

**CITY OF SAN BERNARDINO  
PROFESSIONAL SERVICES AGREEMENT**

**BETWEEN THE CITY OF SAN BERNARDINO  
AND THE SALVATION ARMY**

This Agreement is made and entered into as of **December 18, 2024**, by and between the City of San Bernardino, a charter city and municipal corporation organized and operating under the laws of the State of California with its principal place of business at Vanir Tower, 290 North D Street, San Bernardino, CA 92401 (“City”), and **The Salvation Army**, a **501(c)(3) nonprofit organization** with its principal place of business at **925 West 10<sup>th</sup> Street, San Bernardino, CA 92411** (hereinafter referred to as “Consultant”). City and Consultant are hereinafter sometimes referred to individually as “Party” and collectively as the “Parties.”

**RECITALS**

A. City is a public agency of the State of California and is in need of professional services for the following project:

**Homeless Street Outreach** (hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for the City to retain Consultant to provide the services described herein.

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

**AGREEMENT**

1. Incorporation of Recitals. The recitals above are true and correct and are hereby incorporated herein by this reference.

2. Services. Consultant shall provide the City with the services described in the Scope of Services attached hereto as **Exhibit “A.”**

3. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel identified in their proposal. Consultant warrants that Consultant is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement. Consultant further represents that no City employee will provide any services under this Agreement.

4. Compensation.

a. Subject to paragraph 4(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in **Exhibit “C.”**

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **\$680,000**. This amount is to cover

all related costs, and the City will not pay any additional fees for printing expenses. Consultant may submit invoices to City for approval. Said invoice shall be based on the total of all Consultant's services which have been completed to the City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. The invoice shall describe in detail the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

5. Additional Work. If changes in the work seem merited by the Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by the Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

a. Adjustments. No retroactive price adjustments will be considered. Additionally, no price increases will be permitted during the first year of this Agreement unless agreed to by the City and Consultant in writing.

6. Term. This Agreement shall commence on the Effective Date and continue through December 31, 2026, unless the Agreement is previously terminated as provided for herein ("Term").

7. Maintenance of Records; Audits.

a. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to the City for inspection and/or audit at mutually convenient times for a period of four (4) years from the Effective Date.

b. Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by the Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by the City.

8. Time of Performance. Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the City to proceed. Consultant shall complete the services required hereunder within Term.

9. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects the Consultant's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities

(including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); and (4) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety.

b. Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Delays shall not entitle Consultant to any additional compensation regardless of the Party responsible for the delay.

c. Notwithstanding the foregoing, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

10. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government, including Cal/OSHA requirements. The City has been allocated funds from the Coronavirus State Fiscal Recovery Fund and/or the Coronavirus Local Fiscal Recovery Fund, collectively known as the Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF") program, which will be used to fund this Agreement. Exhibits B, D, and E attached hereto and incorporated herein by these references, include multiple regulations from the funding sources that the Consultant must comply with.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, the Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

11. Standard of Care. Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Consultant's performance shall conform in all material respects to the requirements of the Scope of Work.

12. Conflicts of Interest. During the term of this Agreement, Consultant shall at all times maintain a duty of loyalty and a fiduciary duty to the City and shall not accept payment from or employment with any person or entity which will constitute a conflict of interest with the City.

13. City Business Certificate. Consultant shall, prior to execution of this Agreement, obtain and maintain during the term of this Agreement a valid business registration certificate from the City pursuant to Title 5 of the City's Municipal Code and any and all other licenses, permits,

qualifications, insurance, and approvals of whatever nature that are legally required of Consultant to practice his/her profession, skill, or business.

14. Assignment and Subconsultant. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates and sub-consultants as Consultant may deem appropriate to assist in the performance of services hereunder.

15. Independent Consultant. Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided. Any personnel performing the work governed by this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

16. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Additional Insured

The City of San Bernardino, its officials, officers, employees, agents, and volunteers shall be named as additional insureds on Consultant's and its subconsultants' policies of commercial general liability and automobile liability insurance using the endorsements and forms specified herein or exact equivalents.

b. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

Insurance Services Office Commercial General Liability coverage  
(Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

(1) Bodily Injury and Property Damage

- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse, and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage
- (9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give the City, its elected and appointed officials, officers, employees, agents, and City-designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01 or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

c. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage, including coverage for owned, non-owned, and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give the City, its elected and appointed officials, officers, employees, agents, and city-designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured but not a self-insured retention.

d. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code, which requires every

employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent the Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all sub-consultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

e. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement, the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

f. Privacy/Network Security (Cyber)

At all times during the performance of the work under this Agreement, the Consultant shall maintain privacy/network security insurance for (1) privacy breaches, (2) system breaches, (3) denial or loss of service, and (4) introduction, implantation or spread of malicious software code, in a form and with insurance companies acceptable to the City.

g. Reserved

h. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$2,000,000 per occurrence/\$4,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence

Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)
Cyber Liability	\$1,000,000 per occurrence and aggregate

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirements or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

i. Evidence Required

Prior to the execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

j. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of the premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that the Consultant's policy is primary insurance and that any insurance, self-insurance, or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically

allow the Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its sub-consultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further, the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

k. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfies the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A: VII and admitted to transact in the business of insurance in the State of California or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

l. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including, but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. Alternatively, the City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor the City Council, nor any member of the City Council, nor any of the officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

m. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or sub-consultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided

by such subcontractors or sub-consultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by the Consultant, the City may approve different scopes or minimum limits of insurance for particular subcontractors or sub-consultants.

17. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably approved by the City), indemnify and hold the City, its elected and appointed officials, officers, employees, agents, and authorized volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, or this Agreement, including without limitation the payment of all damages, expert witness fees, attorneys' fees and other related costs and expenses. This indemnification clause excludes Claims arising from the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, the City Council, members of the City Council, its employees, or authorized volunteers. Consultant's indemnification obligation shall survive the expiration or earlier termination of this Agreement.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to the extent which the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant in the performance of the services or this Agreement, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

18. California Labor Code Requirements. The Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, the Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify, and hold the City, its elected officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory for the Consultant and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all sub-consultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any sub-consultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements.

19. Verification of Employment Eligibility. By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all sub-consultants and sub-subconsultants to comply with the same.

20. Laws and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

21. Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, the City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports, and other documents produced or developed for that portion of the work completed and/or being abandoned. The City shall pay the Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

22. Attorneys’ Fees. In the event that litigation is brought by any Party in connection with this Agreement, the prevailing Party shall be entitled to recover from the opposing Party all costs and expenses, including reasonable attorneys’ fees, incurred by the prevailing Party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof. The costs, salary, and expenses of the City Attorney’s Office in enforcing this Agreement on behalf of the City shall be considered as “attorneys’ fees” for the purposes of this Agreement.

23. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation

as may be required by the City's representative regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to the Consultant's professional services occurs, the Consultant shall, at no cost to the City, provide all other services necessary to rectify and correct the matter to the sole satisfaction of the City and to participate in any meeting required with regard to the correction.

24. Prohibited Employment. Consultant shall not employ any current employee of City to perform the work under this Agreement while this Agreement is in effect.

25. Costs. Each Party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

26. Documents. Except as otherwise provided in "Termination or Abandonment" above, all original field notes, written reports, Drawings and Specifications, and other documents produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

27. Organization. Consultant shall assign **Steven Pinckney** as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the City's prior written consent.

28. Limitation of Agreement. This Agreement is limited to and includes only the work included in the Project described above.

29. Notice. Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the following addresses and shall be effective upon receipt thereof:

**CITY:**

City of San Bernardino  
Vanir Tower, 290 North D Street  
San Bernardino, CA 92401  
Attn: Rochelle Clayton  
Acting-City Manager

**CONSULTANT:**

The Salvation Army  
925 W. 10<sup>th</sup> Street  
San Bernardino, CA 92411  
Attn: Steven Pinckney

With Copy To:

City of San Bernardino  
Vanir Tower, 290 North D Street  
San Bernardino, CA 92401  
Attn: City Attorney

30. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

31. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

32. Entire Agreement. This Agreement, including **Exhibits A through E**, represents the entire understanding of City and Consultant as to those matters contained herein and supersedes and cancels any prior or contemporaneous oral or written understanding, promises, or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises, or agreements have been made by any person which are not incorporated herein and that any other agreements shall be void. This is an integrated Agreement.

33. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance, and the remaining provisions of this Agreement shall remain in full force and effect.

34. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators, and assigns of each Party to this Agreement. However, the Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of the City. Any attempted assignment without such consent shall be invalid and void.

35. Non-Waiver. The delay or failure of either Party at any time to require performance or compliance by the other Party of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision

of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. The waiver of any right or remedy with respect to any occurrence or event shall not be deemed a waiver of any right or remedy with respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

36. Time of Essence. Time is of the essence for each and every provision of this Agreement.

37. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain, or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

38. Amendments. Only a writing executed by all of the Parties hereto or their respective successors and assigns may amend this Agreement.

39. City's Right to Employ Other Consultants. City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

40. Prohibited Interests. Consultant maintains and warrants that it has neither employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no official, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement or obtain any present or anticipated material benefit arising therefrom.

41. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one single Agreement.

42. Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this Agreement.

43. Electronic Signature. Each Party acknowledges and agrees that this Agreement may be executed by electronic or digital signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

**[SIGNATURES ON FOLLOWING PAGE]**

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF SAN BERNARDINO  
AND THE SALVATION ARMY**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**CITY OF SAN BERNARDINO**  
APPROVED BY:

\_\_\_\_\_  
**Rochelle Clayton**  
Acting City Manager

ATTESTED BY:

\_\_\_\_\_  
**Genoveva Rocha, CMC**  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Best Best & Krieger LLP  
City Attorney

**CONSULTANT**

\_\_\_\_\_  
Signature

Steven Pinckney  
Name

Business Administrator  
Title

**EXHIBIT "A" SCOPE OF WORK**

**[Behind this page.]**

## The Salvation Army

1. **Outreach and Engagement (O/E)** – Street-based outreach and engagement is essential to building relationships based on trust and respect between the clients and Agencies and is a key step toward accepting services that will eventually lead to housing stability. O/E will serve unsheltered homeless within the City. O/E is conducted primarily in the field, in areas where unsheltered homeless are known to live and spend time, including and not limited to encampments, streets, under bridges, overpasses, parks, centers, and in isolated areas.

- Implement best practices designed to engage unsheltered homeless, e.g., outreach techniques, motivational interviewing, multi-disciplinary team approach, law enforcement partnerships.
- Build rapport with unsheltered homeless individuals to provide pathways to housing and linkages to other homeless systems and/or mainstream services.
- Identify and conduct regular and ongoing outreach to areas where unsheltered homeless people live, such as encampments, streets, under bridges and overpasses, and in isolated areas.
- Work with and refer individuals and families to services that include Behavioral Health, Physical Health, and other key services.
- Collaborate with other key stakeholders in creating and implementing plans to provide additional services and coordination of services to people living in encampment areas and vehicles.
- Coordinate with other Agencies or City Departments (i.e., Public Works) on an ongoing basis when an encampment clean-up is scheduled.
- Maintaining by-name lists for specific areas, individuals, or encampments to assist with coordination of services.
- Provide supplies or other items to assist clients with meeting their basic needs and to build rapport (food, gift cards, socks, glasses, etc.).
- Identify immediate needs that require short-term interventions, such as direct assistance for basic needs or emergency calls for urgent medical needs.
- Provide transportation assistance to support clients with connecting to services in a safe provider vehicle for staff and clients, properly labeled street outreach.
- Document outreach and engagement activities in the appropriate data system.

2. **Rapid Response** – Rapid Response provides a mechanism for community members to contact homeless outreach staff to strive to make contact and provide support to unsheltered homeless individuals. The goal is to be available to address (not necessarily resolve) issues in a timely manner. The community (merchants, Chamber of Commerce, the public) will have a point of contact number for the Rapid Response Team who will deploy to locations where there are concerns related to homelessness. Inquiries for rapid response to unsheltered homeless may come from agencies, medical providers, law enforcement, or the community at large. Response to the location must occur within 24 hours, Monday through Friday. It is NOT the expectation that this phone will be answered 24 hours a day, 7 days a week nor 365 days a year. Community members will be able to leave a message at this number, with the expectation that phone messages will be monitored Monday – Friday and all inquiries will be responded to in person within 24 hours, and the inquiring party is informed of the status within 72 hours.

- Establish a process (including a dedicated phone number) for receiving (via phone and email), responding to, documenting, and tracking rapid response requests.
- Communicate process for making rapid response inquiries to Agencies, medical providers, law enforcement, stakeholders, and other community members.
- Deploy outreach staff to locations of inquiries and make reasonable efforts to make contact and engage with unsheltered homeless households.
- Conduct outreach within 24 hours of the request. 24 hours is the maximum response time during Monday to Friday standard business hours.
- If contact is made and the client is willing, provide outreach and engagement activities, including all the outreach and engagement services listed above, with an emphasis on attempting to connect the individual to immediate assistance, such as an emergency shelter or other residential settings (detox, residential treatment program, etc.).
- Maintain documentation of all inquiries and responses and status
- Document services in a timely manner.

3. **Intensive Case Management** – Case Management provides intensive services to a set caseload of individuals, including working with each client to develop and implement a housing plan. Additionally, the Case Manager links and connects clients to other services to meet their needs (physical/mental health, vouchers). The clients are only placed on a caseload once they have been assessed by the Coordinated Entry System. A caseload size for a full-time outreach worker would typically be 15-20 unsheltered individuals at any given time. Certification of homeless status can be done by OUTREACH TEAM, Police Department Community district officers, Code officers, or City Homeless Services Coordinator. Outreach will also fill out appropriate forms for referred service agencies. The contractor will be responsible for creating an Outreach project with the county Homeless Management Information System (HMIS) also referred to as the Clarity system.

- Apply a client-centered approach (individualized treatment planning), respecting individual strengths and preferences.
- Implement trauma-informed care and harm reduction model.
- Work closely with other Agencies (primary and mental health, housing location, etc.) to ensure a “warm transfer” of services once a client is housed or transitions into another program with case management, such as a shelter or residential treatment program.
- Create and implement a client-centered housing plan to assist clients with rapidly and sustainably exiting homelessness.
- Based on each client’s unique needs, link unsheltered clients to mainstream, health, and behavioral health services.
- Work with shelter providers to facilitate temporary housing interventions and ensure clear roles and responsibilities on case plan and permanent housing goals.
- Provide transportation assistance to assist clients with getting to shelter, appointments, etc.
- Maintain knowledge of eligibility and referral/application processes for a wide range of housing resources, including permanent supportive housing (PSH), rapid re-

housing, Veterans Affairs Supportive Housing vouchers (VASH), other subsidies/vouchers, senior housing, shared housing, affordable housing in the community, as well as other applicable resources such as detox services, residential and outpatient substance use treatment programs, and long-term care facilities.

- May provide supplies or other items to assist clients with meeting their basic needs and to build rapport (examples include food, gift cards, socks, and glasses).
- Assist clients with completing the application or enrollment processes for housing programs.
- Assist clients in obtaining vital documents (i.e., Social Security, Birth Certificate, and California Identification Card).
- Identify non-housing-related services that clients are already connected to and coordinate with other Agencies to facilitate access.

Contractor must serve all street-based persons who are experiencing homelessness such as **Adults, Families, Veterans and Transitionally Aged Youth (TAY)** and make appropriate “warm hand-offs” and referrals to perspective agencies.

Warm hand off meaning the outreach work may transport and aid in making sure participant makes assessment and intake appointments regard to shelter, Drug rehabs, or housing placement, and or family reunifications when appropriate. Within the County of San Bernardino.

Budget will include a set aside budget for family re-unifications for example, Greyhound tickets, Gas Cards or anything deemed needed by mgmt. to get to said location. Only approved when documentation of plan confirmed by receiving family members or friend.

Outreach will build relationships within the City of San Bernardino and referrals consist of

1. Crisis Counseling
  2. Crisis Centers
  3. SB Hope Campus
  4. Interim Housing Programs
  5. Medical Health
  6. Mental Health
  7. Substance abuse (SARC)
  8. Documentation
  9. CalWORKs & Cal Fresh
  10. SSI & SSD
  11. Legal Services
  12. Employment Services
  13. Housing Navigation
  14. Domestic Violence Services
  15. Other-community based organization/ Religious
- Maintain case files of case notes on housing plan progress, required documentation for eligibility and housing applications, and current client consent and release of information in a secure location. (Audits will be done by housing staff)
  - Document case management activities in the appropriate data system.

4. **Multi-Disciplinary Team (MDT) Meetings** – MDTs convey many benefits that include

improved health outcomes and enhanced satisfaction for clients as well as a more efficient use of resources and service coordination for team members. Case Conferencing enables Homeless Service providers to utilize a broad array of professional and lived experiences to assess and plan the next steps for a client's path to housing. Case Conferencing will be held at a minimum of once a month and will be used to address all client receiving case management services. The City's Homeless Services Coordinator will act as a liaison to help facilitate monthly MDT meetings and incorporate local agencies and service providers for added support and resources (i.e., Department of Behavioral Health, Substance Abuse Counselors, Code Enforcement Officers, Police and Homeless Service Providers). In order to ensure shared knowledge and continuity of care throughout the City, the City's Mayor will participate in MDT meetings. On days when the Mayor is not able to participate an alternate (pre-selected City Council Member) will attend meetings. During MDT meetings, outreach staff will report on each client receiving case management services (and who has signed the applicable Release of Information forms) and present the housing-focused case plan, updates on the progress toward housing, barriers, and challenges. MDT participating agencies (including the City) provide suggestions, resource, and when able provide direct pathways to various services and/or funding mechanism to assist clients and improve collaborative efforts with outreach staff.

- Maintain a collaborative environment with representation at MDT meetings from law enforcement, homeless shelters, Service Agencies, and primary and mental health care.
- Maintain strict confidentiality in case conferencing and follow program confidentiality policies regarding obtaining consent to share information/Release of Information forms.
- Maintain an approved participant list of MDT members and maintain active participation by key partners.
- Facilitate each MDT meeting and take written notes, including all action items and next steps for each client's housing-focused case plan.
- Provide information to clients on the MDT model and obtain consent for case conferencing within the MDT if clients are willing.
- At each MDT meeting: Homeless outreach case manager who provides services to clients presents about each client who is receiving case management. The case manager presents the client's housing-focused case plan, progress toward housing, eligibility for various housing resources, barriers, challenges, concerns, and needs and can request suggestions or support from MDT-approved participating agencies.

5. **Additional Services - A Way Back Home:** As an enhancement to the HSO program, TSA proposes to add reunification services for clients who are assessed as eligible for reunification with family or support system outside of San Bernardino City and County. This would involve Intensive case management from the Outreach Navigators with specific focus toward reunification services. A client must have a receiving relative(s) or support person(s) who are willing to accommodate and support the client in their transition back into the community they are relocating to for reunification. Additionally, due to the worldwide network and established service locations that TSA has in place, the Outreach Navigator would be responsible for also connecting the party willing to accept the reunified client to local services in the area the client will transition to for support. Once the client is assessed as eligible for reunification, their family or support system is identified, and contact is initiated with local Salvation Army in the identified reunification city, transportation plans and arrangements would be made for the individual to have access to communication through their journey, and account for their immediate and basic needs while in transition. Transportation (bus, airfare) and other assistance (e.g., food and other essential items) are anticipated per individual to average \$800.

Intensive case management while in the travel phase of this service would continue to ensure the individual successfully reaches their destination, connects with their family or support system, and has connected with TSA locally in their new community to continue to have support and basic needs met. This program also requires a 90-day and 6-month follow-up to confirm success or support troubleshooting issues with client. During the follow-up process, the client case would be transferred from TSA in San Bernardino to the local unit through an internal database system which allows for secure transmission of client information and documentation.

## EXHIBIT B

### **KEY PERFORMANCE INDICATORS AND PERFORMANCE REQUIREMENTS**

#### **1. Performance Expectations**

- A Performance Measurement Plan (“Performance Plan”) will be developed by the City **Community Development & Housing Department**, and will be reviewed on a quarterly basis.
- Consultant will track and document all performance measures identified in the Performance Plan. Measures will include, but are not limited to, the measures listed below:
- Consultant will develop and distribute, electronically, a weekly and monthly summary report showing the current status and 12-month trend of each performance measure
- Consultant will attend quarterly meetings scheduled by the City **Community Development & Housing Department** and present and discuss performance measures
- Consultant will track all cost savings for all orders requested by Waste Resources and will report their total Cost Savings on a quarterly basis

#### **2. Performance Measures**

1. Safety:
  - a. Definition: the condition of being protected from or unlikely to cause danger, risk, or injury
  - b. Safety Measures are related to PW projects when a contractor is conducting work on a county facility and/or delivers materials and services to a county facility
2. Quality:
  - a. Definition: the standard of something as measured against other things of a similar kind; the degree of excellence of something.
  - b. Quality Measure is related to final result of a product or service. Ex. was the monitor installed correctly, crooked, upside down? Were monthly/annual inspections done correctly/on time, were they incomplete.
3. Cost Savings:
  - a. Definition: a reduction in expenses, especially in business
  - b. Cost Savings Measure is related savings that a vendor makes and passes on to the County.
4. On-Time Delivery:
  - a. Definition: On Time Delivery or OTD refers to a key performance indicator measuring the rate of finished product and deliveries made in time. This rate is expressed in a total number of units delivered within a set period defined by the customer and the supplier.
  - b. On-Time Delivery measure is related to service contracts, were the samples delivered on time to the lab. This can also refer to pick-up services such as with environmental contracts that deal with hazardous samples.

### **REQUIREMENTS**

A. Homeless Management Information Systems (HMIS)

The CONSULTANT must ensure that data on all persons served and all activities assisted under this AGREEMENT are entered into the applicable community-wide Homeless Management Information System (HMIS) in the area where those persons and activities are located. This must be done in accordance with the standards and policies established by the County of San Bernardino for participation, data collection, and reporting under HMIS. If the CONSULTANT is unable to use the County HMIS, a comparable database may be used only with the express knowledge and written consent of the CITY and in compliance with the County's established standards.

HMIS Agency Agreement. The CONSULTANT shall have an agreement in place with the HMIS lead agency to participate in the regionally established HMIS system. A copy of the CONSULTANT'S agreement with the HMIS lead agency shall be delivered to the CITY. In the case of Domestic Violence service providers or other agencies prohibited from entering data into HMIS, documentation from the HMIS lead agency certifying that the CONSULTANT is using a comparable database shall be delivered to the CITY. The "HMIS lead agency" is the County of San Bernardino Community Development and Housing Agency, which is located at 385 N. Arrowhead Ave., 3rd Floor, San Bernardino, California (909-387-4700).

HMIS Interagency Data Sharing Agreement. The CONSULTANT shall enter into an Interagency Data Sharing Agreement with the HMIS lead agency to enable the sharing of HMIS data with other participating agencies in the region, unless prohibited by law. A copy of this agreement must be provided to the CITY. All data sharing must adhere to the County HMIS policies and ensure client confidentiality in compliance with applicable laws and regulations.

HMIS Data Input. CONSULTANT must enter data directly into the HMIS system and adhere to all implementation guidelines developed under the Continuum of Care. HMIS Participation includes, but is not limited to, the input of all programmatic and client data and the generation of all mandated monthly, quarterly and close-out reports. Consultant must input client data no more than forty eight (48) hours after date of program entry. Services rendered to clients must be entered into HMIS within forty-eight (48) hours from date of services. All clients who exit the program must have updated status in HMIS within forty eight (48) hours of actual exit date. Failure to meet the above Data Input requirements will constitute a violation of the terms and conditions of these AGREEMENTS.

HMIS Reporting: CONSULTANT must, on a weekly and monthly basis, report:

**Client Demographics**

- Age: Breakdown of clients by age groups (e.g., children, adults, seniors).
- Gender: Number of individuals by gender (e.g., male, female, non-binary).
- Race/Ethnicity: Diversity of clients served based on race and ethnicity.
- Veteran Status: Number of homeless veterans served.
- Disabilities: Number of clients with physical or mental disabilities.
- Household Composition: Families, individuals, and youth breakdown.

**Service Utilization**

- Intake and Assessment: Number of clients who underwent initial intake and assessment processes.
- Services Provided: Types and frequencies of services provided, such as case management, emergency shelter, mental health services, substance use treatment, and housing assistance.
- Length of Stay: Average duration of stay in shelters or housing programs.
- Program Enrollment: Number of clients enrolled in specific programs such as rapid rehousing, emergency shelter, or permanent supportive housing.

### **Housing Outcomes**

- Housing Placement: Number of clients who were successfully placed in permanent housing.
- Housing Retention: Percentage of clients who retained housing after a set period (e.g., 6 months or 12 months).
- Exit Destinations: The outcomes when clients exit the system, such as moving into permanent housing, institutions (e.g., jail or hospital), or returning to homelessness.
- Temporary Housing: Number of clients temporarily housed in emergency shelters or transitional housing programs.

#### **B. Reporting**

Reporting requirements must conform to the policies and procedures as established by the CITY and 24 CFR § 576.500. The CONSULTANT shall submit to the CITY, on or before the 5th day of each month as part of the Monthly Report:

Payment Request. An original request for reimbursement, accompanied by true and accurate copies of invoices, receipts, agreements, HMIS reports, or other documentation evidencing how funds have been expended during the applicable reporting period. All supporting documentation must meet ARPA compliance standards and conform to 2 CFR Part 200 cost principles.

Monthly Activities and written cumulative (year-to-date) reports of activities, program accomplishments, new program information, and up-to-date program statistics on expenditures, caseload and activities. Failure to provide any of the required documentation and reporting will cause the CITY to withhold all or a portion of a request for reimbursement until such documentation and reporting has been received and approved by the CITY.

Any other such reports as the CITY shall reasonably require and/or request, including but not limited to the following information: monthly records of all ethnic and racial statistics of persons and families benefited by the CONSULTANT in the performance of its obligations under this AGREEMENT.

#### **C. Record Keeping**

Sufficient records must be established and maintained to enable the CITY to determine whether all applicable requirements are being met in compliance with 24 CFR § 576.500 and 2 CFR §§ 200.334–338. Recordkeeping requirements must conform to the policies and procedures established by the CITY. The CONSULTANT must also develop and

implement written procedures for confidentiality in compliance with 24 CFR § 576.500(x). All accounting records, reports, evidence pertaining to costs, expenses, and funds used by the CONSULTANT, and all documents related to this AGREEMENT, shall be maintained and kept available at the CONSULTANT's office or place of business for the duration of the AGREEMENT and for five (5) years post-completion of an audit. Records that relate to (a) complaints, claims, administrative proceedings, or litigation arising out of the performance of this AGREEMENT, or (b) costs and expenses of this AGREEMENT to which the CITY or any other governmental agency takes exception, shall be retained beyond the five (5) years until the complete resolution or disposition of such appeals, litigation claims, or exceptions.

Records relating to or created in compliance with Lead-Based Paint regulations shall be retained indefinitely, including inspection reports, disclosure statements, and clearance reports. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

The CITY and auditors shall have the right to access all CONSULTANT records for as long as the records are retained by the CONSULTANT. In the event the CONSULTANT does not make the above-referenced documents available within the City of San Bernardino, California, the CONSULTANT agrees to pay all necessary and reasonable expenses incurred by the CITY in conducting any audit at the location where said records and books of account are maintained. The CONSULTANT agrees to meet the requirements set forth in 24 CFR § 576.500.

D. Procurement

CONSULTANT shall establish procurement procedures and procure all materials, property, or services in accordance with the requirements of 2 CFR § 200.318-327. The CONSULTANT shall keep itself fully informed of and comply with all current CITY and applicable federal policies concerning the procurement of property, materials, equipment, goods, and services under this AGREEMENT. The CONSULTANT shall maintain inventory records of all non-expendable personal property, as defined by these policies, that is procured with funds provided herein. The CONSULTANT shall report to the CITY all program assets, including unexpended program income, property, supplies, equipment, and similar items. Upon the CITY's request, such assets shall revert to the CITY upon termination of this AGREEMENT.

Pursuant to 2 CFR § 200.332(a)(4), the indirect cost rate for the CONSULTANT's award shall be the federally approved cost rate negotiated between the CONSULTANT and the federal government. The CONSULTANT has a current Negotiated Indirect Cost Rate Agreement (NICRA) with the federal government, which establishes an approved indirect cost rate of 25.5%. This NICRA rate shall be applied to the modified total direct costs for this AGREEMENT. If the CONSULTANT did not have a NICRA, it would have the option to elect the de minimis indirect cost rate of 15% of the modified total direct costs, as defined in 2 CFR § 200.414(f). However, for this AGREEMENT, the NICRA-approved rate of 25.5% will apply unless otherwise adjusted or superseded by subsequent federal guidance.

Use and Reversion of Assets. The use and disposition of real property, equipment, supplies, and intangible property under this AGREEMENT shall be in compliance with the requirements of 2 CFR §§ 200.311 and 200.313-.316.

The disposition of real property for which ARPA funds are used for major rehabilitation, conversion, or other renovation is governed by the minimum period of use requirements under 24 CFR § 576.102(c).

CONSULTANT must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

As appropriate and to the extent consistent with law, CONSULTANT should, to the greatest extent practicable in accordance with 2 CFR 200.322, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subcontracts and purchase orders for work or products under this AGREEMENT.

E. Audit Report Requirements

The CONSULTANT agrees that if it expends One Million Dollars (\$1,000,000.00) or more in federal funds, it shall have an annual audit conducted by a certified public accountant in accordance with the standards set forth and published by the United States Office of Management and Budget (2 CFR § 200.501). The CONSULTANT shall provide the CITY with a copy of the audit within thirty (30) days of its completion, but in no event later than April 1 of the year following the program year in which this AGREEMENT is executed. Further, the CONSULTANT shall comply with audit requirements related to applicable provisions of Lead-Based Paint Regulations as detailed in this AGREEMENT.

If indications of misappropriation or misapplication of the ARPA funds granted under this AGREEMENT cause the CITY to require a special audit, the cost of the audit will be encumbered and deducted from the granted amount. Should the CITY subsequently determine that the special audit was not warranted, the amount encumbered will be restored. If the special audit confirms misappropriation or misapplication of funds, the CONSULTANT shall promptly reimburse the CITY the amount misappropriated or misapplied. In the event the CITY uses the judicial system to recover misappropriated or misapplied funds, the CONSULTANT shall reimburse the CITY for legal fees and court costs incurred in obtaining the recovery.

The CONSULTANT agrees that, in the event its performance under this AGREEMENT is subjected to audit exceptions by appropriate federal audit agencies, it shall be responsible

for addressing such exceptions and reimbursing the CITY the full amount of the CITY's liability to the federal funding agency resulting from such audit exceptions.

## **EVALUATION AND MONITORING**

### **Generally.**

The CITY will monitor the performance of the CONSULTANT against goals and performance standards as required herein. The CONSULTANT shall provide the CITY all necessary reporting information as required by the CITY in the administration and review of the Program. Substandard performance as determined by the CITY will constitute noncompliance with this AGREEMENT. If action to correct such substandard performance is not taken by the CONSULTANT within a reasonable period of time after being notified by the CITY, contract suspension or termination procedures will be initiated.

### **Access to Records**

The CONSULTANT gives the CITY, including their authorized representative, access to and the right to examine all records, books, papers, items, emails, and documents, both physical and electronic, relating to the program.

### **Audit**

The CITY shall have the right to audit and monitor any program income resulting from activities funded under this AGREEMENT. Upon request by the CITY and for audit purposes, the CONSULTANT agrees to provide all files, records, and documents related to the funded activities, including clientele demographic data.

**EXHIBIT "C" SCHEDULE OF CHARGES**

**[Behind this page.]**

## BUDGET

REVENUE					
City of San Bernardino Homeless Street Outreach (HSO)				\$ 680,000	
EXPENSES					
Positions	Salaries & Benefits (24 months)	Percent to SB HSO	City SHARE		
1 FTE Business Administrator	\$ 192,500	25%	\$ 48,125		
1 FTE Director of Programs	\$ 192,500	50%	\$ 96,250		
2 FTE Outreach Navigators	\$ 241,899	100%	\$ 241,899		
1 FTE Outreach Advocates	\$ 106,130	50%	\$ 53,065		
			Subtotal Salaries & Benefits	\$ 439,339	
Operating Cost					
Transportation (Fuel and maintenance), \$500/month			\$ 11,000		
Equipment (Laptops and accessories)			\$ 3,500		
Essential Items/Direct Assistance (Food, Hygiene kits, blankets, clothing, and other supplies)			\$ 34,650		
Supplies - PPE, safety attire, packages for client items			\$ 15,000		
A Way Back Home Transitional Assistance \$800 per person X 1 case per month			\$ 17,600		
Occupancy/Facility Expenses - estimated at 20% of \$40,000 annually			\$ 22,933		
			Subtotal Operating Cost	\$ 104,683	
			Subtotal of all Expenses	\$ 544,022	
Indirect Rate (NICRA 25% MAX)			25%	\$ 136,006	
				Program Surplus<Deficit>	\$ (27.50)

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program authorized by the American Rescue Plan Act (ARPA) will be used for the total cost of the agreement in the amount of \$680,000.

## Rate Schedule and Approved Budget Categories

All costs outlined below are based on the approved rate schedule and align with eligible budget categories to ensure compliance with federal guidelines under **2 CFR Part 200**, including cost principles, necessary documentation, and proper allocation for programmatic success.

### Salaries and Benefits (\$439,399)

Funds are allocated to support personnel critical to program operations, ensuring outreach, coordination, and administrative oversight.

Positions	Salaries & Benefits	Hourly	Percent to SB HSO	City SHARE
1 FTE Business Administrator	\$ 192,500	\$ 46.27	25%	\$ 48,125
1 FTE Director of Programs	\$ 192,500	\$ 46.27	50%	\$ 96,250
2 FTE Outreach Navigators	\$ 241,899	\$ 58.15	100%	\$ 241,899
1 FTE Outreach Advocates	\$ 106,130	\$ 25.51	50%	\$ 53,065
				\$ 439,339

**Transportation Expenses:** \$11,000.00 (\$500 per month for fuel and maintenance).

**Laptops and Accessories:** \$2,784.00 (2 at \$1,392 each for outreach pairs).

**Essential Items/Direct Assistance:** \$16,925.00 (food, hygiene kits, blankets, clothing, and other supplies).

I.

**Program Supplies:** \$10,000.00 (staff PPE, safety attire, and packaging for client items).

**Transitional Assistance:** \$17,600.00 (\$800.00 per person x 1 case per month for client reunification).

**Occupancy/Facility Expenses:** \$22,933.00 (approximately 20% of \$40,000 annually for Salvation Army facilities).

### Indirect Costs (\$136,064)

Indirect costs have been calculated in accordance with the Negotiated Indirect Cost Rate Agreement (NICRA) guidelines, applying a maximum rate of 25%. This approach aligns with the U.S. Department of the Treasury's reporting guidance as outlined on Page 10, Section D, Item a. Administrative Costs in the SLFRF Compliance and Reporting Guidance.

The guidance specifies:

- a. *"If a recipient has a current Negotiated Indirect Cost Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use that rate to allocate indirect costs to the SLFRF award."*

- b. **Preparation of a Detailed Monthly Invoice:**

- c. All expenses must be itemized and categorized into salaries and benefits, supportive services, and equipment. Each invoice must include supporting documentation:
    - I. **Salaries and Benefits:** Timesheets, payroll records, benefits calculations, and cost allocation summaries.
    - II. **Supportive Services:** Receipts, service logs, or third-party invoices for eligible expenses (e.g., transportation, client services, outreach activities).
    - III. **Equipment:** Purchase receipts, depreciation schedules (if applicable), and usage logs demonstrating alignment with program needs.
      - a. **Cost Allocation Proportionality:**
      - b. Expenses must align proportionally with the rate schedule detailed above to maintain compliance with the agreed-upon budget distribution.
      - c. **Federal Cost Principles Compliance:**
      - d. All charges must adhere to the following:
- IV. **Allowable Costs (§200.403):** Necessary, reasonable, and permitted under the grant agreement.
- V. **Allocable Costs (§200.405):** Directly related to program objectives and proportional to the benefits received.
- VI. **Reasonable Costs (§200.404):** Reflect prudent judgment and cost-effectiveness.
  - a. **Reconciliation Reporting:**
  - b. Monthly invoices must include a Reconciliation Report summarizing:
- VII. **Services delivered during the billing period.**
- VIII. **Expenditures categorized by eligible activity.**
- IX. **Cumulative grant expenditures to date.**

Submission Requirements:

- a. Submit all invoices and reconciliation reports in the format specified by the grantor.
- b. Include a certification of accuracy and compliance as required under §200.415.

**X. DISBURSEMENT AND FUNDS**

a. Maximum Amount of Disbursements; Method of Disbursement

The CITY agrees to reimburse the CONSULTANT up to a total amount of \$680,000 in ARPA funds for the CONSULTANT's performance of the Scope of Work, in accordance with the approved program Budget attached hereto as Exhibit C.

Requests for disbursements shall be submitted by the CONSULTANT no more frequently than monthly, on or before the 5th day of each month, in the form of detailed invoices approved by the CITY. Each invoice must correspond to the

CONSULTANT's progress on activities outlined in the Scope of Work. This schedule may be modified upon mutual agreement between the CONSULTANT and the CITY.

The CITY shall distribute ARPA funds in arrears in monthly installments, as requested by the CONSULTANT, to compensate for services rendered under this AGREEMENT. Any adjustments to line items within the Budget require prior written approval from the City's Deputy Director of Housing and Homelessness. However, the total budget must not be increased under any circumstances without a formal amendment to this AGREEMENT.

b. Payment

Payment is subject to the CITY's receipt and approval of invoices, supporting documents, and monthly activity reports submitted by the CONSULTANT. The final payment is due and payable upon receipt of an invoice and reports for the last month of the term of this AGREEMENT, which must be submitted on or before January 15, 2026, for CITY approval.

The CITY shall process payment within thirty (30) days of receiving the required documentation, provided the CITY determines the expenses to be within the scope of this AGREEMENT and in compliance with its terms. If any reimbursement request is determined incomplete, the thirty-day payment timeline will restart upon receipt of the remaining required elements.

Failure to provide complete documentation or reporting may result in the CITY withholding all or a portion of the requested reimbursement until the CONSULTANT complies with all submission requirements. Such requirements ensure compliance with ARPA regulations and reporting standards.

c. Use of Funds

The CONSULTANT agrees to use funds provided under this AGREEMENT exclusively for necessary and reasonable costs allowable under ARPA regulations and other applicable federal laws to operate the ARPA-funded Homeless Street Outreach (HSO) program as detailed in Exhibit A. These funds shall cover activities and expenses aligned with ARPA guidelines, including street outreach, rapid re-housing assistance, housing relocation and stabilization services, emergency shelter support, and contributions to the Homeless Management Information System (HMIS) for compliance purposes. Allowable program costs also include administrative expenses, such as salaries, supplies, and other program-related costs, as outlined in the approved Budget (Exhibit C). All expenditures must comply with 2 C.F.R. Part 200, including cost principles, administrative requirements, and audit compliance standards. The CONSULTANT's failure to perform as required may result in the CITY readjusting the funds or taking other remedies, including suspension or termination of the AGREEMENT.

d. Condition of Funding

The CITY advises the CONSULTANT that changes in funding levels or allocations under the ARPA program or other federal, state, or local government funding sources may impact this AGREEMENT. The CONSULTANT acknowledges that the CITY's obligation is contingent upon the availability of funds appropriated or allocated for the performance of services under this AGREEMENT. If federal

budgeting, ARPA guidelines, or other funding allocations result in a reduced availability of funds, this AGREEMENT may be terminated by the CITY at the end of the funding period or adjusted accordingly.

In the event of a funding reduction, the CITY reserves the right to revise the Budget for this AGREEMENT or adjust the disbursement rate of ARPA funds to the CONSULTANT. The CITY will notify the CONSULTANT at the earliest opportunity of any services or activities that may be affected by a reduction in funds. No penalty shall accrue to the CITY if this provision is exercised, and the CITY shall not be liable for any damages resulting from termination or modification of this AGREEMENT under these circumstances. Nothing in this AGREEMENT obligates the CITY to expend funds in excess of those authorized and appropriated by law.

The CONSULTANT shall allow representatives of the CITY and their agents and representatives to inspect facilities that are used in connection with this AGREEMENT or that implement programs funded under this AGREEMENT and to observe the provision of services. The CITY is under no duty to supervise the provision of CONSULTANT'S services. Any inspection or examination by the CITY is for the sole purpose of protecting and preserving the CITY'S rights under this AGREEMENT. No default of CONSULTANT shall be waived by any inspection by the CITY. In no event shall any inspection by the CITY be a representation that there has been or will be compliance with this AGREEMENT or that CONSULTANT is in compliance with any federal, state and local laws, ordinances, regulations and directives applicable to the performance of this AGREEMENT or the provision of CONSULTANT'S services.

Where the CITY has reasonable grounds to question the fiscal accountability, financial soundness, or compliance with this AGREEMENT by the CONSULTANT, the CITY may suspend the operation of this AGREEMENT for up to sixty (60) days upon three (3) days' notice to CONSULTANT of the CITY'S intention to so act, pending an audit or other resolution of such questions.

e. Separation of Accounts

All funds received by the CONSULTANT from the CITY pursuant to this AGREEMENT shall be maintained separate and apart from any other funds of the CONSULTANT, or of any principal or member of the CONSULTANT, in an account (the "Account") at a federally insured banking or savings and loan institution with record keeping of such Accounts maintained pursuant to applicable legal requirements. The CONSULTANT shall keep all records of the Account in a manner that is consistent with generally accepted, sound accounting principles. No monies shall be withdrawn from the Account except for expenditures relating to essential services, homeless prevention, and/or operations costs, as authorized hereunder. All disbursements from the Account shall be for obligations incurred in the performance of this AGREEMENT and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the necessity of such expenditure. The CITY may withhold payment allocation requests if the CONSULTANT fails to comply with the above requirements until such compliance is demonstrated to the CITY's satisfaction.

f. Expenditure of Funds

Requirements, Cost Principles, and Audit Requirements for Federal Awards), the CONSULTANT is required to expend all grant funds for eligible activity costs within the term of this AGREEMENT. For the purposes of this paragraph, expenditure is defined as an actual cash disbursement for direct charges related to eligible goods or services or for indirect costs allocated in compliance with the approved indirect cost rate. Alternatively, expenditure may include the accrual of a direct or indirect cost that complies with applicable federal regulations and meets the criteria for allowable, allocable, reasonable, and necessary costs under 2 CFR Part 200, Subpart E (Cost Principles). Failure to expend grant funds for eligible activities within the term of this AGREEMENT may result in a reallocation or recapture of funds consistent with the terms of the ARPA program and applicable federal regulations. The CITY retains the right to review and verify all expenditures to ensure compliance with ARPA guidelines and the Uniform Guidance.

g. Prohibited Use

Generally, the CONSULTANT hereby certifies and agrees that it will not use funds provided through this AGREEMENT to pay for meals for persons and families other than those identified as homeless or at risk of homelessness. Said funds shall not be used for entertainment purposes or gifts. The CONSULTANT certifies that it will not use said funds for illegal or dishonest conduct; rather, the use of ARPA funds will remain in compliance with all applicable federal, state, and local laws, including applicable laws not outlined in this AGREEMENT.

Lobbying. The CONSULTANT certifies and agrees that it will comply with federal law (31 U.S.C. 1352) and regulations found at 24 CFR Part 87, which provide that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, or an officer or employee of a Member of Congress in connection with awarding of any federal contract, the making of any federal grant or loan, entering into any cooperative agreement and the extension, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.



## Exhibit D

### ADDITIONAL REQUIREMENTS

#### I. GENERAL CONDITIONS

##### A. Coordination with Continuum of Care

The CONSULTANT shall coordinate with the Continuum of Care (“CoC”) and adhere to the homelessness-related policies and procedures established by the County, State, and Federal governments. This includes ensuring program participant screening, assessment, and referral align with the CITY’s written standards and any applicable guidelines in the City’s consolidated plan or similar strategic frameworks. The CONSULTANT must maintain documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the CoC or required by relevant government entities. This system must align with state and federal requirements, including those established under applicable HUD regulations.

##### B. Evaluation of Program Participants' Eligibility and Needs

The CONSULTANT shall conduct initial evaluations to determine the eligibility of individuals or families for homelessness assistance and the types and amounts of assistance needed to regain stability in permanent housing. These evaluations must comply with centralized or coordinated assessment requirements, the CITY’s written standards, and relevant County, State, or Federal guidelines for homeless assistance programs. Re-evaluations for homelessness prevention and rapid rehousing assistance must also adhere to these standards. Evaluations and re-evaluations must be documented in accordance with the CITY’s Homelessness Assistance Written Standards and broader state and federal policies.

##### C. Terminating Assistance

If a program participant violates program requirements, the CONSULTANT may terminate the assistance in accordance with a formal process established by the CONSULTANT that recognizes the rights of individuals affected, in accordance with 24 CFR § 576.402.

##### D. Shelter and Housing Standards

The CONSULTANT certifies that shelters and housing supported by homelessness-related funds and utilized by beneficiaries will conform to all applicable County, State, and Federal standards, including those established under 24 CFR § 576.403 and other relevant policies.

##### E. Homeless Involvement

The CONSULTANT certifies that it will involve, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted through homelessness programs,

and in providing services for occupants of these facilities. This involvement must comply with applicable federal standards, including 24 CFR § 576.405(c) and 42 USC 11375(d), as well as County and State policies encouraging engagement of affected populations.

F. Independent Contractor

Nothing contained in this AGREEMENT is intended to, or shall be construed in any manner as, creating or establishing the relationship of employer/employee between the Parties. The CONSULTANT and any agent or employee of CONSULTANT shall act in an independent capacity and not as officers or employees of the CITY. CITY assumes no liability for CONSULTANT'S actions and performance; nor does the CITY assume responsibility for taxes, bonds, payments, or other commitments, implied or explicit, by or for CONSULTANT. CONSULTANT shall not have authority to act as an agent on behalf of CITY unless specifically authorized to do so in writing. CONSULTANT acknowledges that it is aware that because it is an independent contractor, CITY is making no deduction from any amount paid to CONSULTANT and is not contributing to any fund on its behalf. CONSULTANT disclaims the right to any fee or benefits except as expressly provided for in this AGREEMENT.

As respects all acts or omissions of CONSULTANT relating to CONSULTANT'S responsibility for taxes, bonds, payments, or other commitments, implied or explicit, written or verbal, by or for CONSULTANT, the CONSULTANT agrees to indemnify, defend (at the CITY'S option), and hold harmless the CITY, its officers, officials, agents, employees, representatives, and volunteers from and against any and all claims, demands, reasonable defense costs, or liability of any kind or nature to the extent arising out of or in connection with the CONSULTANT'S performance or failure to perform under this Section.

G. Subcontracts

Content Requirements. The CONSULTANT will include all relevant provisions of this AGREEMENT in all subcontracts entered into as part of the activities undertaken in furtherance of this AGREEMENT and will take appropriate action pursuant to any subcontract upon a finding that the subcontractor is in violation of regulations issued by any federal agency. The CONSULTANT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 75 (Economic Opportunities for Low- and Very Low-Income Persons) and will not allow any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Submission to the CITY. The CONSULTANT must submit all subcontracts and other agreements that relate to this AGREEMENT to the CITY.

H. Licensing

The CONSULTANT agrees to obtain and maintain, at its sole cost and expense, all required licenses, registrations, accreditation, permits and approvals as may be required by law for its operations and the performance of its services under this AGREEMENT. The CONSULTANT shall ensure that its staff and subcontractors shall also obtain and maintain all required licenses, registrations, accreditation, permits and approvals as may be required by law for the performance of services hereunder. Such licensing requirements include obtaining a CITY business license, as applicable. CONSULTANT shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for the performance of the services required by this AGREEMENT.

I. Responsibilities Toward Employees

The CONSULTANT accepts full responsibility for payment of any and all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholdings, social security withholdings, and any and all other taxes or payroll withholdings required for all employees engaged in the performance of the work and activities authorized by the AGREEMENT. The CONSULTANT accepts full responsibility for providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected.

J. Zoning

The CONSULTANT agrees that any facility/property used in furtherance of said program shall be specifically zoned and permitted for such use(s) and activity(ies). Should the CONSULTANT fail to have the required land entitlement and/or permits, thus violating any local, state, or federal rules and regulations relating thereto, the CONSULTANT shall immediately make good-faith efforts to gain compliance with local, state, or federal rules and regulations following written notification of said violation(s) from the CITY or other authorized citing agency. The CONSULTANT shall notify the CITY immediately of any pending violations. Failure to notify the CITY of pending violations, or to remedy such known violation(s), shall result in termination of grant funding hereunder. The CONSULTANT must make all corrections required to bring the facility/property into compliance with the law within sixty (60) days of notification of the violation(s); failure to gain compliance within such time shall result in termination of grant funding hereunder. Upon termination of grant funding, CONSULTANT must repay all previously disbursed grant funds to CITY and CITY shall have no further obligations to disburse funds to CONSULTANT.

K. Displacement and Relocation

The CONSULTANT must ensure that it has taken all reasonable steps to minimize displacement of persons. Relocation must be consistent with requirements as set forth in 24 CFR § 576.408, 49 CFR Part 24 and applicable

California relocation law (Government Code § 7260 et seq. and the regulations promulgated thereunder at Cal. Code Regulations, Title. 25, § 6000 et seq.) Any relocation plan for the Project shall be subject to the review and approval by the State of California.

L. Provisions Required by Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the AGREEMENT shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or correctly inserted, then upon the application of either Party, the contract shall forthwith be physically amended to make such insertion or correction.

II. ASSURANCES AND CERTIFICATIONS

A. Non-Profit Status

The CONSULTANT is a duly organized and existing non-profit corporation in good standing and authorized to do business under the laws of the State of California and in possession of required non-profit status under the United States Internal Revenue Code (for example, 26 USC § 501(c)(3)). The CONSULTANT has full right, power, and lawful authority to accept the funding hereunder and to undertake all obligations as provided herein and the execution, performance, and delivery of this AGREEMENT by the CONSULTANT has been fully authorized by all requisite actions on the part of the CONSULTANT.

If the CONSULTANT'S non-profit status changes at any time during this AGREEMENT, it will advise the CITY within 15 days.

If the CONSULTANT is a private non-profit, it hereby agrees that the members of its Board of Directors will receive no compensation, directly or indirectly, other than reimbursement for expenses, from any funds generated from or because of the ARPA program, for their services.

As a non-profit, the CONSULTANT acknowledges that administration of its operation and services are subject to the requirements as established in 2 CFR Part 200.

CONSULTANT, for itself and its principals, represents and warrants it is eligible or otherwise not disqualified or prohibited from participation in federal or state assistance programs.

B. Adherence to federal, state, and local Laws and Regulations

General. The CONSULTANT agrees to comply with all requirements of the ARPA program (including, without limitation, 2 CFR Part 200) and applicable cross-cutting federal, state, and local requirements (including, without limitation, 24 CFR Part 5).

Economic Opportunities for Low- and Very Low-income Persons (Section 3). The CONSULTANT shall ensure that employment and other economic opportunities generated by the Program shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and regulations at 24 CFR part 75 apply to this AGREEMENT, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).

Civil Rights. The CONSULTANT agrees to comply with Title VI of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 109 of the Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 41 CFR Chapter 60.

Nondiscrimination and Equal Employment Opportunity. During the performance under this AGREEMENT, the CONSULTANT shall not discriminate against any employee or applicant for employment based on race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, sexual orientation, or any other basis prohibited by applicable law. The CONSULTANT shall take affirmative action to ensure that all applicants and employees are treated without regard to race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, and sexual orientation. The CONSULTANT shall comply with all provisions of 24 CFR § 5.105(a), including, without limitation, Executive Order 11246, Equal Employment Opportunity, as amended by Executive Orders 11375 and 12086.

Nondiscrimination and Equal Opportunity in Participation. The requirements of 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a). The CONSULTANT shall not discriminate against any participant on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familiar status, sexual orientation, or any other basis prohibited by applicable law. The CONSULTANT shall comply with § 576.407(b) and, through affirmative outreach, make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. The CONSULTANT must take appropriate steps to ensure effective communication with persons with disabilities. CONSULTANT must also take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

Disabilities. The CONSULTANT agrees to comply with any federal regulations issued pursuant to compliance with the Americans with Disabilities Act of 1990

(42 U.S.C. Sections 12101 et seq.), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and Local government services, and public accommodations. CONSULTANT acknowledges this AGREEMENT is subject to all laws and regulations that prohibit recipients of federal funding from discriminating against individuals with disabilities, including, but not limited to, the following: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (24 CFR Parts 8-9); the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.); the Uniform Federal Accessibility Standards in Title 24 U.S.C. and associated regulations (24 CFR Part 40); and the Architectural Barriers Rules. CONSULTANT must include a provision prohibiting such discrimination in any contracts or subcontracts for activities to which these requirements apply or could apply, and all contractors and subcontractors must comply with the applicable provision.

Fair Housing. Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funded sub-recipients. The CONSULTANT has a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act.

Suspension and Debarment. CONSULTANT must comply with the requirements of 2 CFR Part 200, Appendix II (H); 2 CFR Part 180; and 2 CFR Part 2424. CONSULTANT must verify that all contractors and subcontractors performing work in connection with this AGREEMENT are not debarred, disqualified, or otherwise prohibited from participation in federal or state assistance programs. CONSULTANT further must notify the CITY in writing immediately if CONSULTANT or its contractors or subcontractors are not in compliance with this paragraph during the term of this AGREEMENT. If it is later determined that CONSULTANT did not comply with this paragraph, the CITY or the Federal Government may pursue any and all available remedies (which shall be cumulative and not exclusive), including, but not limited to, suspension and/or debarment of CONSULTANT or its contractors or subcontractors.

Internal Controls (2 CFR § 200.303). CONSULTANT must establish and maintain effective internal control over the federal funds that provides reasonable assurance that federal funds are managed in compliance with all applicable Federal, State, and local laws, regulations, and the terms and conditions of the Federal award. CONSULTANT must take reasonable measures to safeguard protected personally identifiable information and other information considered to be sensitive consistent with applicable Federal, State, and local laws regarding privacy and responsibility over confidentiality.

Fair Labor Standards. CONSULTANT must comply the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and the applicable requirements under 29 CFR Parts 1, 3, 5, 6 and 7, as now or hereafter amended, which

regulates wage, hour, and other employment practices that govern the use of funds provided and the employment of personnel under this AGREEMENT.

Under the ARPA program, the requirements of the Davis-Bacon Act (40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708) and regulations at 29 CFR Part 5 do not apply to projects solely funded with ARPA funds.

Mandatory Disclosures (2 CFR 200.113). CONSULTANT must disclose, and require its contractors and subcontractors to disclose, in a timely manner, in writing to the Federal awarding agency or the CITY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award funding all or part of this AGREEMENT. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216). CONSULTANT shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system funded under this AGREEMENT.

Participation by Minority & Women-Owned Business Enterprises (2 CFR 200.321). Obligated Party must comply with the Minority and Women-owned Business Enterprise participation requirements under 2 CFR 200.321 and take all affirmative steps (described in 2 CFR 200.321(b)) necessary to contract or subcontract with and assure that Minority and Women-owned Business Enterprises are used when possible.

C. Falsification of Information

The CONSULTANT represents and warrants that it has made no false or misleading statements to the CITY in the process of obtaining this award of the ARPA funds.

D. Drug Free Workplace

The CONSULTANT represents and warrants that, in compliance with 2 CFR Part 182, it has established the following drug-free workplace policy:

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace for any employee involved in a federally funded program.

As an employee working in conjunction with a federally funded program, the employees of the CONSULTANT will be required to:

- i. Abide by the terms above in statement (1), and
- ii. Notify the appropriate CONSULTANT authorities and CITY officials of any criminal drug statute conviction for a violation

occurring in the workplace. Such notification shall be made no later than five (5) days after conviction.

The CITY and the United States Department of Housing and Urban Development will be notified within ten days after receiving notice of any such violation.

Within thirty (30) days of receiving such notice, appropriate personnel action will be taken against such employee, up to and including termination.

Each such employee shall be required to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency.

E. Religious Organization

The CONSULTANT may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of said program or services. If the CONSULTANT conducts such activities, the activities must be offered separately, in time or location, from said programs or services, and participation must be voluntary for the program participants. The CONSULTANT shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief. If the CONSULTANT is a religious organization, it retains its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ARPA funds to support any inherently religious activities in compliance with 24 CFR 5.109. The CONSULTANT agrees that acquisition, construction, rehabilitation, use, and disposition of structures by the religious organization in connection with said program must be in sound accord with the provisions under 24 CFR § 576.406.

F. Additional Terms between the CITY

The CONSULTANT agrees further that it shall be bound by the standard terms and conditions used in the Grant Agreement between CITY and such other rules, regulations, or requirements may reasonably impose in addition to the aforementioned assurances at or subsequent to the execution of this AGREEMENT by the Parties hereto.

G. OSHA

Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous, or dangerous to the participants' health or safety.

H. Hatch Act

The CONSULTANT 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 the Hatch Act, 5 U.S.C. Section 1501 et seq.

III. **ENVIRONMENTAL CONDITIONS**

A. Generally

Activities funded under this AGREEMENT are subject to environmental review in accordance with applicable federal, state, and local regulations. The CONSULTANT, or any contractor or subcontractor of the CONSULTANT, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project or activity, nor commit or expend ARPA or local funds for eligible activities, unless and until the required environmental review is completed and approved in accordance with federal regulations, including but not limited to 24 CFR Part 50 or other applicable environmental standards.

The CONSULTANT agrees to comply with all applicable environmental requirements insofar as they apply to the performance of this AGREEMENT, including but not limited to the Clean Air Act (42 U.S.C. § 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the Flood Disaster Protection Act. If applicable, the CONSULTANT also shall comply with the Historic Preservation requirements of the National Historic Preservation Act of 1966. CONSULTANT must report any violation(s) to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency and the appropriate Environmental Protection Agency Regional Office.

B. Lead-based paint remediation and disclosure

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead- Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ARPA and all housing occupied by program participants that were built before 1978.

C. Assignment of Responsibilities

By this AGREEMENT, the CONSULTANT will accept assignment from the CITY of all responsibilities set forth in Subpart K of 24 CFR 35.

D. Compliance with Subpart K

The purpose of Subpart K is to establish procedures to eliminate as far as practicable lead-based paint (“LBP”) hazards in a residential property that receives federal assistance under certain HUD programs for acquisition, leasing, support services, or operation. In connection with the grant funds under this AGREEMENT, the CITY requires that the CONSULTANT comply and show evidence of

compliance with all applicable subparts of 24 CFR Part 35, and especially, Subpart K (“LBP Regulations”). The CONSULTANT shall conduct the following activities for the dwelling unit, common areas servicing the dwelling unit, and the exterior surfaces of the building in which the dwelling unit is located:

1. A visual assessment of all painted surfaces in order to identify deteriorated paint;
2. Paint stabilization of each deteriorated paint surface, and clearance, in accordance with 24 CFR §§ 35.1330(a)-(b) and 35.1340, before occupancy of a vacant dwelling unit or, where a unit is occupied, immediately after receipt of federal assistance;
3. Ongoing lead-based paint maintenance activities into regular building operations, in accordance with 24 CFR § 35.1355(a), if the dwelling unit has a continuing, active financial relationship with a federal housing assistance program, except that mortgage insurance or loan guarantees are not considered to constitute an active programmatic relationship for the purposes of this part; and
4. Notice to occupants in accordance with 24 CFR §§ 35.125(b)(1) and (c), describing the results of the clearance examination.

E. Notification of LBP Hazard

The CONSULTANT shall provide to all occupants of housing:

- a. In accordance with Section 35.130 of the LBP Regulations - the LBP hazard information pamphlet. The pamphlet shall be the EPA/HUD/Consumer Product Safety Commission lead hazard information pamphlet or an EPA-approved equivalent.

The current form and version of the pamphlet can be found <https://www.epa.gov/lead/protect-your-family-lead-your-home-english>

- b. In accordance with 24 CFR 35, Subpart A, all available information and knowledge regarding the presence of LBP and LBP hazards prior to leasing a housing unit.
- c. In accordance with 24 CFR 35, Subpart A, notification in writing of the results of the presumption of LBP and/or LBP hazards, results of any lead hazard evaluation, and any lead hazard reduction work.

F. LBP Information Summary

For purposes of information only and in no respect intended to be a representation or warranty of the provisions of the LBP Regulations, the CITY has caused to be prepared an information summary relating to the LBP Regulations and Application to dwelling units that may be occupied by recipients of services and/or funding from the CONSULTANT under this AGREEMENT.

CITY staff will cooperate with and be available to the CONSULTANT to assist in implementation of compliance with the LBP Regulations as to residential dwelling units to be assisted by the CONSULTANT. The Parties acknowledge and agree the CITY shall not be liable or responsible for the accuracy of such summary, and the CONSULTANT is directed to the LBP Regulations and implementing guidance published and provided by HUD relating to compliance with such LBP Regulations.

G. Exemptions

Section 35.115(a) of the LBP Regulations provides exemptions from 24 CFR Part 35, Subparts B through R. For example, lead-based paint requirements do not apply to housing assistance if the assistance lasts less than one hundred (100) days.

## EXHIBIT E

### FEDERAL CONTRACT PROVISIONS

During the performance of this Agreement, Consultant shall comply with all applicable federal laws and regulations, including, but not limited to, the federal contract provisions in this Exhibit "E".

#### **REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)**

Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. The Contract Documents include remedies for breach and termination for cause and convenience.

Appendix II to Part 200 (C) – Equal Employment Opportunity: If this Agreement meets the definition of a "federal assisted construction contract" in 41 CFR § 60-1.3, Consultant agrees as follows during the performance of this Agreement:

The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant 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, sexual orientation, 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. The Consultant 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.

The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The Consultant will not discharge or, in any other manner, discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

The Consultant 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 Consultant's

commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Consultant 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.

The Consultant 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.

In the event of the Consultant'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 Consultant 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.

The Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) 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 Consultant 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 the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of the Consultant and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who

has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part the grant (contract, loan, insurance, guarantee) for this project; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Appendix II to Part 200 (D) – Davis-Bacon Act: Not applicable to this Agreement since it is funded by CSLFRF.

Appendix II to Part 200 (D) – Copeland “Anti-Kickback” Act: Not applicable to this Agreement since it is funded by CSLFRF.

Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:

Overtime Requirements. No contractor or subcontractor contracting for any part of the contract 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.

Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (ii) of this section the Consultant 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 (ii) of this section, in the sum of \$10 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 (ii) of this section.

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

Subcontracts. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (ii) through (v) of this Section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The Consultant shall be

responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (ii) through (v) of this Section.

Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement:

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the Consultant wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Consultant must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency..

Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act:

Pursuant to the Clean Air Act, (1) Consultant 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) Consultant 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 Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

Pursuant to the Federal Water Pollution Control Act, (1) Consultant 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., (2) Consultant 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 Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

Appendix II to Part 200 (H) – Debarment and Suspension:

This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Consultant is required to verify that none of the Consultant, 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).

Consultant 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.

This certification is a material representation of fact relied upon by City. If it is later determined that Consultant 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, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Consultant warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Consultant also agrees to verify that all subcontractors performing work under this Agreement are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. Consultant further

agrees to notify the City in writing immediately if Consultant or its subcontractors are not in compliance during the term of this Agreement.

Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 recipient who in turn will forward the certification(s) to the awarding agency.

Appendix II to Part 200 (J) – §200.323 Procurement of Recovered Materials:

Consultant shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.

In the performance of this Agreement, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

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

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

Appendix II to Part 200 (K) – §200.216 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Agreement. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications

Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Telecommunications or video surveillance services provided by such entities or using such equipment.

Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

See Public Law 115-232, section 889 for additional information.

Appendix II to Part 200 (L) – §200.322 Domestic Preferences for Procurement:

Consultant shall, to the greatest extent practicable, purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts.

For purposes of this section:

“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## **CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS (2 C.F.R. § 200.321)**

Consultant shall be subject to 2 C.F.R. § 200.321 and will take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award.

Affirmative steps shall include:

Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and

Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

Consultant shall submit evidence of compliance with the foregoing affirmative steps when requested by the City.

## **COMPLIANCE WITH U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS**

Maintenance of and Access to Records. Consultant shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Consultant agrees to provide the City, Treasury Office of Inspector General and the Government Accountability Office, or any of their authorized representatives access to any books, documents, papers, and records (electronic and otherwise) of the Consultant which are directly pertinent to this Agreement for the purposes of conducting audits or other investigations. Records shall be maintained by Consultant for a period of five (5) years after completion of the Project.

Compliance with Federal Regulations. Consultant agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Consultant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, including, without limitation, the following:

Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

New Restrictions on Lobbying, 31 C.F.R. Part 21.

Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

Compliance with Federal Statutes and Regulations Prohibiting Discrimination. Consultant agrees to comply with statutes and regulations prohibiting discrimination applicable to the CSLFRF program including, without limitation, the following:

Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

False Statements. Consultant understands that making false statements or claims in connection with the CSLFRF program is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

## Protections for Whistleblowers.

In accordance with 41 U.S.C. § 4712, Consultant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

A member of Congress or a representative of a committee of Congress;

An Inspector General;

The Government Accountability Office;

A Treasury employee responsible for contract or grant oversight or management;

An authorized official of the Department of Justice or other law enforcement agency;

A court or grand jury; or

A management official or other employee of Consultant, or a subcontractor who has the responsibility to investigate, discover, or address misconduct.

Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Consultant is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles, and encourage its subcontractors to do the same

Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Consultant should encourage its employees and subcontractors to adopt and enforce policies that ban text messaging while driving, and Consultant should establish workplace safety policies to decrease accidents caused by distracted drivers.

Assurances of Compliance with Civil Rights Requirements. The Civil Rights Restoration Act of 1987 provides that the provisions of this assurance apply to the Project, including, but not limited to, the following:

Consultant ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

Consultant acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, are limited in their English proficiency. Consultant understands that the denial of access to persons to its programs, services and activities because of their limited proficiency in English is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964. Accordingly, Consultant shall initiate reasonable steps, or comply with Treasury's directives, to ensure meaningful access to its programs, services and activities to LEP persons. Consultant understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary to ensure effective communication in the Project.

Consultant agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.

Consultant acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Consultant and Consultant's successors, transferees and assignees for the period in which such assistance is provided.

Consultant agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Consultant and the Consultant's subcontractors, successors, transferees and assignees:

The subcontractor, successor, transferee and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by Department of the Treasury Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also extends protection to persons with "Limited English proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by Department of the Treasury Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement).

Consultant understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Consultant, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Consultant for the period during which it retains ownership or possession of the property.

Consultant shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. Consultant shall comply with information requests, on-site compliance reviews, and reporting requirements.

Consultant shall maintain a complaint log and inform the Department of the Treasury of any accusations of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Consultant must also inform the Department of the Treasury if Consultant has received no complaints under Title VI.

Consultant must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Consultant and the administrative agency that made the finding. If the Consultant settles a case or matter alleging such discrimination, Consultant must provide documentation of the settlement. If Consultant has not been the subject of any court or administrative agency finding of discrimination, please so state.

If Consultant makes sub-awards to other agencies or other entities, Consultant is responsible for assuring that sub-recipients also comply with Title VI and all of the applicable authorities covered in this assurance.

COMPLIANCE WITH AMERICAN RESCUE PLAN ACT (ARPA)

CORONAVIRUS LOCAL FISCAL RECOVERY FUND (CLFRF) FEDERAL GUIDELINES

USE OF ARPA CLFRF AND REQUIREMENTS

This Contract may be funded in whole or in part with funds provided by the American Rescue Plan Act - Coronavirus Local Fiscal Recovery Fund (ARPA), *Federal Award Identification Number (FAIN): SLT0628 and Assistance Listing Number (formerly known as a CFDA number): 21.027*, and therefore Contractor agrees to comply with any and all ARPA requirements in addition to any and all applicable County, State, and Federal laws, regulations, policies, and procedures pertaining to the funding of this Contract. The use of the funds must also adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Any funds expended by Contractor or its subcontractor(s) in any manner that does not adhere to the ARPA requirements shall be returned or repaid to the City or County. Any funds paid to Contractor i) in excess of the amount to which Contractor is finally determined to be authorized to retain; ii) that are determined to have been misused; or iii) that are determined to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid, shall constitute a debt to the federal government. Contractor agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to the Act, and guidance issued by Treasury regarding the foregoing. Contractor shall provide for such compliance in any agreements with subcontractor(s).

Contractor agrees to comply with the following:

- A.** In accordance with Title 2 Code of Federal Regulations (C.F.R.) Section 200.322, the non-Federal Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
  
- B.** In accordance with Title 2 C.F.R. Section 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, cloud servers are allowable except for the following circumstances: Obligating or expending covered telecommunications and video surveillance services or equipment or services (as described in Title 2 C.F.R. Section 200.216) to: 1) Procure or obtain, extend or renew a contract to procure or obtain; 2) Enter into a contract (or extend or renew a contract) to procure; or 3) Obtain the equipment, services, or systems, as described in Title 2 C.F.R. Section 200.216 that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and: (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications

equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (ii) Telecommunications or video surveillance services provided by such entities or using such equipment; and (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

- C. A non-Federal Contractor that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at Title 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- D. Byrd Anti-Lobbying Amendment (31 U.S.C. Section 1352) - Contractors that apply or bid for an award exceeding \$100,000 must 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 Title 31 U.S.C. Section 1352. Each tier must 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 non-Federal award.
- E. Clean Air Act (42 U.S.C. Sections 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. Sections 1251-1389), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. Sections 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. Sections 1251-1389).
- F. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under Title 37 C.F.R. Section 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Title 37 U.S.C. Sections 1251-1387 recipient or subrecipient must comply with the requirements of Title 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- G.** Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 3701-3708). Where applicable, all contracts awarded by the non-Federal Contractor in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with Title 40 U.S.C. Sections 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under Title 40 U.S.C. Section 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of Title 40 U.S.C. Section 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- H.** Davis-Bacon Act, as amended (40 U.S.C. Sections 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. Sections 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal contractor must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal Contractor must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. Section 874 and 40 U.S.C. Section 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal contractor must report all suspected or reported violations to the Federal awarding agency.
- i.** The Contractor and all Subcontractors and Sub-subcontractors are required to pay their employees and workers a wage not less than the minimum wage for the work classification as specified in both the Federal and California wage decisions. See Section 3.10.6 "Prevailing Wages" for additional information regarding California Prevailing Wage Rate Requirements and the applicable general prevailing wage determinations which are on file with the City and are available to any interested party on request. The higher of the two applicable wage determinations, either California prevailing wage or Davis-Bacon Federal prevailing wage, will be enforced for all applicable work/services under this Contract.
- I.** Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by Title 41 U.S.C. Section 1908, must address administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- J.** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal Contractor including the manner by which it will be effected and the basis for settlement.

K. Equal Employment Opportunity. Except as otherwise provided under Title 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in Title 41 C.F.R. Section 60-1.3 must include the equal opportunity clause provided under Title 41 C.F.R. Section 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The identified clause is below and Contractor shall comply with the clause and all legal requirements and include the equal opportunity clause in each of its nonexempt subcontracts.

- i. The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at Title 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, 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. 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 consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation

conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) 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.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.

(6) 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.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract 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.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such

compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

- L.** Data Collection Requirements – Contractor agrees to collect pre-post data per County, and United States Treasury guidelines and timeline, for project tracking and monitoring and various reporting purposes. Data including, but not limited to: Required Project Demographic Distribution Data; Required Performance Indicators and Programmatic Data; Required Expenditure Report Data; and Required Program Evaluation Data. Contractor agrees to track and monitor data in a quantifiable and reportable database - retrievable collective data that needs to be available to County, State or Federal governments upon request.
- M.** Data Submission Requirements - Contractor agrees to furnish data to the County upon request, per County, and United States Treasury guidelines and timeline, for project tracking and monitoring and various reporting purposes. Data including, but not limited to: Required Project Demographic Distribution Data; Required Performance Indicators and Programmatic Data; Required Expenditure Report Data; Required Program Evaluation Data. Contractor agrees to track and monitor data in a quantifiable and reportable database - retrievable collective data that needs to be available at request.
- N.** Project Progress Reporting - Contractor agrees to provide project timeline and progress updates to the City upon request, per County, and United States Treasury guidelines and timeline. Contractor agrees to routine and impromptu program and project evaluation by the City.
- O.** Contractor shall comply with Title 2 Code of Federal Regulations Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), including, but not limited to, Title 2 C.F.R. Section 200.303 (internal control), Title 2 C.F.R. Sections 200.331 through 200.333 (subrecipient monitoring and management), and Title 2 C.F.R. Part 200 Subpart F (audit requirements), as these sections currently exist or may be amended. The use of funds must also adhere to official federal guidance issued or to be issued on what constitutes an eligible expenditure. Any funds expended by Contractor or its subcontractor(s) in any manner that does not adhere to official federal guidance shall be returned to the County. Contractor agrees to comply with all official guidance regarding the ARPA CLFRF. Contractor also agree that as additional federal guidance becomes available, an amendment to this Contract may become necessary. If an amendment is required, Contractor agrees to promptly execute the Contract amendment.

- P.** Contractor shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with Title 2 C.F.R. Section 200.334 (retention requirements for records). Such documentation shall be produced to City upon request and may be subject to audit. Unless otherwise provided by Federal or State law (whichever is the most restrictive), Contractor shall maintain all documentation connected with its performance under this Contract for a minimum of five (5) years from the date of the last payment made by City or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of the City, the State or the United States Government during normal business hours at Contractor. Copies will be made and furnished by Contractor upon written request by City.
- Q.** Contractor shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Contractor's requests for reimbursement which segregate and accumulate costs of Contractor and produce monthly reports which clearly identify reimbursable costs, matching fund costs (if applicable), and other allowable expenditures by Contractor. Contractor shall provide a monthly report of expenditures under this Contract no later than the 20<sup>th</sup> day of the following month.
- R.** Contractor shall cooperate in having an audit completed by City, at City's option and expense. Any audit required by ARPA CLFRF and its regulation and United States Treasury guidance will be completed by Contractor at Contractor's expense.
- S.** Contractor shall repay to City any reimbursement for ARPA CLFRF funding that is determined by subsequent audit to be unallowable under the ARPA CLFRF within the time period required by the ARPA CLFRF, but no later than one hundred twenty (120) days of Contractor receiving notice of audit findings, which time shall include an opportunity for Contractor to respond to and/or resolve the findings. Should the findings not be otherwise resolved and Contractor fail to reimburse moneys due City within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both parties or required by the ARPA CLFRF, City reserves the right to withhold future payments due Contractor from any source under City's control.
- T.** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Title 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply.
- U.** Universal Identifier and System for Award Management (SAM), Title 2 C.F.R. Part 25.
- V.** Reporting Subaward and Executive Compensation Information, Title 2 C.F.R. Part 170.
- W.** OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (nonprocurement), Title 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to Title 2 C.F.R. Part 180 and Treasury's implementing regulation at Title 31 C.F.R. Part 19. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 C.F.R. Section 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at Title 2 C.F.R. Part 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of

parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**X.** Recipient Integrity and Performance Matters, pursuant to which the award terms set forth in Title 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

**Y.** Government Requirements for Drug-Free Workplace, Title 31 C.F.R. Part 20.

**Z.** New Restrictions on Lobbying, Title 31 C.F.R. Part 21.

**AA.** Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. Sections 4601-4655) and implementing regulations.

**BB.** Applicable Federal environmental laws and regulations.

**CC.** Statutes and regulations prohibiting discrimination include, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) and Treasury's implementing regulations at Title 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. Sections 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

**DD.** Contractor understands that making false statements or claims in connection with the ARPA funded activities is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

**EE.** Any publications produced with ARPA funds must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLT-0628 awarded to San Bernardino County by the U.S. Department of Treasury."

**FF.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is being encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

**GG.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is being encouraged to adopt and enforce policies that ban text messaging while driving and establishing workplace safety policies to decrease accidents caused by distracted drivers.

**HH.** As a recipient of federal financial assistance, the Civil Rights Restoration Act of 1987 applies, and Contractor assures that it:

- i. Ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. Sections 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at Title 31 C.F.R. Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda and/or guidance documents.
- ii. Acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities, because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail provide language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication.
- iii. Agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services, and activities.
- iv. Agrees to maintain a complaint log of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome.

**II.** The City must include the following language in every contract or agreement subject to Title VI and its regulations:

"The sub-grantee, contractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or nation origin (42 U.S.C. Section 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, Title 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. Section 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, Title 31 C.F.R. Sections Part 22, and herein incorporated by reference and made a part of this contract or agreement."

**JJ.** Contractor shall cooperate in any enforcement or compliance review activities by the City, and/or the Department of the Treasury. Contractor shall comply with information requests, on-site compliance reviews, and reporting requirements.

**KK.** Contractor shall maintain records and financial documents sufficient to evidence compliance with section 603(c), regulations adopted by Treasury implementing those sections, and guidance issued by Treasury regarding the foregoing.

**LL.** City has the right of access to records (electronic or otherwise) of Contractor in order to conduct audits or other investigations.

**MM.** Contractor shall maintain records for a period of five (5) years after the completion of the contract or a period of five (5) years after the last reporting date the City is obligated with the Department of the U.S. Treasury, whichever is later.

**NN.** Contractor must disclose in writing any potential conflict of interest in accordance with Title 2 C.F.R. Section 200.112.

**OO.** In accordance with Title 41 U.S.C. Section 4712, subrecipient or Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following: (i) A member of Congress or a representative of a committee of Congress; (ii) An Inspector General; (iii) The Government Accountability Office; (iv) A Treasury employee responsible for contract or grant oversight or management; (v) An authorized official of the Department of Justice or other law enforcement agency; (vi) A court or grand jury; or (vii) A management official or other employee of Recipient, subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct. Subrecipient or Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

**PP.** City and Contractor acknowledge that if additional federal guidance is issued, an amendment to this Contract may be necessary. In the event any of the terms in this Exhibit conflict with any other terms in the Contract, the terms in this Exhibit shall control.