in the Homelessness Prevention System, assistance with security deposits, short term rental assistance, credit counseling, utility deposits, utility payments, moving cost assistance and financial literacy services to eligible households.

1.06 Personnel.

GRANTEE shall provide a cost allocation plan for the Project, including all positions to be allocated to the Project and the names of key personnel (e.g. Executive Director, Project Manager, etc.). CITY must approve the cost allocation plan prior to approving reimbursement for costs. Changes to the cost allocation plan during the term of this AGREEMENT must be submitted to and approved by CITY prior to reimbursement of costs.

1.07 Reporting Requirements.

Financial Report. GRANTEE shall submit monthly invoices to the Housing Department, via the CITY's WebGrants system, within thirty (30) days from the end of each month during the term of this AGREEMENT. GRANTEE will provide estimates of monthly invoices to CITY within five (5) days to support CITY meeting State Housing and Community Development reporting requirements.

Quarterly Reports. At the end of each quarter, GRANTEE shall report to the Housing Department, via the CITY's WebGrants system, the number of UNDUPLICATED PARTICIPANTS/HOUSEHOLDS as defined in Section 1.01 of EXHIBIT B to the AGREEMENT, and results of Outcome Measures.

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Outcome Measure Reports. At the end of each quarter, GRANTEE shall submit a narrative report detailing results of outcome measures. The report, at minimum, shall include:

- (a) a description of how the activities being provided under this grant contribute to meeting performance measures stated in the contract,
- (b) a detailed description of how the measurement methodology was implemented and how information was collected,
- (c) a detailed description of the methodology for selecting the sample size and the population to measure including the size of the sample.

Methodology shall include a description of when and how information was collected, the total population being studied, the sample size used for the study, the method used to determine the sample size, and the method for selecting the sample.

Other Data Requests. CITY may submit other data requests to GRANTEE as necessary. GRANTEE shall make reasonable efforts to respond to such requests within the requested timeframe.

1.08 Reporting Schedule. All CITY Quarterly and Outcome Measure reports shall be submitted to the Housing Department, via the CITY's WebGrants system, no later than ten (10) calendar days after the end of the first, second, and third quarters, and no later than seven (7) calendar days after the end of the fourth quarter. PARTIES shall collaborate on ARP Quarterly reports submitted to the Housing Department, via email, no later than (5) calendar days after the reporting period ends. Typical fiscal years follows quarterly periods as noted below:

- Quarterly 1: From July 1 - September 30
- Quarterly 2: From October 1 - December 31
- Quarterly 3: From January 1 - March 31
- Quarterly 4: From April 1 - June 30

1.09 Cost Reimbursement. GRANTEE will be reimbursed on a monthly basis, for approved invoices submitted pursuant to this AGREEMENT. Requests for reimbursement will be made on a form and in the manner prescribed by the CITY under provisions as set forth in **EXHIBIT D**, titled "PAYMENTS TO GRANTEE".

1.10 Additional Provisions. None

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EXHIBIT B

PERFORMANCE MEASURES/NUMERIC GOALS FOR FY 22-23

1.01 Unduplicated Participants.

Proposed total number of Unduplicated households that received assistance .

For purposes of this AGREEMENT, "UNDUPLICATED HOUSEHOLDS" shall be defined as **households** who receive services at least once a year but who may not be counted more than once in that year. GRANTEE shall retain records documenting eligibility. Such records shall include number of unduplicated households that completed and submitted an application for financial assistance and total amount of expenditures by category during the Quarter. The category to which the purpose of the expenditure most closely relates to when created includes the following:

- "Financial Assistance: Rent"
- "Financial Assistance: Rental Arrears"
- "Financial Assistance: Utility/Home Energy Costs"
- "Financial Assistance: Utility/Home Energy Costs Arrears"
- "Financial Assistance: Other Housing Costs"
- "Housing Stability Services (Including Eviction Prevention/Diversion)"
- "Administrative Costs."

GRANTEE shall follow documentation requirements set by Department of Treasury American Rescue Plan Act guidelines and will submit quarterly reports on participant data and all activities to track the progress toward the identified yearly goal.

Eviction Diversion and Settlement Program (Applicable to ARPA and Measure E)

Unduplicated Participants	Quarter 1 (Jul-Aug)	Quarter 2 (Oct-Dec)	Quarter 3 (Jan-Mar)	Quarter 4 (Apr-Jun)	Total
ARPA	N/A	0	13	13	26
Measure E	N/A	40	42	42	124
Total Project	N/A	40	55	55	150

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1.02 Services. Throughout the term of this AGREEMENT, GRANTEE shall provide the following services to participants:

Activity 1: Homelessness Prevention Assistance

Provision of financial assistance to families at risk of homelessness.

Unit of Service: Financial Assistance Payments (rental payments, rental arrears, etc.) provided to one household.

	Quarter 1 (Jul-Aug)	Quarter 2 (Oct-Dec)	Quarter 3 (Jan-Mar)	Quarter 4 (Apr-Jun)	Total
ARPA	N/A	0	13	13	26
Measure E	N/A	40	42	42	124
Total Project	N/A	40	55	55	150

Activity 2: Housing Relocation and/or Stabilization Service

Provision of support for one household including security deposits, short term rental assistance, landlord mediation, credit counseling, utility deposits, utility payments, moving cost assistance, financial literacy services, and case management.

Unit of Service: Services/assistance (rental payments, utility payments, etc.) provided to one household.

	Quarter 1 (Jul-Aug)	Quarter 2 (Oct-Dec)	Quarter 3 (Jan-Mar)	Quarter 4 (Apr-Jun)	Total
ARPA	N/A	0	5	5	10
Measure E	N/A	0	5	5	10
Total Project	N/A	0	10	10	20

1.03 GRANTEE must describe outreach efforts employed, and to be employed, to reach out to all persons including persons of the following protected categories: race, sex, color, age, religion, actual or perceived gender identify, sexual orientation, disability, ethnic or national origin, or familial status. Documentation of these efforts must be submitted along with the second quarterly performance report.

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Outcome Measure Statement Measurement Methodology.

Homelessness Prevention System (Applicable to ARPA, and Measure E)

Outcome Measure #1	100% of participants who complete the application process and are eligible, will receive rental assistance within 5-10 business days of receiving all required documentation.			
Measurement Methodology	Project staff will note the date that all documentation is received by the participant and the date the rental assistance is issued.			
	Quarter 1 (Jul-Aug)	Quarter 2 (Oct-Dec)	Quarter 3 (Jan-Mar)	Quarter 4 (Apr-Jun)
Outcome Goal	n/a	100%	100%	100%

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EXHIBIT C

BUDGET SUMMARY

	ARPA Funds	Measure E Funds	Project Total
Personal (Payroll/Benefits)	\$31,819	0	\$31,819
Financial Assistance	\$400,335	\$1,851,565	\$2,251,900
Indirect Costs/Admin	\$3,181	0	\$3,181
Total	\$435,335	\$1,851,565	\$2,286,900

Reimbursement workbooks will be broken down by detailed line items. GRANTEE shall submit a budget modification request to the CITY to request changes to the budget line items mid-contract year. Budget modification requests should be submitted no later than the last day of the third quarter. If there is a staff change, GRANTEE shall update the Cost Allocation Plan and submit to the CITY for approval.

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EXHIBIT D

PAYMENTS TO GRANTEE FOR FEDERAL PROGRAM

1.01 Payments to GRANTEE. CITY agrees to pay GRANTEE for the performance of the services, work, and duties, subject to and performed in connection with this AGREEMENT, a sum of money not to exceed the amount set forth in this AGREEMENT. Such sum shall be paid by CITY to GRANTEE on a reimbursement basis for services actually performed by GRANTEE and for eligible costs actually incurred by and paid by GRANTEE, pursuant to this AGREEMENT, for the cost categories appearing in this Section 1.01. No sum shall be paid until CITY receives a statement or statements in a form approved by CITY and specifying in detail the services performed by, and the costs incurred by and paid by GRANTEE during the period for which payment is requested. Any Program Income received by the GRANTEE shall reduce total allowable payments by the same amount. "Program Income" is defined as income or earnings received by GRANTEE that are directly generated from the use of CDBG funds (as defined at 24 CFR 570.500(a)). It shall be reported by GRANTEE to CITY on a monthly basis. Any Program Income on hand when this AGREEMENT expires or terminates or any Program Income received after this AGREEMENT expires or terminates, shall be promptly paid to CITY.

Payment to GRANTEE will be made within thirty (30) calendar days of receipt by CITY of all such required statements and supporting documents, including but not limited to, paid invoices, provided that the items on such statements and supporting data for which payment is requested can properly be paid under this AGREEMENT, HUD regulations 2 CFR 200 applicable to the program, and the CITY-HUD Grant Agreement, as the same may from time to time be amended. In making such determination, CITY may rely upon the certification by GRANTEE that the items appearing on said statement and supporting data are eligible items for payment under this program and AGREEMENT, and such determination by CITY shall in no way constitute a waiver by CITY of its right to recover from GRANTEE the amount of any money paid to GRANTEE on any item which is not eligible for payment under the program and this AGREEMENT.

The total amount of such payments to be made to GRANTEE shall be distributed in the following manner for each month during the course of the Project. Any amendments to a line item in the approved budget must receive prior approval from the CITY. Requests for funds must identify the corresponding budget line item and include a certification that the GRANTEE's financial management system complies with the standards in 24 CFR 84.21.

Personnel: Total eligible payments made to GRANTEE's employees for time actually worked for all positions in the personnel cost allocation plan approved by the CITY (see Exhibit A, 1.09). The Personnel Expenses section of the Monthly Reimbursement and Reconciliation Report should include only fringe benefits and salary actually paid to

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employees during the month being reported. Salary accrued or earned but not paid out during the month should not be listed. The exception to this is the final pay period of June; because salary earned during this last pay period will likely be paid out in July (of the following program year), this accrued salary may be included on the June Monthly Reimbursement and Reconciliation Report.

Supplies: Eligible costs for consumable commodities which have a useful life of one (1) year or less, or which cost less than Five Hundred Dollars (\$500) and which render services essential to the operation of the Project.

Communications: Eligible costs for telephone, telegraph, postage, and other communication costs that are essential to the operation of the Project.

Printing and Advertising: Eligible costs for printing and duplicating services, newspaper print by contract; and newspaper advertising which is essential to the operation of the Project.

Utilities: Eligible costs incurred for water, gas, electric, garbage and trash collection, and similar expenses.

Occupancy: Eligible costs for building space used in connection with the Project, including rent, maintenance and janitorial services when included in the lease, not including fixtures, furniture, equipment or utilities. Compensation for use of buildings may be made through use allowances or depreciation as permitted by 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"

Equipment Rental: Eligible costs for rental of equipment defined as tangible property other than land and buildings, or building improvements.

Travel (Local): Allowable reimbursement to employees for actual automobile mileage, transportation, and all necessary and ordinary travel expenses while on official Project business within Santa Clara County.

Travel (Other): Allowable reimbursement to employees for actual automobile mileage, transportation, and all necessary and ordinary travel expenses while on official Project business outside of Santa Clara County. All out-of-state travel must be approved by CITY prior to any expenditure for such travel.

Contractual Services: Eligible payments for contractual expert services of a professional, scientific, or technical nature, as well as eligible payments made to GRANTEE for performing construction work or any other services which the Project does not have the

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capability of performing itself. Contracts or subcontracts are to be developed in conformance with the Procurement Standards in 24 CFR 84.40 – 48 and 570.502.

Fringe Benefits: Eligible payroll-related costs of health insurance, retirement fund contributions, FICA, and other payments made on behalf of the employee.

Insurance: Eligible costs of insurance and other related services.

Equipment: Eligible payments for the purchase of equipment which is defined as tangible property having a useful life of more than one (1) year, the unit cost of which is Five Hundred Dollars (\$500) or more. All equipment purchases require prior CITY approval and maintenance of an equipment inventory, a copy of which must be submitted to CITY upon purchase of equipment.

Audit: Eligible payments to an independent Auditor to perform an audit in accordance with 2 CFR Part 200 subpart F – Audit Requirements (previously known as the OMB Circular A-133 Compliance Supplement), if required.

"Eligible," as used in this AGREEMENT, means those costs, payments, and disbursements for activities for which community development grant moneys may be used pursuant to Section 570.201 of the Federal Rules and Regulations for the Implementation of Title I of the Housing and Community Development Acts of 1974 and 1977, as amended, (24 CFR 570) and all other applicable rules and regulations.

1.02 Reallocating of Project Funds. On a monthly basis, CITY shall review the monthly expenditures if any, for services performed and costs incurred by GRANTEE provided in this Exhibit. If such review reveals that the monthly expenditures in any such month for the Project as a whole or any cost category thereof, is below the total amount allocated under this AGREEMENT for the total Project or cost category thereof for such month, CITY may reallocate the amount of such underspending. In the case of underspending in a cost category, CITY may reallocate unspent amount into another cost category of the Project. In the case of underspending in the Project as a whole, CITY may reallocate unspent amount to another community development project. CITY shall, before reallocating, give GRANTEE ten (10) days' written notice of its intention to reallocate funds. Such notice shall include a copy of CITY's monthly expenditure review for the Project and statement of its reasons for such reallocation. CITY shall make its final determination with respect to reallocation only after GRANTEE has been given an opportunity to present its views and recommendations with respect to such contemplated reallocation. In no event, however, shall CITY be bound to accept GRANTEE's views or recommendations with respect to such contemplated reallocation. If the expenditures by GRANTEE in any month, for the Project or any cost category thereof, exceed the total amount allocated to the Project or any cost category thereof, CITY may terminate non-

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salary expenditures for the Project for such period of time as is necessary to bring expenditures into conformance with this AGREEMENT.

The Director or his or her designated representative, may at the request of GRANTEE approve reallocation of funds from any cost category or categories to any other cost category or categories at any time provided that: (1) there is no increase in the total amount specified in this AGREEMENT, and (2) the goals and objectives set forth in **EXHIBIT B** to the AGREEMENT are not negatively affected. Approval by the Director or his or her designated representative of such reallocation of funds must be in writing. Any unexpended funds at the end of the term of the AGREEMENT shall be retained by the CITY.

Expenses incurred prior to the Start Date of this AGREEMENT are not eligible for reimbursement under this AGREEMENT.

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EXHIBIT E

GENERAL GRANT CONDITIONS AND REPORTING SCHEDULE

SECTION 1 GENERAL GRANT CONDITIONS

1.01 Definitions. As used herein, “HUD” means United States Department of Housing and Urban Development. “Project Area” for the purposes of this **EXHIBIT E** means the City of San José (“CITY”).

1.02 Compliance with Applicable Federal Regulations. GRANTEE shall comply with the provisions of 24 CFR 570, Subpart J and K, describing other program requirements, and the provisions of 2 CFR Part 200, relating to the uniform administrative requirements in the acceptance and use of Federal funds.

1.03 Compliance with Reporting Executive Compensation Information under 2 CFR Part 170, Appendix A. Unless exempt, GRANTEE shall comply with the provisions of 24 CFR 170, Appendix A, relating to the reporting requirements for total compensation of subrecipient executives

1.04 Compliance with Drugfree Workplace Requirements under Title 31, Subtitle A, Part 20.

1.05 Applicable Federal Civil Rights Laws and Executive Orders. In providing the services and work set forth in this AGREEMENT, GRANTEE will carry out its work in a manner that will permit full compliance by CITY and strict adherence by GRANTEE with the following:

- a. Title VI of the Civil Rights Act of 1964, which provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance; and
- b. The Housing and Community Development Acts of 1974 and 1977, as amended, which provide that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available pursuant to said acts; and
- c. Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act) which prohibits discrimination in the sale, rental, and financing of housing and the provision of brokerage services because of race, color, religion, sex, sexual orientation,

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actual or perceived gender identity, national origin, handicap, or familial status;
and

- d. Executive Order 11063, as amended by Executive Order 12259, which provides for equal opportunity in housing and related facilities provided by federal financial assistance. This order and its implementing regulations require the Department of Housing and Urban Development to take all actions necessary to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental or other disposition of residential property assisted with Federal loans, advances, grants or contributions; and
- e. Executive Order 11246, (as amended by Executive Orders 11375 and 12086 and further amendments) Equal Opportunity Under HUD Contracts and HUD-assisted Construction Contracts, which requires that GRANTEE's and subrecipients, and their subcontractor, agree not to discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, actual or perceived gender identity, or national origin; and
- f. Section 3 of the Housing and Community Development Act of 1968 Pertaining to Employment Opportunities for Lower-Income Persons (12 U.S.C. 1701u), requires that, to the greatest extent feasible on projects financed by HUD, a subrecipient must:
 - 1. provide opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project, are given to persons with household income that is at or below 80% of the median income for San José as defined by the Secretary of HUD. Where feasible, priority should be given to residents within the service area of the Project or the neighborhood in which the Project is located who have household income that is at or below 80% of the median income for San José as defined by HUD, and to participants in other HUD programs who have household income that is at or below 80% of the median income for the San José area; and
 - 2. award contracts for work undertaken in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for persons residing within the metropolitan area in which the CDBG-funded Project is located and have household income that is at or below 80% of the median income

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for San José as defined by the Secretary of HUD. Where feasible, priority should be given to business concerns that provide economic opportunities to residents within the service area or the neighborhood in which the Project is located who have household income that is at or below 80% of the median income for San José as defined by the Secretary of HUD, and to participants in other HUD programs who have household income that is at or below 80% of the median income for that area; and

3. self-certify whether they are a Section 3 business, employs Section 3 residents, or subcontracts with business that provide opportunities to low-income persons when an award of Two Hundred Thousand Dollars (\$200,000) or more of HUD funding is provided for housing rehabilitation, housing construction, or other public construction projects, and/or One Hundred Thousand Dollars (\$100,000) or more to subcontractors; and
4. at a minimum, provide documentation on federal compliance, reporting and outreach efforts; and
- g. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published which specify that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal assistance; and
- h. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect which provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving Federal assistance; and
- i. The requirements relating to Minority-Owned and Women-Owned Business Enterprises set forth in Executive Order No. 11625 of October 13, 1971, 36 Fed. Reg. 19967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; and Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg., 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 29637, a subrecipient must exercise affirmative outreach efforts when soliciting bids for service or construction when the Federal funds received by the subrecipient or subcontractor exceeds Ten Thousand Dollars (\$10,000) and when the subrecipient or subcontractor is a for-profit organization/business; and

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1. GRANTEE will require to follow the guidelines for “Outreach” when soliciting bids for services and constructions exceeding TEN THOUSAND DOLLARS (\$10,000). GRANTEE will use the outreach provisions described under “Outreach Criteria” (see **Exhibit H**);
 2. When GRANTEE solicits bids from subcontractors, they shall include in all notices in local newspapers that “Women and Minority Owned Businesses are strongly encouraged to apply.” Developers/contractors/subrecipients, when feasible, are strongly encouraged to consider posting in Spanish and Vietnamese newspapers;
 3. GRANTEE will report these efforts annually to the CITY.
- j. The Uniform Federal Accessibility Standards set forth in 24 CFR, Part 40, Appendix A; and
- k. Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination on the basis of disability in employment and in public accommodations and commercial facilities and defines the range of conditions that qualify as disabilities, and the reasonable accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities where such removal is readily achievable – that is easily accomplishable and able to be carried out without much difficulty or expense; and
- l. The provisions of 24 CFR Part 24, relating to the employment, engagement of services, awarding of contracts, or funding of any grantee or sub during any period of debarment, suspension or placement in ineligibility status; and
- m. Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et. seq.*). This law provides that any grant under section 106 shall be made only if the GRANTEE certifies to the satisfaction of the Secretary of HUD that the GRANTEE will, among other things, affirmatively further fair housing; and
- n. Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et. seq.*, particularly 42 U.S.C. 6101 *ets. seq.*, and 29 U.S.C. 794) and further amendments, which mandates that no person on the grounds of race, color, national origin, sex, sexual orientation, actual or

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perceived gender identity, age or religion shall be excluded from participation, denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or part with CDBG funds; and

- o. Architectural Barriers Act of 1968 requires that federally funded buildings and other facilities, as defined in 24 CFR 40.2 and 40 CFR 101-19.602(2), to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people.

1.06 Relocation and Real Property Acquisition. GRANTEE shall comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and 24 CFR 570.606(b); and (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan (Plan) under section 104(d) of the HCD Act. Under the URA and the Plan, the subrecipient must provide relocation assistance to persons (families, individuals, businesses, non-profit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. All property occupants must be issued certain notices on a timely basis. The Plan also required the one-for-one replacement of any occupied or vacant occupiable low/moderate-income housing that is demolished or converted to another use in connection with a CDBG-assisted project. Finally, the Plan requires the identification of the steps that will be taken to minimize displacement.

1.07 Political Reform Act. GRANTEE shall comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified at California Government Code Section 87000, *et seq.*) GRANTEE will promptly advise CITY of the facts and circumstances concerning any disclosure made to it or any information obtained by it relating to conflicts of interest.

1.08 Flood Disaster Protection. Notwithstanding any other provision of this AGREEMENT, GRANTEE shall comply with the Flood Disaster Protection Act of 1973, as amended (P.L. 93-234), and the standards issued thereto. No portion of the moneys to be paid to GRANTEE pursuant to this AGREEMENT shall be used for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in an area not in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any of said moneys for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

Any contract or agreement for the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this AGREEMENT shall contain, if such land

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is located in an area identified by the Secretary of HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001, *et seq.*, provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973, as amended. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this AGREEMENT.

1.09 Equal Employment Opportunity. In providing the work and services herein specified, GRANTEE shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. GRANTEE shall take action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, actual or perceived gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. GRANTEE shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or the CITY setting forth the provisions of this nondiscrimination clause. GRANTEE shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, actual or perceived gender identity, or national origin. GRANTEE shall incorporate the foregoing requirements of this paragraph 1.07 in all of its contracts for program work, and will require all of its contractors for such work to incorporate such requirements in all subcontracts for program work.

1.10 Prohibition of and Elimination of Lead-Based Paint Hazard. Notwithstanding any other provision, GRANTEE agrees to comply with the regulations issued by the Secretary of HUD set forth in 24 CFR 570.608 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards. Every contract or subcontract, including painting, pursuant to which such federally assisted construction or rehabilitation is performed, shall include appropriate provisions prohibiting the use of lead-based paint.

1.11 Compliance With Clean Air and Water Acts. This AGREEMENT is subject to 42 U.S.C.A 7401, *et seq.*, and 33 U.S.C. 1251 *et seq.*, and the regulations issued pursuant thereto. Therefore, GRANTEE agrees as follows:

- a. GRANTEE stipulates that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the Environmental Protection

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Agency (EPA) ECHO database (<https://echo.epa.gov/>) as having a current violation;

- b. GRANTEE agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 7414) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Sections 114 and 308, and all regulations and guidelines issued thereunder;
- c. GRANTEE stipulates that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities;
- d. GRANTEE agrees that criteria and requirements in subparagraphs (a) through (d) of this section 1.09 will be included in every non-exempt subcontract and GRANTEE shall take such action as the CITY or HUD requires as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this AGREEMENT be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

1.12 Federal Labor Standards Provisions. Except with respect to the rehabilitation of residential property designed for residential use for less than eight (8) families, GRANTEE and all GRANTEES engaged under contracts in excess of Two Thousand Dollars (\$2,000) for the construction, completion or repair of any building or work financed in whole or in part with assistance provided under this AGREEMENT, shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 3, 5 and 5a, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve GRANTEE of its obligation, if any, to require payment of the higher rates. GRANTEE shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of 29 CFR 5.5 and for such contracts in excess of Twenty-Five Thousand Dollars (\$25,000), 29 CFR 5a.3.

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GRANTEE shall not award any contract or subcontract which is otherwise in compliance with this AGREEMENT to any person or subcontractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

1.13 Nondiscrimination Under Title VI of the Civil Rights Act of 1964. GRANTEE under this AGREEMENT shall be subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and HUD regulations with respect thereto including the regulations under 24 CFR Part 1. In the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this AGREEMENT, GRANTEE shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex, sexual orientation, actual or perceived gender identity, or national origin, in the sale, lease or rental, or in the use of occupancy of such land or any improvements erected or to be erected thereon, and providing that GRANTEE and the United States are beneficiaries of and entitled to enforce such covenant. GRANTEE, in providing the services and work it is to provide, pursuant to this AGREEMENT, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

1.14 Interest of Certain Federal Officials. No member of, or Delegate to, the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this AGREEMENT or to any benefit arising from same.

1.15 Conflict of Interest. Under 24 CFR Part 570.611, no officer, employee or agent of CITY or GRANTEE who exercises any functions or responsibilities with respect to the CDBG Program or to the services and work to be performed by GRANTEE pursuant to this AGREEMENT, during such officer's, employee's or agent's tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this AGREEMENT or the proceeds thereof.

GRANTEE shall incorporate or cause to be incorporated in every contract required to be in writing a provision prohibiting such interest pursuant to the purposes of this section.

1.16 Prohibition Against Payments of Bonuses or Commissions. The assistance provided under this AGREEMENT shall not be used in the payment of any bonus or commission for the purpose of obtaining HUD approval of the application for such assistance, or HUD approval of applications for additional assistance, or any other approval or concurrence of HUD required under this AGREEMENT, Title I of the Housing and Community Development Acts of 1974 or 1977, or HUD regulations with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

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1.17 Copyrights. If this AGREEMENT results in a book or other copyrightable material, the author is free to copyright the work, but HUD reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.

1.18 Patents. Any discovery or invention arising out of or developed in the course of work aided by this AGREEMENT shall be promptly and fully reported to CITY and HUD for determination by HUD as to whether patent protection on such invention or discovery will be sought and how the rights in the invention or discovery, including the rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

1.19 Political Activity.

- a. Partisan Activity Prohibited. No funds provided in this AGREEMENT shall be used for any partisan political activity or to further the election or defeat of any candidate for public office; nor shall they be used to provide services, or for the employment or assignment of personnel in a manner supporting or resulting in the identification of programs conducted pursuant to this AGREEMENT with the following: (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or (3) any voter registration activity.

Participants employed in the administration of the CDBG Plan and/or Program, and participants whose principal employment is in connection with an activity financed by the CDBG Program or its proceeds are subject to limitation on political activities under the Hatch Act (5 U.S.C. 1502(a), 18 U.S.C. 595). All participants may take part in non-partisan activities outside working hours.

b. Lobbying Prohibited.

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the GRANTEE, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the GRANTEE shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The GRANTEE shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and not more than One Hundred Thousand Dollars (\$100,000) for each such failure.

1.20 Guidelines on Church-Related Activities.

- a. Construction or Rehabilitation of Facilities. Block grant fund recipients shall not use any funds to construct, rehabilitate, maintain, or restore religious structures (including those which may be historic properties) currently used for religious purposes. Block grant funds shall not be used to construct, rehabilitate, maintain, or restore structures or other real property owned by "pervasively sectarian" organizations. Block grant funds shall not be used to assist a religious organization in acquiring property. These prohibitions apply whether or not the property is used for religious services or instruction or is used in any other way for religious activities.
- b. Public Services. Block grant funds may be used for the provision of public services under the following conditions:
 1. The public services provided are exclusively non-religious in nature and scope;
 2. There are no religious services, proselytizing, instruction, or any other religious influences in connection with the public services;

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3. There is no religious discrimination in terms of employment or benefits under the public services; and
4. The CDBG funds may be used only for the provision of public services and not for the construction, rehabilitation or restoration of any facility owned by the religious organization where the services are to be provided. A narrow exception to this prohibition is that minor repairs may be made where such repairs (a) are directly related to the public services, (b) are located in a structure used exclusively for non-religious purposes, and (c) constitute in dollar terms a minor portion of the CDBG expenditure for the public services.

1.21 Resident Aliens. (24 CFR 570.613) Certain newly legalized aliens, as described in 24 CFR Part 49, are not eligible to apply for the benefits under covered activities funded by the CDBG Program. "Covered activities" are activities meeting the requirements of 24 CFR 570.208(a) that either (1) have income eligibility requirements limiting benefits exclusively to low- and moderate-income persons, or (2) are targeted geographically or otherwise to primarily benefit low- and moderate-income persons (except for activities that benefit the public at large), and provide benefits on the basis of an application.

1.22 Environmental Requirements. GRANTEE is not allowed to incur program expenses until the CITY has performed an environmental review of the proposed activities, received the release of funds, and provided the GRANTEE with formal clearance to initiate them, along with directives for any action necessary to mitigate negative environmental impacts (24 CFR Part 58).

1.23 Historic Preservation. GRANTEE shall not violate provisions of the Historic Preservation Act and related laws and Executive Orders. Before any commitments are made to make any physical improvements or alterations or demolition of any building, GRANTEE shall receive assurances from the CITY that the GRANTEE is in compliance.

1.24 If GRANTEE receives State of California ("State") or CITY funds, GRANTEE shall, in the use of those State or CITY funds adhere to the applicable Federal laws, regulations, policies, guidelines or requirements, herein specified, only insofar as adherence thereto would not be prohibited by valid CITY or State laws, regulations, policies, guidelines or requirements.

SECTION 2. FINANCIAL OBLIGATIONS OF GRANTEE

2.01 Fiscal Responsibilities of GRANTEE.

GRANTEE shall:

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- a. Appoint and submit to CITY, the name of a fiscal agent who shall be responsible for the financial and accounting activities of the GRANTEE, including the receipt and disbursement of GRANTEE funds.
- b. Establish and maintain a system of accounts that shall be in conformance with generally accepted principles of accounting for budgeted funds. Such system of accounts shall be subject to review and approval of CITY.
- c. Appoint and submit to CITY, the name of a fiscal agent who shall be responsible for the financial and accounting activities of the GRANTEE, including the receipt and disbursement of GRANTEE funds.
- d. Establish and maintain a system of accounts that shall be in conformance with generally accepted principles of accounting for budgeted funds. Such system of accounts shall be subject to review and approval of CITY.
- e. Complete and submit the Project Financial Workbook (PFW) for CITY approval before implementing the program. The workbook has multiple tabs that include Project Budget, Agency Budget, Personnel Allocation Plan (PCAP), Indirect Cost Allocation Plan (ICAP), and Source of Funds (SOF).
- f. Develop an indirect cost allocation plan for determining the appropriate GRANTEE's share of administrative costs if indirect costs are charged and submit such plan to the CITY for approval in a form specified by the CITY prior to submitting reimbursement requests.
- g. Submit any requests to revise the Project Financial Workbook such as staff or budget changes to the CITY for approval before implementation. All revisions must be submitted by or before the end of Quarter 3 or March 31st.
- h. Document all costs by maintaining complete and accurate records of all financial transactions, including but not limited to contracts, invoices, time cards, cash receipts, vouchers, cancelled checks, bank statements and/or other official documentation evidencing in proper detail the nature and propriety of all charges.
- i. Submit to the CITY, within thirty (30) calendar days of the end of the preceding month, requests for reimbursement, together with documentation required by CITY. For the public services of the CDBG program, the last payment of the program year shall be submitted within ten (10) calendar days of the end of June.

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- j. Certify insurability subject to CITY approval as outlined in **EXHIBIT G** to the AGREEMENT titled "INSURANCE".
- k. Submit to HUD or CITY at such times and in such forms as HUD or CITY may require, such statements, records, reports, data, and information pertaining to matters covered by this AGREEMENT.
- l. Comply with 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) and adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- m. Administer all programs in conformance with 2 CFR 200 Subpart E, Cost Principles. These principles shall be applied for all costs incurred whether charged in a direct or indirect basis.

2.02 Records, Reports and Audits of GRANTEE.

- a. Establishment and Maintenance of Records. GRANTEE shall maintain records, including but not limited to, books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly:
 - 1. All direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred to perform this AGREEMENT, and
 - 2. All other matters covered by this AGREEMENT. Such records shall be maintained in accordance with requirements now or hereafter prescribed by the CITY.
- b. Preservation of Records. GRANTEE shall preserve and make available its records:
 - 1. for the period of five (5) years from the date of final payment to GRANTEE under this AGREEMENT; or
 - 2. for such longer period, if any, as may be required by applicable law; or
 - 3. if this AGREEMENT is completely or partially terminated, for a period of four (4) years from the date of any resulting final settlement.

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- c. Records to be Maintained. The subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this AGREEMENT. Such records shall include but not be limited to:
1. Records providing a full description of each activity undertaken;
 2. Records demonstrating that each activity undertaken meets one of the Objectives of the Program;
 3. Records required to determine the eligibility of activities;
 4. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with ARPA assistance;
 5. Records documenting compliance with the fair housing and equal opportunity components of the Program;
 6. Financial records as required by 24 CFR 570.502 and 24 CFR 200; and
 7. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.
- d. Examination of Records; Facilities. At any time during normal business hours, and as often as may be deemed necessary, GRANTEE agrees that HUD and/or CITY, and/or any of their respective authorized representatives shall:
1. for a period of five (5) years after final payment under this AGREEMENT;
or,
 2. for such longer period as may be required by applicable law; or
 3. if this AGREEMENT is completely or partially terminated, for a period of five (5) years from date of any resulting settlement;
 4. have access to and the right to examine its plants, offices, and facilities engaged in performance of this AGREEMENT and all its records with respect to all matters covered by this AGREEMENT. GRANTEE also agrees that HUD and/or CITY, or any of their respective authorized representatives shall have the right to audit, examine, and make excerpts or transcripts of and from such records, and to make audits of all contracts and subcontracts, invoices, payrolls, records of personnel, conditions of employment, materials, and all other data relating to matters covered by

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this AGREEMENT. Notwithstanding anything in this AGREEMENT to the contrary for monitoring purposes, CITY shall not require access to any information of GRANTEE mutually determined by the parties hereto to be proprietary.

e. Audits:

- 1 Independent Audits. City Council requires each non-profit organization receiving Two Hundred Ninety Thousand Dollars (\$320,000) or more in funds from the CITY (in the aggregate) during any fiscal year, to prepare and make available for public view on the internet, annual audited financial statements. See Section 26 of the Grant Agreement for the CITY's requirements.

If the Two Hundred Ninety Thousand Dollar (\$320,000) threshold is not met, the CITY's Grant Manager has authority to impose the requirement to obtain an independent audit. GRANTEE shall be notified if this requirement is to be imposed and the requirement will be included in **Exhibit A** to this AGREEMENT.

If an audit is required, the following provisions apply:

- (a) Funds may be set aside in GRANTEE's budget in an amount equal to CITY's fair share of GRANTEE's cost of an independent audit, if required, with prior approval from CITY. A separate line item will be established.
- (b) GRANTEE shall enter into an agreement with an independent public accountant certified to practice in the State of California no later than sixty (60) days before the end of this AGREEMENT calling for an audit to be done for the entire year. The audit must be in conformance with the applicable funding source.
- (c) The audit must be completed and sent to CITY's Department of Housing staff within one hundred fifty (150) days from the end of GRANTEE's fiscal year.
- (d) Audit Standards. The independent fiscal audit shall conform to generally accepted governmental auditing principles. Such audits shall identify the funds received and disbursed under this AGREEMENT and include the following components:

- (i) Balance Sheet or Statement of Financial Position;

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- (ii) Statement of Support, Revenue, and Expenses and Changes in Fund Balances or Statement Activities;
 - (iii) Statement of Functional Expenses;
 - (iv) Statement of Auditor's Report;
 - (v) Communication of Internal Control Related Matters Identified in an Audit (Management Letter) from Auditor;
 - (vi) GRANTEE shall also submit to the agency a written management response to the findings of the Internal Control Matters.
- (e) Single Audits. For GRANTEES that expend Seven Hundred Fifty Dollars (\$750,000) or more of Federal financial assistance in a fiscal year (in aggregate, from all funding sources), in addition to conducting normal financial audit procedures, the GRANTEE's independent public accountant certified to practice in the State of California shall perform tests to ascertain that:
- (i) Expenditures submitted for reimbursement are allowable under 2 CFR 200;
 - (ii) Expenditures are in compliance with the grant agreements between the CITY and GRANTEE; and
 - (iii) Applicable laws and regulations. Further, the independent public accountant certified to practice in the State of California shall render an opinion as to whether the Expenditures complied with the Single Audit Act of 1984 and Appendix XI to 2 CFR Part 200— Compliance Supplement (previously known as the Circular A-133 Compliance Supplement).
 - (iv) The single audit must include the following components:
 - a. Balance Sheet or Statement of Financial Position;
 - b. Statement of Support, Revenue and Expenses and Changes in Fund Balances or Statement Activities;
 - c. Statement of Functional Expenses;
 - d. Schedule of Expenditures of Federal Awards;
 - e. Independent Auditor's Report on the Financial Statement and Schedule of Expenditures of Federal Awards;
 - f. Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters;
 - g. Auditor's Report on Compliance with Requirements Applicable to Major Programs and on Internal Control over Compliance;
 - h. Schedule of Findings and Questioned Costs;
 - i. Summary of Schedule of Prior Audit Findings;
 - j. Corrective Action Plan;
 - k. Data Collection Form;

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- (f) GRANTEE's independent public accountant, certified to practice in the State of California, shall perform reviews of GRANTEE's internal control systems and GRANTEE's compliance with applicable laws, regulations and requirements of this AGREEMENT.

The independent public accountant shall issue a report on the financial statements and the Schedule of Governmental Financial Assistance, a report on the study and evaluation of internal controls and a report on GRANTEE compliance. The three reports may be bound into a single report, or presented at the same time as separate documents.

- (g) Should GRANTEE not enter into an agreement with an independent public accountant certified to practice in the State of California, or should an audit not be done on a timely basis, CITY, at its sole discretion, may enter into an agreement with an independent public accountant certified to practice in the State of California to perform the audit.

2. City Audits. CITY may perform an independent audit. Such audits may cover program as well as fiscal matters. GRANTEE will be afforded an opportunity to respond to any audit findings and have the responses included in the final audit report. Costs of such audits will be borne by CITY.

- (a) GRANTEE acknowledges that up to two (2) monitoring visits can be conducted during a grant term and agrees to submit any requested documents and/or make available, any documents requested. GRANTEE will be afforded an opportunity to respond to findings.

3. Disallowed Costs. GRANTEE is liable for repayment of disallowed costs as determined by CITY, in its sole discretion, and/or HUD. Disallowed costs may be identified through audits, monitoring or other sources. GRANTEE shall be afforded the opportunity to respond to any adverse findings which may lead to disallowed costs. DIRECTOR shall make the final determination of disallowed costs, subject to provisions of 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) and applicable HUD regulations.

SECTION 3. OTHER REQUIREMENTS OF GRANTEE

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3.01 Client Data Tracking. GRANTEE shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, description of service provided and progression of client self sufficiency. Such information shall be tracked monthly and made available to GRANTEE monitors or their designees for review upon request.

3.02 All CITY Quarterly and Outcome Measure reports shall be submitted to the Housing Department, via the CITY's WebGrants system, no later than ten (10) calendar days after the end of the first, second, and third quarters, and no later than seven (7) calendar days after the end of the fourth quarter. ARPA Quarterly reports shall be submitted to the Housing Department, via email, no later than (5) calendar days after the reporting period ends. Typical fiscal years follows quarterly periods as noted below:

Quarterly 1: From July 1 - September 30
Quarterly 2: From October 1 - December 31
Quarterly 3: From January 1 - March 31
Quarterly 4: From April 1 - June 30

3.03 Disclosure. GRANTEE understands that client information collected under this AGREEMENT is private and the use or disclosure of such information, when not directly connected with the administration of the GRANTEE's or subrecipient's responsibilities with respect to services provided under this AGREEMENT, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

3.04 Close-outs. GRANTEE's obligation to the GRANTEE shall not end until all close-out requirements are completed pursuant to 24 CFR 570.509. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the GRANTEE), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this AGREEMENT shall remain in effect during any period that the subrecipient has control over CDBG funds, including program income.

3.05 Program Income. GRANTEE shall report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this AGREEMENT. The use of program income by the subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the subrecipient may use such income during the contract period for activities permitted under this AGREEMENT and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the GRANTEE at the end of the contract period. Any interest earned on cash

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advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the GRANTEE.

3.06 Use and Reversion of Assets. The use and disposition of real property and equipment under this AGREEMENT shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

- a. GRANTEE shall transfer to the CITY any CDBG funds on hand and any accounts receivable attributable to the use of funds under this AGREEMENT at the time of expiration, cancellation, or termination.
- b. Real property under GRANTEE's control that was acquired or improved, in whole or in part, with funds under this AGREEMENT in excess of Twenty-Five Thousand Dollars (\$25,000) shall be used to meet one (1) of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this AGREEMENT or such longer period of time as the GRANTEE deems appropriate. If the subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the subrecipient shall pay the GRANTEE an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the GRANTEE. The subrecipient may retain real property acquired or improved under this AGREEMENT after the expiration of the five-year period or such longer period of time as the GRANTEE deems appropriate.
- c. In all cases in which equipment acquired, in whole or in part, with funds under this AGREEMENT is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this AGREEMENT were used to acquire the equipment). Equipment not needed by the subrecipient for activities under this AGREEMENT shall be (a) transferred to the GRANTEE for the CDBG Program or (b) retained after compensating the GRANTEE an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

3.07 Hatch Act. The subrecipient agrees that no funds provided, nor personnel employed under this AGREEMENT, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

3.08 HMIS Participation. All agencies providing homeless services in receipt of funding from the CITY's CDBG Program are required to fully participate in the Homeless Management Information System ("HMIS") and work closely with the County of Santa

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Clara Office of Supportive Housing (“CSC OSH”), to ensure the agency has the mechanisms and staffing in place to use the system appropriately and in a timely manner. Funded agencies are required to collect demographic information on all clients served by the funded projects, the services provided, and consent to release the information to CSC OSH and the CITY’s Housing Department.

Funded projects must utilize all appropriate aspects of HMIS in order to generate the statistical information required for reporting to the CITY on all universal and program level elements of the HUD Data Standards. These statistical reports must be generated directly out of HMIS. No adjustments to the HMIS reports will be accepted and it is therefore incumbent on the agency to ensure that the information they put into HMIS is accurate and up to date. CITY will measure performance and outcomes relating to these funded projects through the use of the HMIS statistical data, based on the HUD data elements, or other reporting requirements as determined by the CITY. The CITY will request from the HMIS Administrator, acknowledgement of the recipient agencies’ certificate of compliance with HUD privacy and security standards, acknowledgement of use of the Shelter Point program, and statistics on the percentage of Universal and Top Level Program data captured.

3.09 Language Access Plan (LAP). GRANTEE shall fully implement and comply with the Language Access Plan (“LAP”) based on the Four Factor Analysis, as mandated in FR-4878-N-02, and as approved by CITY to ensure that limited English proficient clients have equal access to community programs and services.

Guidance on Federal Policy:

<https://www.sanjoseca.gov/home/showdocument?id=13839>

3.10 GRANTEE shall include in all outreach and marketing materials, including public websites, an affirmative statement that it will provide services or benefits to all persons including persons of the following protected categories: race, sex, color, age, religion, actual or perceived gender identity, sexual orientation, disability, ethnic or national origin, or familial status.

3.11 Culturally Responsive Services. GRANTEE shall support inclusive engagement that embrace cultural competency, cultural responsiveness, cultural relevancy and cultural accessibility.

- a. Culturally Competent: GRANTEE shall demonstrate competency and respect in for the beliefs, lifestyles, and behaviors of by diverse groups and will act accordingly during their interactions. GRANTEE shall be able to effectively operate through cultural differences and demonstrate awareness of one’s own cultural values whilst having the ability to consistently function with members from other cultural groups. GRANTEE shall display capability in effectively

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navigating cultural differences in the communities they serve, being dynamic and respectful to the multitude of various lifestyles, beliefs, and behaviors encountered.

- b. Culturally Responsive: GRANTEE shall have the capability to be responsive to the cultural and linguistic needs of the diverse communities. GRANTEE must reflect this cultural responsiveness in every aspect of their operation, including policy, governance, service model, and recruitment. GRANTEE shall make the utmost effort to ensure that all levels of staffing, from the work force to governing and policy-making bodies, are comprised of members reflective of the diverse backgrounds of the communities they serve.
- c. Culturally Relevant: GRANTEE shall be relevant and aware in addressing the cultural needs of diverse communities whose forms of engagement and cultural norms differ from the mainstream population at large. GRANTEE shall be staffed by culturally competent individuals who are able to form authentic and effective relationships with community members and provide culturally aware services from specific cultural groups and/or communities of color. Such capabilities and commitments to cultural awareness are reflective of effective and mutually beneficial relationships with other organizations (such as grassroots or community-based organizations, churches, community networks, etc.) that serve and reflect local populations.
- d. Culturally Accessible: GRANTEE shall be accessible in language, location, and delivery style. GRANTEE shall be capable of overcoming common mainstream barriers and/or provide effective alternate methods for providing service to recipients to easily access mainstream and nontraditional programs and other services.

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EXHIBIT F

**EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE WITH
CHILD ABUSE AND NEGLECT REPORTING ACT**

If GRANTEE provides services involving minors, and as a CITY-approved method of complying with the provisions contained in this AGREEMENT, GRANTEE shall conduct a criminal background check through the database of the California Department of Justice **and** an FBI criminal database or equivalent national database as approved in writing by GRANTEE's liability insurance provider, on each of its employees and volunteers who have supervisory or disciplinary authority over minors.

GRANTEE shall also comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 *et. seq.* Additionally, GRANTEE certifies to the following:

1. Any and all personnel employed or retained by GRANTEE in conducting the operations of GRANTEE's program shall be qualified to perform the duties assigned to them by GRANTEE. GRANTEE agrees that GRANTEE shall not at any time allow its employees or volunteers to be in any position with supervisory or disciplinary authority over minors, if they have been convicted of any offense identified in California Public Resources Code Section 5164 (copy attached).

CITY and GRANTEE understand that results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position having supervisory or disciplinary authority over any minor.

If GRANTEE intends to have employees or volunteers under the age of 18 providing services under this AGREEMENT, GRANTEE shall maintain and make available to CITY, if requested, guidelines, procedures or policies, that safeguard and ensure that no employees or volunteers under the age of 18 will be providing services under this AGREEMENT unsupervised and further GRANTEE shall ensure that none of its employees or volunteers under 18 years of age have any supervisory or disciplinary authority over any minor, as such term is used in California Public Resources Code Section 5164.

2. GRANTEE shall be responsible for ensuring that no person who has supervisory or disciplinary authority over minors, who is paid or unpaid by GRANTEE shall be permitted to provide services unless appropriate background checks, including fingerprints, have been performed prior to the beginning of services under this AGREEMENT, and the person meets the standards set forth above. If requested by CITY, and to the extent allowed by law, GRANTEE shall promptly provide documentation listing each person that has provided or is providing services hereunder involving supervision or disciplinary authority over minors, and certifying that the GRANTEE has conducted the proper background check on such person

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or persons, and each of the named persons is legally permitted to perform the services described in this AGREEMENT. Regardless of whether such documentation is requested or delivered by GRANTEE, GRANTEE shall be solely responsible for compliance with the provisions of this Section 2.

3. That no person paid or unpaid by GRANTEE shall be permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the TB testing requirements set forth in Section 5163 of the California Public Resources Code (copy attached), verifying that the person or persons has provided evidence/verification of a negative TB skin test reading less than two (2) years old (if newly hired) or within four (4) years (if current employee) of the date of execution of this AGREEMENT and every four (4) years thereafter, if the term of this AGREEMENT exceeds four (4) years. For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. GRANTEE shall keep on file each certificate of clearance ("Certificate") for the persons described above and shall also make available a copy of each Certificate to CITY, if requested and allowed by law. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

4. GRANTEE understands that if services are rendered on a school site, there may be additional requirements that may apply including without limitation, requirements under the California Education Code. GRANTEE acknowledges that it is GRANTEE's sole responsibility to comply with all applicable laws, regulations and licensing requirements in GRANTEE's provision of services hereunder.

I, the GRANTEE by signing below verify that I have read and agree to the above:



Email: ponchog@sacredheartcs.org
Date: 02/17/2023 GMT

Signature

Date

Sacred Heart Community Service

Please Print or Type Name of Organization

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CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

5164. (a)(1) A county or city or city and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if that person has been convicted of any offense specified in paragraph (2).

(2)(A) Violations or attempted violations of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or any sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) Any felony or misdemeanor conviction specified in subparagraph (C) within ten (10) years of the date of the employer's request.

(C) Any felony conviction that is over ten (10) years old, if the subject of the request was incarcerated within ten (10) years of the employer's request, for a violation or attempted violation of any of the offenses specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, any of the offenses specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or any of the offenses specified in subdivision (c) of Section 667.5 of the Penal Code, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three (3) or more misdemeanor convictions, or a combined total of three (3) or more misdemeanor and felony convictions, for violations listed in this Section within the ten-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding ten (10) years.

(b)(1) To give effect to this Section, a county or city or city and county or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of any offense specified in subdivision (a). The county or city or city and county or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for that person's criminal background.

(2) Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.

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CALIFORNIA PUBLIC RESOURCES CODE SECTION 5163

5163. (a) No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a city or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in that area, unless the person produces or has on file with the city or county a certificate showing that within the last two (2) years the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four (4) years for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required, and a referral shall be made within thirty (30) days of the examination to the local health officer to determine the need for follow-up care.

“Certificate” means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

5163.1. The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs.

Nothing in Sections 5163 to 5163.2, inclusive, shall prevent the governing body of any city or county, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by Section 5163 and this Section.

5163.2. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray file is subsequently interpreted by a licensed physician and surgeon.

5163.3. The city or county shall maintain a file containing an up-to-date certificate for each person covered by Section 5163.

5163.4. Nothing in Section 5163 to 5163.3, inclusive, shall prevent the city or county from requiring more extensive or more frequent examinations.

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EXHIBIT H

INSURANCE REQUIREMENTS

GRANTEE, at GRANTEE's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by GRANTEE, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Commercial Crime insurance covering employee dishonesty, forgery or alteration, computer and funds transfer fraud, and payment instruction fraud.

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY's Risk Manager.

B. Minimum Limits of Insurance

GRANTEE shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and

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2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Crime insurance: \$500,000 per claim and \$500,000 aggregate.

Any limits requirement may be met with any combination of primary and excess coverage so long as the excess coverage is written on a "follow form" or umbrella basis.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
 - a. The City of San Jose, its officers, employees and agents are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, GRANTEE; products and completed operations of GRANTEE; premises owned, leased or used by GRANTEE; and automobiles owned, leased, hired or borrowed by GRANTEE. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, and agents.
 - b. GRANTEE's insurance coverage shall be primary insurance as respects CITY, its officers, employees, and agents. Any insurance or self-insurance maintained by CITY, its officers, employees, or agents shall be excess of GRANTEE's insurance and shall not contribute with it.

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- c. Any failure to comply with reporting provisions of the policies by GRANTEE shall not affect coverage provided CITY, its officers, employees, or agents.
- d. Coverage shall state that GRANTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, and agents.

2. **Workers' Compensation and Employers' Liability**

Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, and agents.

3. **Claims Made Coverages**

If coverage is obtained on a "claims made" policy form, the retroactive date shall precede the date services were initiated with the City and the coverage shall be maintained for a period of three (3) years after termination of services under this Agreement.

4. **All Coverages**

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

GRANTEE shall furnish CITY with certificates of insurance and endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each

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insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be emailed in pdf format to: Riskmgmt@sanjoseca.gov:

Certificate Holder
City of San Jose—Finance
Risk Management & Insurance
200 East Santa Clara Street, 14th Floor Tower
San Jose, CA 95113-1905

G. Subcontractors

GRANTEE shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

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EXHIBIT I

RETROACTIVE SERVICES

It is understood and agreed that GRANTEE has provided services prior to the execution of this AGREEMENT in anticipation of its execution. If CITY accepts and approves the services provided by GRANTEE prior to the date of this AGREEMENT, CITY agrees to compensate GRANTEE for those services in accordance with the terms of this AGREEMENT. However, in no event shall GRANTEE be compensated for work performed for CITY prior to October 1, 2022.

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EXHIBIT J

FEDERAL FUND PROVISIONS FOR CRF/ARP CONTRACT

In addition to all the other terms and conditions of this AGREEMENT, Contractor agrees to comply with the following federal fund provisions in performing the AGREEMENT. If any of these federal fund provisions conflict with any other provisions of this AGREEMENT, the federal fund provisions will take precedence unless the other provision is more restrictive, in which case the other provision will control.

A. Federal Equal Employment Opportunity (41 C.F.R. Section 60-1.4(b))

In addition to the other nondiscrimination provisions in this AGREEMENT, Contractor will comply with the following:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this AGREEMENT or with any of the said rules, regulations, or orders, this AGREEMENT may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. Copeland "Anti-Kickback"

1. **Contractor.** The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this AGREEMENT.

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2. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
3. **Breach.** A breach of the AGREEMENT clauses above may be grounds for termination of the AGREEMENT, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

C. Contractor Work Hours and Safety Standards Act.

If the amount of this AGREEMENT exceeds \$100,000, Contractor will comply with the following in addition to any other labor requirements in the AGREEMENT:

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the AGREEMENT work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. **Withholding for unpaid wages and liquidated damages.** The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any

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moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

D. Federal Clean Air Act Requirements

If the amount of this AGREEMENT exceeds \$150,000, Contractor will comply with the following:

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
2. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

E. Federal Water Pollution Act Requirements

If the amount of this AGREEMENT exceeds \$150,000, Contractor will comply with the following:

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, *et seq.*).

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2. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

F. Energy Efficiency/Conservation (44 C.F.R. § 13.36(i)(13))

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

G. Suspension and Debarment

Contractor will comply with the following provision:

1. This AGREEMENT is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City and the State of California, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The

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Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contractor certifies that it is not listed as debarred, suspended, or otherwise excluded by agencies on the governmentwide exclusions in the System for Award Management (www.sam.gov).

Poncho Guevara

Email: ponchog@sacredheartcs.org
Date: 02/17/2023 GMT

Signature of Contractor's Authorized Official

Executive Director
Name and Title of Contractor's Authorized Official

Date

H. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended))

A Contractor who applies or bids for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the City.

I. Use of Recovered/Recycled Materials

In the performance of this AGREEMENT, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

1. Competitively within a timeframe providing for compliance with the AGREEMENT performance schedule;
2. Meeting AGREEMENT performance requirements; or
3. At a reasonable price.

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Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

J. Subcontracting

In addition to all other subcontracting provisions, Contractor shall comply with the following:

1. **Subcontractor Compliance:** The Contractor shall place in any subcontractor agreement the requirement that the subcontractor and all lower tier subcontractors comply with all the terms and conditions of this AGREEMENT, including the FEMA requirements.

2. **Small and Minority Businesses, Women-Owned Businesses, and Labor Surplus Area Firms:** If the Contractor is authorized by this AGREEMENT to use subcontractors, the Contractor warrants that it took the following affirmative steps, and that it has retained documentation of these steps:
 - Made reasonable efforts to identify (including using outside entities that specialize in this area) and place qualified small, minority, and women-owned business on subcontractor solicitation list(s) for this AGREEMENT;
 - Made reasonable efforts to solicit the businesses on the list as subcontractors for this AGREEMENT;
 - Divided the scope of work to be subcontracted, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified small, minority, and women-owned business; and
 - Made reasonable efforts to establish delivery schedules for subcontracted work, where requirements permit and it is otherwise appropriate, which encourage qualified small, minority, and women-owned business to respond subcontractor solicitations; and

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If at any time during the term of the AGREEMENT the Contractor seeks and obtains authorization to use subcontractors to complete any of the scope of work, the Contractor shall take the affirmative steps listed above when selecting the subcontractor and will maintain documentation of all such efforts.

K. Notice of FEMA Reporting Requirements and Regulations (applicable to FEMA)

In addition to all other reporting requirements in the AGREEMENT, Contractor agrees to comply with the following:

1. **General.** The City is using Public Assistance grant funding awarded by FEMA to the State of California to pay, in whole or in part, for the costs incurred under this AGREEMENT. As a condition of Public Assistance funding under (major disaster or emergency) declaration, FEMA requires the State of California to provide various financial and performance reporting.
 - a. It is important that the Contractor is aware of these reporting requirements, as the City may require the Contractor to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to the State of California which, in turn, will enable the State of California to satisfy reporting requirements to FEMA.
 - b. Failure of State of California to satisfy reporting requirements to FEMA is a material breach of the FEMA-State Agreement, and could result in loss of Federal financial assistance awarded to fund this AGREEMENT.
2. **Applicable Regulations and Policy.** The applicable regulations, FEMA policy, and other sources setting forth these reporting requirements are as follows:
 - a. 44 C.F.R. § 13.40 (Monitoring and Reporting Program Performance)
 - b. 44 C.F.R. § 13.41 (Financial Reporting)
 - c. 44 C.F.R § 13.50(b) (Reports)
 - d. 44 C.F.R. § 206.204(f) (Progress Reports)

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- e. FEMA Standard Operating Procedure No. 9570.14, *Public Assistance Program Management and Grant Closeout Standard Operating Procedure* (Dec. 2013, as may be amended)
- f. FEMA-State Agreement

3. Financial Reporting. The State of California is required to submit the following financial reports to FEMA:

- a. **Initial Report.** An initial Federal Financial Report (SF 425) no later than 30 days after FEMA has approved the first Public Assistance project.
- b. **Quarterly Reports.** Following submission of the initial report, quarterly Federal Financial Reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.
- c. **Final Report.** A final Federal Financial Report within 90 days of the end of the period of performance for the Public Assistance grant.

4. Performance Reporting. The State of California is required to submit the following financial reports to FEMA:

- a. **Initial Report.** An initial performance report no later than 30 days after FEMA has approved the first Public Assistance project.
- b. **Quarterly Reports.** Following submission of the initial report, quarterly performance reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.
- c. **Final Report.** A final performance report within 90 days of the end of the period of performance for the Public Assistance grant.

L. Access to Records (44 C.F.R. § 13.36(i)(10))

In addition to all other provisions regarding records in this AGREEMENT, Contractor agrees to comply with the following:

- 1. The Contractor agrees to provide the City, the State of California, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and

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records of the Contractor which are directly pertinent to this AGREEMENT for the purposes of making audits, examinations, excerpts, and transcriptions.

2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or his/her authorized representatives access to construction or other work sites pertaining to the work being completed under the AGREEMENT.
4. In compliance with the Disaster Recovery Act of 2018, the Contractor acknowledges and agrees that no language in this AGREEMENT is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

M. Retention of Records (44 C.F.R. § 13.36(i)(11))

In addition to all other records retention requirements in this AGREEMENT, Contractor agrees to comply with the following:

The Contractor agrees to maintain all books, records, accounts and reports required under this AGREEMENT for a period of not less than five (5) years after the date of termination or expiration of this AGREEMENT, except in the event of litigation or settlement of claims arising from the performance of this AGREEMENT, in which case Contractor agrees to maintain same until the City, State of California, the FEMA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims.

N. DHS Seal, Logo, and Flags

The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likeness of DHS agency officials without specific FEMA pre-approval.

O. No Obligation by Federal Government

The Federal Government is not a party to this AGREEMENT and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the AGREEMENT.

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P. Compliance with Law

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the AGREEMENT. The Contractor will comply with all applicable local, state, and Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

Q. Termination and Remedies

1. **For Convenience:** The City may terminate this Agreement at any time and for any reason by giving the Contractor written notice of the termination. The written notice must set forth the effective date of the termination, which must be at least 7 business days' after the date of the written notice.
2. **For Cause:** The City may terminate this Agreement immediately upon written notice for any material breach by the Contractor. If the City terminates the Agreement for cause and obtains the same services from another contractor at a greater cost, the Contractor is responsible for such excess cost in addition to any other remedies available to the City.
3. **Delivery of Work:** If the City terminates the Agreement – whether for convenience or for cause – the City has the option of requiring the Contractor to provide to the City any finished or unfinished work product prepared by the Contractor up to the date of Contractor's receipt of the written notice of termination.
4. **Compensation:** The City will pay the Contractor the reasonable value of services satisfactorily rendered by the Contractor to the City up to the date of Contractor's receipt of the written notice of termination. For services to be "satisfactorily rendered," the City must determine that the Contractor provided them in accordance with the terms and conditions of this Agreement. The City will determine the reasonable value of satisfactorily rendered services based on the compensation agreed to by the Parties attached to this Agreement.
5. **Receipt of Notice:** For purposes of this provision, the Contractor's receipt of the written notice of termination will be determined based on the method of providing notice. The notice is effective: if e-mailed when sent provided the sender receives an acknowledgement from the intended recipient (e.g. return receipt, return e-mail, or other written acknowledgement); when personally delivered if personal service; and 3 calendar days after deposit in the United States mail, whichever occurs first.

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R. Fraud and False or Fraudulent or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.