

**COMMUNITY DEVELOPMENT BLOCK GRANT  
SUBRECIPIENT AGREEMENT**

**By and Between the**

**CITY OF SAN BERNARDINO**

**and**

**Asociación de Emprendedor@s**

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**EXHIBITS**

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Operating Budget</b>
<b>Exhibit C</b>	<b>Covenants Re: Use of Federal</b>
<b>Exhibit D</b>	<b>Funds Program Income Definition</b>

**COMMUNITY DEVELOPMENT BLOCK GRANT  
SUBRECIPIENT AGREEMENT**

**THIS COMMUNITY DEVELOPMENT BLOCK GRANT SUBRECIPIENT AGREEMENT** (this “Agreement”), dated for purposes of identification as of July 1 , 2021 (the “Date of Agreement”), is made and entered into by and between **CITY OF SAN BERNARDINO**, a municipal corporation and charter city (the “City”), and, *Asociación de Emprendedor@s*, a [California corporation] (the “Subrecipient”).

**RECITALS**

A. The City is the recipient of funds (the “CDBG Funds”) from the United States Department of Housing and Urban Development (“HUD”) under the Community Development Block Grant (“CDBG”) Program for Fiscal Year 2021-2022.

B. Subrecipient is eligible to receive, and has submitted an application to receive, a subgrant of CDBG funds for Fiscal Year 2021-2022 to defray certain operational costs for providing certain services to the community (hereinafter defined as “Subrecipient’s Services”).

C. Subrecipient’s application for a subgrant of CDBG Funds was approved by the City Council of the City, subject to (i) approval by HUD of the City’s CDBG Application for Fiscal Year 2021-2022, and (ii) the execution by the City and Subrecipient of an agreement containing substantially the terms and conditions set forth in this Agreement.

D. Subsequent to the City’s approval of Subrecipient’s application, HUD approved the City’s CDBG Application for Fiscal Year 2021-2022

E. The City and the Subrecipient (each, a “Party” and jointly, the “Parties”) desire to enter into this Agreement so that Subrecipient may receive a grant of a portion of the CDBG Funds in consideration for the provision of Subrecipient’s Services to the City and the community.

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND CONDITIONS CONTAINED HEREIN, THE CITY AND THE SUBRECIPIENT AGREE AS FOLLOWS:**

## **CONTACT INFORMATION**

**City of San Bernardino:**

Robert D. Field

**Awarding Official**

**Title:** City Manager

**Address:** 201 N E Street

**City:** San Bernardino

**State,** CA **Zip:** 92401

**Telephone:** 909-384-5057

**Subrecipient Organization:**

Asociación de Emprendedor@s

Monica Robles

**Name of Primary Contact**

**Title:** President

**Address:** 2400 E. Katella Ave. Suite 800

**City:** Anaheim, CA **Zip:** 92806

**Telephone:** (714) 627-2671

**CFDA Number and Name:** 14.218 Community Development Block Grant (CDBG)

**Federal Award Date:**

(the date when the federal award is signed by the authorized official of the federal awarding agency.)

**CDBG Funds Obligated**

**Program Year:** 2021-2022

**Amount:** \$35,000

**IDIS Activity #** TBD

**Federal Award Date:**

(the date when the federal award is signed by the authorized official of the federal awarding agency.)

**Total Amount of CDBG Funds Obligated:** \$35,000

## **Section 1. Definitions.**

### **Definitions.**

The following capitalized terms used in this Agreement shall have the following meanings:

**“Agreement”** means this Community Development Block Grant Subrecipient Agreement by and between the City and the Subrecipient.

**“Budget”** means the budget supplied by Subrecipient which (i) specifies how Subrecipient proposes that the Subgrant Proceeds be allocated among the following permitted uses: Rehabilitation Construction Costs, Construction Soft Costs and Administrative Costs, and (ii) is attached hereto as Exhibit B and incorporated herein by this reference.

**“CDBG”** is defined in Recital A hereof.

**“CDBG Funds”** is defined in Recital A hereof.

**“C.F.R.”** means the Code of Federal Regulations.

**“City”** is defined in the initial paragraph of this Agreement and includes any assignee of or successor to the rights, powers and responsibilities of the City. The Director of the Department of Community and Economic Development of the City of San Bernardino, or such person’s designee (hereinafter defined as the “City’s Representative”) shall represent the City in all matters pertaining to this Agreement. Whenever a reference is made herein to an action or approval to be undertaken by the City, the City’s Representative is authorized to act on behalf of the City unless this Agreement specifically provides otherwise or the context should otherwise require.

**“City’s Representative”** means the Executive Director of the City’s Community Development Department, or such person’s designee.

**“Costs”** means the supplies and materials necessary to provide Subrecipient’s Services, including, without limitation, mileage and telephone costs.

**“Covenants Re: Use of Federal Funds”** means those additional covenants of Subrecipient required due to the federal source of the Subgrant Proceeds which are attached hereto as Exhibit D and incorporated herein by this reference.

**“Date of Agreement”** is defined in the initial paragraph of this Agreement.

**“Default”** is defined in Section 7.1 hereof.

**“Eligible Household”** refers to low income households, whose gross annual income may not exceed the low-income limits defined as up to 80 percent of the San Bernardino County area median income (AMI) adjusted for household size and determined annually by the U.S. Department of Housing and Urban Development (HUD).

**“HUD”** is defined in Recital A hereof.

**“Maximum Amount of Subgrant”** means \$35,000

**“Parties”** is defined in Recital E hereof.

**“Program Income”** means gross income received by Subrecipient directly generated from the use of CDBG Funds. When such income is generated by an activity that is only partially assisted with CDBG Funds, the income shall be prorated to reflect the percentage of CDBG Funds used. See Exhibit E attached hereto and 24 C.F.R. § 570.500(a) for a fuller description of Program Income.

**“Progress Reports”** is defined in Section 3 of the Scope of Services.

**“Salary and Benefits”** means the reasonable salary and benefits to be paid by Subrecipient to Staff.

**“Scope of Services”** means the description of the Subrecipient’s Services which is attached hereto as Exhibit A and incorporated herein by this reference.

**“Staff”** means each of the persons, individually, and all of the persons, collectively, hired by the Subrecipient to provide Subrecipient’s Services under this Agreement.

**“Subgrant”** is defined in Section 2.1 hereof.

**“Subgrant Proceeds”** means the proceeds of the Subgrant.

**“Subrecipient”** is defined in the initial paragraph of this Agreement. The Subrecipient’s Representative shall represent Subrecipient in all matters pertaining to this Agreement. Whenever a reference is made herein to an action or approval to be undertaken by Subrecipient, the Subrecipient’s Representative is authorized to act on behalf of Subrecipient unless this Agreement specifically provides otherwise or the context should otherwise require.

**“Subrecipient’s Representative”** means Monica Robles.

**“Subrecipient’s Services”** means the services provided by Subrecipient pursuant to this Agreement and includes, but is not limited to, the provision of the services set forth in the Scope of Services.

**“Rehabilitation Costs”** means costs associated with the completion of City approved projects as outlined in Exhibit A.

**“Term”** is defined in Section 4 hereof.

**“Term Expiration Date”** means [June 30, 2022].

## **Section 2. Subgrant.**

**2.1 Maximum Amount of Subgrant.** It is expressly agreed and understood that the total amount to be paid by the City under this agreement shall not exceed \$35,000. The dollar amount stated in the preceding sentence may be increased by written amendment of the Agreement, signed by an authorized representative of Subrecipient and the Director.

**2.2 Budget.** Subrecipient has submitted a budget (based upon estimated costs and administrative costs per Section 2.3 hereof) to the City for approval which sets forth the estimated use

of the CDBG funds contributed by the City pursuant to this agreement. The Budget is attached hereto as Exhibit B. Any amendments to an approved budget for the Services must be approved by the City's Director or his authorized designee. The City may require a more detailed line item breakdown of the Budget than the one contain herein, and the. Subrecipient shall provide each supplementary information about the Budget in a timely fashion in the form and content prescribed by the City.

**2.3 Reimbursement of Rehabilitation and Project Management Costs.** City shall reimburse Subrecipient for Rehabilitation Costs actually disbursed to Eligible Households pursuant to this Agreement and in accordance with the approved Scope of Services. City has agreed to reimburse Subrecipient for administrative costs or expenses incurred by Subrecipient to manage or implement the Program identified in the Scope of Services. Reimbursement of administrative costs shall be limited to 20% of the actual amount of Rehabilitation Costs actually incurred. City's payment obligations shall be limited to the actual amount of Rehabilitation Costs disbursed by the Subrecipient in accordance with the terms of this Agreement, Program Guidelines, Subrecipient's Program Policy and Procedures and the approved Budget.

**2.4 Requests for Payment.** To receive each payment under this agreement, Subrecipient shall submit to the City a written reimbursement request or invoice in a form approved by the City, along with such supporting documentation as may be requested by the City to verify Subrecipient's performance of the Services for which payment is requested. Payments will be adjusted by the City in accordance with fund advances, if any, and program income balances available in Subrecipient accounts.

**2.5 Fiscal Limitations.** The United States of America, through HUD, may in the future place programmatic or fiscal limitations on CDBG Funds not presently anticipated. Accordingly, the City reserves the right to revise this Agreement in order to take account of such actions. In the event of funding reduction, the City may reduce the budget for this Agreement as a whole or may limit the rate by which Subrecipient receives the Subgrant for providing Subrecipient's Services. If HUD directs the City to implement a reduction in funding, the City's Representative may act for the City in implementing and effecting such a reduction and in revising the Agreement for such purpose. Where the City's Representative has reasonable grounds to question the fiscal accountability, financial soundness, or compliance with this Agreement of Subrecipient, the City's Representative may act for the City in suspending the operation of this Agreement for up to sixty (60) days upon three (3) days' notice to Subrecipient of the City's intention to so act, pending an audit or other resolution of such questions.

**2.6 Programs Utilizing Multiple Funding Sources.** For programs in which there are sources of funds in addition to CDBG Funds, Subrecipient shall provide proof of such funding. The City shall not pay for any services provided by Subrecipient which are funded by other sources. All restrictions and/or requirements provided for in this Agreement relative to accounting, budgeting and reporting apply to the total program regardless of funding sources.

**2.7 Use of Subgrant Proceeds.** Subrecipient shall use the Subgrant Proceeds to pay for (i) Salary and Benefits, and (ii) Costs, only and for no other purpose.

**2.8 Use of Federal Funds.** Subrecipient acknowledges and agrees that the Subgrant is funded from CDBG Funds allocated to the City by the United States of America through HUD. Accordingly, Subrecipient hereby provides to the City those covenants set forth in the Covenants Re: Use of Federal Funds.



### **Section 3. Subrecipient's Services.**

**3.1 Scope of Services.** In compliance with all of the terms and conditions of this Agreement, Subrecipient shall provide the Subrecipient's Services, as more fully set forth in the Scope of Services. Subrecipient represents and warrants that all Subrecipient's Services to be provided hereunder shall be performed in a competent, professional and satisfactory manner in accordance with the standards prevalent in the industry for such services.

**3.2 Agreement and Provision of Services Nonexclusive.** Subrecipient acknowledges and agrees that this Agreement and the provision of services hereunder are nonexclusive and that the City may enter into similar agreements with other entities for the provision of similar services.

**3.3 Time for Performance.** Time is of the essence in the performance of this Agreement. Subrecipient shall perform and complete all of Subrecipient's Services in a timely and expeditious manner.

Subrecipient shall not be responsible for delays caused by circumstances beyond its reasonable control, provided that Subrecipient has delivered to the City written notice of the cause of any such delay within ten (10) days of the occurrence of such cause.

**3.4 Subrecipient's Proposal.** The Scope of Services shall include the Subrecipient's proposal or bid, if any, which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

**3.5 Compliance with Law.** Subrecipient's Services shall be provided in accordance with all ordinances, resolutions, statutes, rules, regulations and laws of the City and any Federal, State or local governmental agency of competent jurisdiction.

**3.6 Licenses, Permits, Fees and Assessments.** Subrecipient shall obtain, at Subrecipient's sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of Subrecipient's Services. Subrecipient 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.

**3.7 Nondiscrimination.** Subrecipient agrees not to discriminate against any person or class of persons by reason of sex, color, race, creed, religion, marital status, handicap, ancestry or national origin in its provision of Subrecipient's Services. To the extent this Agreement provides that Subrecipient offer accommodations or services to the public, such accommodations or services shall be offered by Subrecipient to the public on fair and reasonable terms.

**3.8 Familiarity with Work.** By executing this Agreement, Subrecipient represents and warrants that Subrecipient (i) has thoroughly investigated and considered Subrecipient's Services to be performed, (ii) has carefully considered how Subrecipient's Services should be provided and (iii) fully understands the facilities, difficulties and restrictions attending the provision of Subrecipient's Services under this Agreement. Should the Subrecipient discover any latent or unknown conditions materially differing from those inherent in the provision of Subrecipient's Services or as represented by the City, Subrecipient shall immediately inform the City of such fact and shall not proceed except at Subrecipient's risk until written instructions are received from the City.

**3.9 Inspection.** The City and HUD and their agents and representatives shall have the right at any reasonable time to observe the provision of Subrecipient's Services. The City is under no duty to supervise the provision of Subrecipient'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 Subrecipient 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 Subrecipient 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 Subrecipient's Services. Subrecipient shall make or cause to be made such other independent inspections as Subrecipient may desire for Subrecipient's own protection.

**Section 4. Term.** This Agreement shall be for a term (the "Term") commencing on July 1, 2021, and terminating on the Term Expiration Date, subject to earlier termination as provided in Subsection 6.1.4 or Section 7 hereof.

**Section 5. Coordination of Services.**

**5.1 City's Representative.** The City's Representative shall represent the City in all matters pertaining to this Agreement. Whenever a reference is made herein to an action or approval to be undertaken by the City, the City's Representative is authorized to act unless this Agreement specifically provides otherwise or the context should otherwise require.

**5.2 Subrecipient's Representative.** Subrecipient's Representative shall represent the Subrecipient in all matters pertaining to this Agreement. Subrecipient's Representative is authorized to act on Subrecipient's behalf with respect to the services and work to be provided hereunder and make all decisions in connection therewith.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal are a substantial inducement for the City to enter into this Agreement.

Therefore, the foregoing principal shall be responsible during the Term of this Agreement for directing all activities of Subrecipient and devoting sufficient time to personally supervise the provision of Subrecipient's Services hereunder. The foregoing principal may not be changed by Subrecipient and no other personnel may be assigned to supervise the Subrecipient's Services to be provided hereunder without the express written consent of the City.

**5.3 Prohibition Against Subcontracting and Assignments.** Neither the whole nor any interest in, nor any of the rights or privileges granted under this Agreement shall be assignable or transferable or encumbered in any way without the prior written consent of City. Any such purported assignment, transfer, encumbrance, pledge, subuse, or permission given without such consent shall be void as to City. This is a personal services contract and the Subrecipient was chosen on the basis of characteristics unique to the Subrecipient. City shall have the right to unreasonably or arbitrarily withhold its consent to any such assignment, transfer, encumbrance, pledge, subuse, or permission.

**5.4 Independent Contractor.** Subrecipient and any agent or employee of Subrecipient shall act in an independent capacity and not as officers or employees of City. City assumes no liability for Subrecipient's actions and performance, nor assumes responsibility for taxes, bonds, payments, or other commitments, implied, or explicit, by or for Subrecipient. Subrecipient shall not have authority to act as an agent on behalf of City unless specifically authorized to do so in writing. Subrecipient

acknowledges that it is aware that because it is an independent contractor, City is making no deduction from any amount paid to Subrecipient and is not contributing to any fund on its behalf. Subrecipient disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

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

## **Section 6. Insurance and Indemnification.**

**6.1 Insurance.** Without limiting City's right to indemnification, it is agreed that Subrecipient shall secure prior to commencing any activities under this Agreement, and maintain during the Term of this Agreement, insurance coverage as set forth in this Section 6.1.

**6.1.1 Required Insurance Coverage.** Subrecipient shall secure and maintain the following insurance coverage:

- (a) Workers' Compensation Insurance as required by California statutes;
- (b) Comprehensive General Liability Insurance, or Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage, Independent Contractor's Liability and Fire Damage Legal Liability, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form; and
- (c) Comprehensive Automobile Liability coverage, including - as applicable - owned, non-owned and hired autos, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form.

The City's Representative, with the consent of the City's Risk Manager, is hereby authorized to reduce the requirements set forth above in the event they determine that such reduction is in City's best interest.

**6.1.2 Required Clauses in Policies.** Each policy of general liability and automobile insurance required by this Agreement shall contain the following clauses:

"Written notice of cancellation shall be delivered to the Economic and Housing Development Department of the City of San Bernardino, 290 North D Street, San Bernardino, CA 92401-1734 in accordance with the policy provisions."

"It is agreed that any insurance maintained by the City of San Bernardino shall apply in excess of and not contribute with insurance provided by this policy."

“The City of San Bernardino, its officials, agents, employees, representative, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of San Bernardino.”

Subrecipient hereby agrees to waive subrogation which any insurer of the Subrecipient may acquire from the Subrecipient by virtue of the payment of any loss. If requested by City, Subrecipient agrees to obtain and deliver to City an endorsement from Subrecipient’s general liability and automobile insurance insurer(s) to effect this waiver of subrogation.

The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the subrecipient, its employees and subcontractors.

**6.1.3 Required Certificates and Endorsements.** Prior to commencement of any work under this Agreement, the Subrecipient shall deliver to City (i) insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above and (ii) endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Such endorsements shall be signed by an authorized representative of the insurance company and shall include the signator’s company affiliation and title. Should it be deemed necessary by City, it shall be the Subrecipient’s responsibility to see that City receives documentation, acceptable to City, which sustains that the individual signing such endorsements is indeed authorized to do so by the insurance company. Also, City reserves the right at any time to demand, and to receive within a reasonable time period, certified copies of any insurance policies required under this Agreement, including endorsements effecting the coverage required by these specifications.

**6.1.4 Remedies for Defaults Re: Insurance.** In addition to any other remedies City may have if the Subrecipient fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

- (a) Obtain such insurance and deduct and retain the amount of the premium for such insurance from any sums due under this Agreement;
- (b) Order the Subrecipient to stop work under this Agreement and/or withhold any payment(s) which become due to the Subrecipient hereunder until the Subrecipient demonstrates compliance with the requirements hereof;
- (c) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies City may have and is not the exclusive remedy for the Subrecipient’s failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which the Subrecipient may be held responsible for payment of damages to persons or property resulting from the Subrecipient’s or its subcontractor’s performance of Subrecipient’s Services under this Agreement.

**6.2 Indemnification.** As respects acts, errors or omissions in the performance of Subrecipient’s Services under this Agreement, the Subrecipient agrees to indemnify and hold harmless

the City, its officers, agents, employees, representatives and volunteers from and against any and all claims, demands, defense costs, liability or consequential damages of any kind or nature arising directly out of the Subrecipient's acts, errors or omissions in the performance of Subrecipient's Services under the terms of this Agreement.

## **Section 7. Enforcement of Agreement.**

**7.1 Events of Default.** For purposes of this Section 7, the word "Default" shall mean the failure of Subrecipient to perform any of Subrecipient's duties or obligations or the breach by Subrecipient of any of the terms and conditions set forth in this Agreement. In addition, Subrecipient shall be deemed to be in Default upon Subrecipient's (i) application for, consent to, or suffering of, the appointment of a receiver, trustee or liquidator for all or a substantial portion of its assets, (ii) making a general assignment for the benefit of creditors, (iii) being adjudged bankrupt, (iv) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization or insolvency law (unless in the case of an involuntary petition, the same is dismissed within thirty (30) days of such filing) or (v) suffering or permitting to continue unstayed and in effect for fifteen (15) consecutive days any attachment, levy, execution or seizure of all or a substantial portion of Subrecipient's assets or of Subrecipient's interests hereunder.

City shall not be deemed to be in Default in the performance of any obligation required to be performed by City hereunder unless and until City has failed to perform such obligation for a period of thirty (30) days after receipt of written notice from Subrecipient specifying in reasonable detail the nature and extent of any such failure; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for its performance, then City shall not be deemed to be in Default if City shall commence to cure such performance within such thirty (30) day period and thereafter diligently prosecute the same to completion.

**7.2 Immediate Termination for Subrecipient's Default.** In the event of any Default by Subrecipient, City may immediately terminate this Agreement. Such termination shall be effective immediately upon receipt by Subrecipient of written notice from City. In such event, Subrecipient shall have no further rights hereunder; City shall have all other rights and remedies as provided by law.

**7.3 Termination Without Cause.** Either City or Subrecipient may terminate this Agreement at any time without the necessity of cause or Default by the other Party by giving thirty (30) days' notice in writing to the other Party. In such event, the Parties shall have no further rights hereunder, except that Subrecipient shall be paid for Subrecipient's Services rendered and completed prior to such termination.

**7.4 Attorneys' Fees.** City and Subrecipient agree that in the event of litigation to enforce this Agreement or terms, provisions and conditions contained herein, to terminate this Agreement, or to collect damages for a Default hereunder, the prevailing party shall be entitled to all costs and expenses, including reasonable attorneys' fees, incurred in connection with such litigation.

## **Section 8. Use and Ownership of Documents and Data.**

**8.1 Data to be Furnished by City.** City shall furnish to Subrecipient such documents and materials as may be relevant and pertinent to the provision of services hereunder as City may possess or acquire.

**8.2 Ownership of Documents.** All documents and materials furnished by the City to Subrecipient pursuant to Section 8.1 hereof shall remain the property of the City and shall be returned to the City upon termination of this Agreement. All documents and materials prepared by Subrecipient hereunder shall become the property of the City at the time of payment to Subrecipient of all fees and expenses for their preparation, and shall be delivered to the City by Subrecipient at the request of the City. The documents and materials prepared by Subrecipient hereunder shall not be used by the City or others, except for the purpose for which they were intended. The City agrees not to associate Subrecipient's name with any documents or materials not prepared by Subrecipient.

## **Section 9. Records, Reports and Audits.**

**9.1 Records and Reports.** Subrecipient shall prepare and submit financial, program progress, monitoring, evaluation, personnel, property and financial records and other reports on a quarterly basis and in the format acceptable to the City to assure proper accounting of all CDBG Funds. Subrecipient shall furnish such information which, in the judgment of the City's Representative, may be relevant to questions of compliance with contractual conditions hereunder or granting agency directives, or with the effectiveness, legality and goals of the CDBG Program.

**9.2 Monitoring.** The City may conduct periodic program monitoring reviews. These reviews will focus on the extent to which the planned program has been implemented and measurable goals achieved, effectiveness of program management, and impact of the program. Authorized representatives of the City and HUD shall have the right of access to all activities and facilities operated by Subrecipient in connection with this Agreement. Facilities include all files, records, and other documents related to the performance of this Agreement. Activities include attendance at all pertinent staff, board of directors, advisory committee, and advisory board meetings and inspection by the City and HUD. Subrecipient shall ensure that its employees and board members furnish such information as, in the judgment of the City and HUD may be relevant to the question of compliance with contractual conditions and HUD directives, or the effectiveness, legality, and achievements of the CDBG Program.

## **Section 10. Miscellaneous Provisions.**

**10.1 Waiver.** Inaction by City or Subrecipient with respect to a Default hereunder shall not be deemed to be a waiver of such Default. The waiver by either City or Subrecipient of any Default hereunder shall not be deemed to be a waiver of any subsequent Default.

**10.2 Notices.** All notices, demands or other writings to be made, given or sent hereunder, or which may be so given or made or sent by either City or Subrecipient to the other shall be deemed to have been given when in writing and personally delivered or if mailed on the third (3rd) day after being deposited in the United States mail, certified or registered, postage prepaid, and addressed to the respective Parties at the following addresses:

If to City:	Community and Economic Development Department City of San Bernardino 290 North D Street San Bernardino, California 92401-1734 Attention: Housing Manager
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To Subrecipient:

Asociación de Emprendedor@s  
2400 E. Katella Ave. Suite 800, Anaheim, CA 92806  
Attention: Monica Robles  
Telephone No. (714) 627-2671  
FAX No. 714-627-2401

**10.3 Relationship of Parties.** Nothing contained herein shall be deemed or construed by the Parties, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the Parties, it being understood and agreed that Subrecipient is and will be at all times an independent contractor pursuant to this Agreement and shall not, in any way, be considered to be an officer, agent or employee of the City.

**10.4 No Third Party Rights.** The Parties intend that no rights nor remedies be granted to any third party as a beneficiary of this Agreement or of any covenant, duty, obligation or undertaking established herein.

**10.5 Non-Liability of Members, Officials and Employees of the City.** No member, official or employee of the City shall be personally liable to Subrecipient, or any successor in interest, in the event of any Default or breach by the City or for any amount which may become due to Subrecipient or Subrecipient's successors, or on any obligation under the terms of this Agreement. Subrecipient hereby waives and releases any claim Subrecipient may have against the members, officials or employees of the City with respect to any Default or breach by City or for any amount which may become due to Subrecipient or Subrecipient's successors, or any obligations under the terms of this Agreement. Subrecipient makes such release with the full knowledge of Civil Code Section 1542 and hereby waives any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. Section 1542 of the Civil Code provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

**10.6 Controlling Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

**10.7 Time of the Essence.** Time is hereby expressly declared to be the essence of this Agreement and of each and every Will, covenant and condition hereof which relates to a date or a period of time.

**10.8 Remedies Cumulative.** The remedies given to City and Subrecipient herein shall be cumulative and are given without impairing any other rights given City or Subrecipient by statute or law now existing or hereafter enacted and the exercise on any one (1) remedy by City or Subrecipient shall not exclude the exercise of any other remedy.

**10.9 Effect of Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of its terms and provisions to persons and circumstances other

than those to which it has been held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**10.10 Successors and Assigns.** This Agreement and the covenants and conditions contained herein shall be binding upon and inure to the benefit of and shall apply to the successors and assigns of City and to the permitted successors and assigns of Subrecipient, and all references to “City” or “Subrecipient” shall be deemed to refer to and include all permitted successors and assigns of such Party.

**10.11 Entire Agreement.** This Agreement and the exhibits hereto contain the entire agreement of the City and the Subrecipient with respect to the matters covered hereby, and no agreement, statement or promise made by either City or Subrecipient which is not contained herein, shall be valid or binding. No prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended, modified or added except by an agreement in writing signed by City and Subrecipient.

**10.12 Authority.** Each individual executing this Agreement on behalf of a corporation, nonprofit corporation, partnership or other entity or organization, represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity or organization and that this Agreement is binding upon the same in accordance with its terms. Subrecipient shall, at City’s request, deliver a certified copy of its governing board’s resolution or certificate authorizing or evidencing such execution.

**10.13 Conflicts of Interest.** No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

**10.14 Time for Acceptance of Agreement by City.** This Agreement, when executed by Subrecipient and delivered to City, must be authorized, executed and delivered by the City on or before forty-five (45) days after the execution and delivery by Subrecipient or this Agreement shall be void, except to the extent that Subrecipient and City shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

*(Remainder of page intentionally left blank; signatures on next page)*



IN WITNESS WHEREOF, THE CITY AND THE SUBRECIPIENT HAVE  
EXECUTED THIS AGREEMENT AS OF THE RESPECTIVE DATES SET FORTH BELOW.

**"CITY"**

**CITY OF SAN BERNARDINO,**  
a municipal corporation and charter city

Dated: 9/30/2021

By:   
Robert D. Field  
City Manager

**APPROVED AS TO FORM:**

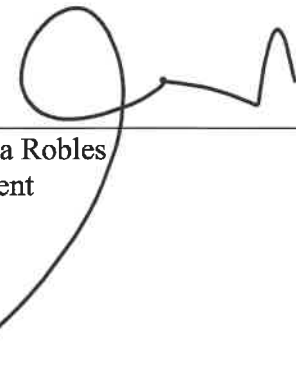
[OFFICE OF THE CITY ATTORNEY]

By: 

**"SUBRECIPIENT"**

**Asociación de Emprendedor@s,** a [California  
corporation]

Dated: 09/16/2021

By:   
Monica Robles  
President

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Bernardino

On September 30, 2021 before me, Amory Arnette, Notary Public  
(insert name and title of the officer)

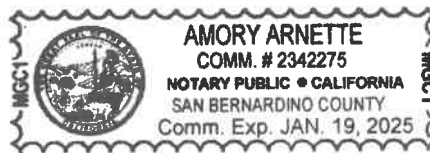
personally appeared Robert D. Field,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



## EXHIBIT A

### SCOPE OF SERVICES

**Subrecipient:** Asociación de Emprendedor@s

**CDBG Activity:** Emprendedor@s Program

**Description of activity to be undertaken:**

#### **Emprendedor@s Program**

Emprendedor@s Program is an 8-week entrepreneurship academy, taught in Spanish for current and aspiring low income entrepreneurs courses cover different topics including: defining business product, service or idea, business structures, required registration, marketing, sales, leadership, business plan development, funding options, human resources and professional image.

**Eligible activity citation and regulatory language:** 24 CFR 570.201 (O)

**National Objective:** Income Limited Clientele

**Performance Goals and Timelines:**

#### Emprendedor@s Program 2021 - 2022 Dates:

Title	Day of wk	Kickoff Date	Last Day of Class Date	Graduation Date	Time
<a href="#">Emprendedor@s Program Basic</a>	Tuesday	10/5/2021	11/23/2021	11/30/2021	10:00 pm to 12:00 pm
<a href="#">Emprendedor@s Program 2.0</a>	Tuesday	1/25/2022	3/15/2022	3/22/2022	5:00 pm to 7:00 pm
<a href="#">Emprendedor@s Program Basic</a>	Monday	5/2/2022	6/20/2022	6/27/2022	5:00 pm to 7:00 pm
<a href="#">Emprendedor@s Program Basic</a>	Wenesday	4/6/2022	5/18/2022	5/25/2022	10:00 am to 12:00 pm

**Performance Goal:** new entrepreneurs 2021-2022

**Timeframe for Completion of Performance Goal:** See above table.

**EXHIBIT B**

**BUDGET**

**(Behind this sheet)**

## **EXHIBIT B**

### **BUDGET**

Total Project Cost

- a. [Cost Category]: 280 hours / \$ 35,000.
- b. Administrative Reimbursement: (per Section 2.3)

Total: \$35,000.00

## **EXHIBIT C**

### **COVENANTS RE: USE OF FEDERAL FUNDS**

Subrecipient acknowledges and agrees that the Subgrant is funded from CDBG Funds allocated to City by the United States of America. Accordingly, Subrecipient covenants and agrees as follows:

**Section 1. Compliance With Law.** Subrecipient hereby covenants and agrees that it has complied and will continue to comply with the Housing and Community Development Act of 1974 (the "Housing and Community Development Act"), and all applicable Federal, state and local laws, ordinances, regulations, policies, guidelines, and requirements as they relate to acceptance and use of Federal funds for this federally-assisted program. This Agreement is subject to all such laws, ordinances, regulations, policies, and guidelines, including, without limitation, the Housing and Community Development Act; 24 CFR Part 85; 24 CFR Part 570; and 2 C.F.R. Part 200.

**Section 2. Civil Rights Act.** Subrecipient shall comply with the Civil Rights Act of 1964, as amended, and all regulations applicable thereto.

**Section 3. Non-Discrimination and Equal Opportunity.** Subrecipient shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, age, national origin, or ancestry. Subrecipient shall comply with the following:

- (A) The requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 C.F.R. Part 100; Executive Order 11063 and implementing regulations at 24 C.F.R. Part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) and implementing regulations issued at 24 C.F.R. Part 1.
- (B) The prohibitions against discrimination on the basis of age under the Age discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 C.F.R. Part 146 and the prohibitions against discrimination against otherwise qualified individuals with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 C.F.R. Part 8. For purposes of the CDBG program, the term "dwelling units" in 24 C.F.R. Part 8 shall include sleeping accommodations.
- (C) The requirements of Executive Order 11246 and the regulations issued under the Order at 41 C.F.R. chapter 60.
- (D) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, Subrecipient must make efforts to encourage minority and women's business enterprises in connection with activities funded under this Agreement.
- (E) The requirement that Subrecipient make known that use of the facilities and services is available to all on a nondiscriminatory basis. Where the procedures that Subrecipient intends to use to make known the availability of such facilities and services are unlikely to reach persons with disabilities or persons of any particular race, color, religion, sex, age or national origin within Subrecipient's

service area who may qualify for them, Subrecipient must establish additional procedures that will ensure that these persons are made aware of the facilities and services. Subrecipient must also adopt and implement procedures designed to make available to interested persons information concerning the existence and location of services and facilities that are accessible to persons with a disability.

**Section 4. Americans with Disabilities.** Subrecipient shall not discriminate against handicapped persons in the provision of the Services and shall provide accessibility for handicapped persons to the Services provided under this Agreement. Subrecipient shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 and implementing regulations (28 C.F.R. Parts 35-36), in order to provide handicapped accessibility to the extent readily achievable.

**Section 5. Training and Employment Opportunities; Section 3 Requirements.** Subrecipient acknowledges that the work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the U.S. Department of Housing and Urban Development (the "Department"), and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u ("Section 3"). Section 3 requires, that to the greatest extent feasible, opportunities for training and employment be given to lower income residents and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the area of the project. Subrecipient shall comply with the provisions of Section 3 and the regulations issued pursuant thereto by the U.S. Secretary of Housing and Urban Development as set forth in 24 C.F.R. Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement.

**5.1 Notice to Labor Organizations.** Subrecipient shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising such labor organization or workers' representative of its commitments under the Section 3 clause (set forth in Section 5.2 of this Exhibit) and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

**5.2 Include in Subcontracts.** Subrecipient shall include a Section 3 clause in every subcontract for work in connection with the project and shall, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. Subrecipient shall not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and shall not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of said regulations.

**5.3 Sanctions.** Compliance with the provisions of Section 3, the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject Subrecipient, its

subcontractors, its successors, and assigns to those sanctions as are specified by 24 C.F.R. Part 135.

**Section 6. Conflicts of Interest.** In addition to the conflict of interest requirements in 2 C.F.R. Part 200, no person:

- (A) who (i) is an employee, agent, consultant, officer, or elected or appointed official of Subrecipient, a State recipient, or a nonprofit recipient (or of any designated public agency) that receives CDBG Subgrant amounts and (ii) exercises or has exercised any functions or responsibilities with respect to assisted activities, or
- (B) who is in a position to participate in a decision making process or gain inside information with regard to such activities, shall obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in 24 C.F.R. Section 570.611 (d) and (e).

**Section 7. Certification Regarding Lobbying.** Subrecipient certifies, to the best of its knowledge and belief, that:

- (A) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (B) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (C) Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements), and that all Subrecipient's shall certify and disclose accordingly.

**Section 8. Drug Free Workplace.**

**8.1 Certification.** Subrecipient hereby certifies to City that Subrecipient will provide a drug-free workplace by:



- (A) publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (B) establishing a drug-free awareness program to inform employees about:
  - (i) the dangers of drug abuse in the workplace;
  - (ii) Subrecipient's policy of maintaining a drug-free workplace;
  - (iii) any available drug counseling, rehabilitation, and employee assistance program; and
  - (iv) the penalties that may be imposed upon employees for drug abuse violations;
- (C) making it a requirement that each employee to be engaged in the performance of Services under this Agreement be given a copy of the statement required by subparagraph (a);
- (D) notifying the employee in the statement required by subparagraph (a), that as a condition of employment, the employee will:
  - (i) abide by the terms of this statement; and
  - (ii) notify Subrecipient of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (E) notifying City within ten (10) days after receiving notice of a conviction under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction;
- (F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. 703; and
- (G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (a), (b), (c), (d), (e), and (f).

**8.2 Suspension.** Subrecipient acknowledges and agrees that this Agreement shall be subject to suspension of payment or termination, or both, and Subrecipient shall be subject to suspension or debarment if the Executive Director of City or her official designee determines, in writing, that:

- (A) Subrecipient has made false certification under Section 8.1;

- (B) Subrecipient violates such certification by failing to carry out the requirements of subparagraphs (a), (b), (c), (d), (e), (f) or (g) of Section 8.1, or
- (C) such a number of Subrecipient's employees have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that Subrecipient has failed to make a good faith effort to provide a drug-free workplace as required by Section 8.

**Section 9. Use of Debarred, Suspended or Ineligible Contractors.** Subrecipient shall comply with the provisions of 24 C.F.R. Part 24 relating to the prohibition on employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

**Section 10. Lead-Based Paint.** Subrecipient shall comply with the requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (43 U.S.C. 4821-4846) and implementing regulations at 24 C.F.R. Part 34. In addition, Subrecipient must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

- (A) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this Agreement.
- (B) Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

**Section 11. Beneficiary Qualification.** Subrecipient covenants and agrees that one hundred percent (100%) of the beneficiaries of the Services will be low income persons or households. Under CDBG regulations, the following clientele categories are presumed to be low income persons and can qualify for service regardless of income: abused children, battered spouses, illiterate persons, and migrant farm workers. Beneficiaries qualifying on the basis of income shall have an annual income equal to or less than HUD Section 8 (of the United States Housing Act of 1937) Income Limits. HUD Section 8 Income Limits for the City PMSA define the maximum family income for low income households. Subrecipient is responsible for obtaining from City current applicable HUD Section 8 Income Limits for the Term of this Agreement.

**Section 12. Flood Insurance.** No site proposed on which renovation, major rehabilitation, or conversion of a building is to be assisted under this Agreement, other than by grant amounts allocated to States under 24 C.F.R. Section 576.43, shall be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- (A) either (i) the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 C.F.R. parts 59 through 79) or (ii) less than a year has passed since FEMA notification regarding such hazards.
- (B) Subrecipient will ensure that flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.).

**Section 13. Coastal Barriers.** Subrecipient shall comply with the Coastal Barrier Resources Act, 16 U.S.C. 3501, which provides that no financial assistance under this Agreement may be made available within the Coastal Barrier Resources System.

**Section 14. Religious and Political Activities.** Subrecipient agrees that Subgrant Proceeds shall be used exclusively for performance of the work required under this Agreement, and that no funds made available under this Agreement shall be used to promote religious or political activities. Further, Subrecipient agrees that it will not perform, nor permit to be performed, any religious or political activities in connection with the performance of this Agreement.

**14.1 Primarily Religious Organizations.** If Subrecipient is a primarily religious organization, Subrecipient agrees that Subrecipient shall provide shelter and the Services in a manner that is free from religious influences and in accordance with the following principles:

- (A) Subrecipient shall not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion.
- (B) Subrecipient shall not discriminate against any person applying for shelter or any of the Services on the basis of religion and shall not limit such housing or Services or give preference to persons on the basis of religion.
- (C) Subrecipient shall (i) provide no religious instruction or counseling, (ii) conduct no religious workshop or services, (iii) engage in no religious proselytizing, and (iv) exert no other religious influence in the provision of shelter or the Services.

**14.2 Wholly Secular Private Nonprofit Organizations Established by a Primarily Religious Organizations.** If Subrecipient is a wholly secular private nonprofit organization established by a primarily religious organization, Subrecipient shall provide the Services in a manner that is free from religious influences and in accordance with the principles set forth in Section 14.1.

If Subrecipient elects to enter into a contract with the religious organization to provide shelter or the Services, the religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in Section 14.1.

**Section 15. Reversion of Assets.** Upon the expiration or termination of this Agreement, Subrecipient shall transfer to City any CDBG Funds on hand and any accounts receivable attributable to the use of CDBG Funds. If at the time of the expiration or termination of this Agreement there is under the control of Subrecipient any real property that was acquired or improved in whole or in part with CDBG Funds in excess of Twenty-Five Thousand Dollars (\$25,000), then such real property shall either be:

- (A) used to meet one (1) or more of the national objectives set forth in 24 C.F.R. §570.208 for not less than five (5) years after the date of expiration or termination of this Agreement, or such longer period of time as determined appropriate by City; or

- (B) disposed of, within five (5) years after the date of expiration or termination of this Agreement, in a manner which results in City being reimbursed in the amount of the then current fair market value of said real property less any portion thereof attributable to expenditure of non-CDBG funds for said acquisition or improvement.

**Section 16. Program Income.** Any Program Income received by Subrecipient shall be returned to City. Any Program Income on hand when this Agreement expires or received after the expiration of this Agreement shall be paid to City as required by 24 C.F.R. 570.503(8).

**Section 17. No Disability.** Subrecipient certifies and agrees that it is under no contractual or other disability which would prevent it from complying with all pertinent laws and regulations.

**Section 18. Patents and Copyrights.** Subrecipient acknowledges and agrees that HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- (A) The copyright in any work developed under the Subgrant or this Agreement;
- (B) Any rights of copyright to which Subrecipient purchases ownership with Subgrant Proceeds;
- (C) The patent for any invention developed under the Subgrant or this Agreement; and
- (D) Any rights in any patent to which Subrecipient purchases ownership with Subgrant Proceeds.

**Section 19. Records, Reporting and Monitoring.**

**19.1 Records and Reports.** Subrecipient shall prepare and submit financial, program progress, monitoring, evaluation, personnel, property and financial records and other reports as required by City and in the format acceptable to City to assure proper accounting of all Federal and non-Federal project funds. Subrecipient shall furnish such information which, in the judgment of City's Representative, may be relevant to questions of compliance with contractual conditions hereunder or granting agency directives, or with the effectiveness, legality and goals of the program. Subrecipient will establish a record keeping system which is consistent with Title 24 Code of Federal Regulations Sections 570.110. Such records shall be maintained and available to City for at least three (3) years following the completion of the program, at a minimum, and in the event of litigation, claim, or audit, the records shall be retained until all litigation, claims, and audit findings involving the records have been fully resolved.

Subrecipient will submit quarterly reports to City specifying Program Income earned. Each report shall contain, or be accompanied by, an itemized statement showing all information required by City, including, without limitation:

- (A) The amount expended or incurred by Subrecipient and due and payable for the Subrecipient's Services for such reporting quarter.

- (B) The revenue generated by Subrecipient and the source of such revenue for each reporting quarter.
- (C) A statement showing for each reporting quarter: (i) a description of each of the Clients serviced, (ii) the number of the Clients receiving shelter at the Shelters, (iii) the type of counseling session conducted, the number of each type of counseling sessions conducted, and the number of the Clients attending each such counseling session, (iv) the type of educational sessions conducted, the number of each type of educational session conducted, and the number of the Clients attending each such educational session, and (v) a quarterly narrative which specifies any additional services provided.

The quarterly report for the last quarter of the fiscal year ending June 30, 2022, shall also include Subrecipient's financial statement for the immediately preceding year, accompanied by an annual audit report of Subrecipient's financial statement for the immediately preceding year.

Each report shall be certified as complete and correct by the executive director of Subrecipient.

**19.2 Monitoring.** City will conduct periodic program monitoring reviews. These reviews will focus on the extent to which the planned program has been implemented and measurable goals achieved, effectiveness of program management, and impact of the program. Authorized representatives of City and HUD shall have the right of access to all activities and facilities operated by Subrecipient under this Agreement. Facilities include all files, records, and other documents related to the performance of this Agreement. Activities include attendance at staff, board of directors, advisory committee, and advisory board meetings and inspection by City and HUD representatives. Subrecipient shall ensure that its employees and board members furnish such information as, in the judgment of City and HUD representatives, may be relevant to the question of compliance with contractual conditions and HUD directives, or the effectiveness, legality, and achievements of the program.

**19.3 Accounting.** Subrecipient shall establish, and maintain on a current basis, an adequate accrual and accounting system in accordance with generally accepted accounting principles and standards.

**19.4 Audits.** Subrecipient is required to arrange for an independent financial and compliance audit annually for each fiscal year Federal funds are received under this Agreement. Audits must be in compliance with C.F.R. 2 Part 200. An audit may be conducted by Federal, State, or local funding source agencies as part of City's audit responsibilities. The results of the independent audit must be submitted to City within thirty (30) days of completion. Within thirty (30) days of the submittal of said audit report, Subrecipient shall provide a written response to all conditions of findings reported in said audit report. The response must examine each condition or finding and explain a proposed resolution, including a schedule for correcting any deficiency. All conditions or finding corrective actions shall take place within six (6) months after receipt of the audit report. City and its authorized representatives shall at all times have access for the purpose of audit or inspection to any and all books, documents, papers, records, property, and premises of Subrecipient. Subrecipient staff will cooperate fully with authorized auditors when they conduct audits and examinations of Subrecipient's program.

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

Subrecipient agrees that in the event the program established hereunder is subjected to audit exceptions by appropriate federal audit agencies, it shall be responsible for complying with such exceptions and paying City the full amount of City's liability to the funding agency resulting from such audit exceptions.

**19.5 Confidentiality of Records.** Subrecipient shall adhere to the requirement of the National Affordable Housing Act (Pub. L.101-625, November 28, 1990) contained in Section 832(e)(2)(c) that grantees (i) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted" under the CDBG Program and (ii) that the address or location of any family violence shelter project assisted under the CDBG Program will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

## **Section 20. Property Acquisition During Term.**

**20.1 Non-Expendable Property.** A record shall be maintained by Subrecipient for each item of non-expendable property acquired for this program with Subgrant Proceeds. This record shall be provided to City as well as being available for inspection and audit upon the request of City. Non-expendable property means tangible personal property having a useful life of more than one (1) year and an acquisition cost of Three Hundred Dollars (\$300.00) or more per unit. Subrecipient shall not purchase or agree to purchase non-expendable property without the prior written approval of City. Upon completion or early termination of this Agreement, City reserves the right to determine the final disposition of such non-expendable property in compliance with applicable laws and regulations. Such disposition may include, but is not limited to, City taking possession of such non-expendable property.

**20.2 Expendable Property.** Expendable property refers to all tangible personal property other than non-expendable personal property. Subrecipient shall not purchase or agree to purchase expendable personal property at a cost of Three Hundred Dollars (\$300.00) or more per unit without the prior written approval of City.

**20.3 Purchase or Lease of Non-Expendable Property or Equipment.** Subrecipient shall obtain three documented bids prior to purchasing or leasing any non-expendable property or equipment over Three Hundred Dollars (\$300.00) in unit value. Subrecipient shall purchase or lease from the lowest responsive and responsible bidder. All equipment that has a purchase or lease price of over Fifty Dollars (\$50.00) in unit-value and life expectancy of more than one (1) year shall be properly identified and inventoried and shall be charged at its actual price. Such inventory shall be provided to City as well as being available for inspection and audit upon the request of City.

**Section 21. Travel and Conference Restrictions.** Subrecipient covenants and agrees that travel and conference expenses will not be paid for by funds provided through this Agreement.

**Section 22. Privacy.** Subrecipient agrees and shall ensure that no information about or obtained from any person receiving services hereunder shall be voluntarily disclosed in any form identifiable with such person without first obtaining the written consent of such person.

## **EXHIBIT D**

### **DEFINITION OF PROGRAM**

#### **INCOME**

“Program Income” means gross income received by the recipient or a subrecipient directly generated from the use of CDBG Funds. When such income is generated by an activity that is only partially assisted with CDBG Funds, the income shall be prorated to reflect the percentage of CDBG Funds used.

Program income includes, but is not limited to the following:

- (a) Proceeds from the disposition by sale or long term lease of real property purchased or improved with CDBG Funds;
- (b) Proceeds from the disposition of equipment purchased with CDBG Funds;
- (c) Gross income from the use or rental of real or personal property acquired by the recipient or a sub-recipient with CDBG Funds, less the costs incidental to the generation of such income;
- (d) Gross income from the use or rental of real property owned by the recipient or a sub-recipient that was constructed or improved with CDBG Funds, less the costs incidental to the generation of such income;
- (e) Payment of principal and interest on loans made using CDBG Funds;
- (f) Proceeds from the sale of loans made with CDBG Funds;
- (g) Proceeds from the sale of obligations secured by loans made with CDBG Funds;
- (h) Interest earned on funds held in a revolving fund account;
- (i) Interest earned on program income pending disposition of such income; and
- (j) Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where such assessments are used to recover all or part of the CDBG portion of a public improvement.

Program income does not include interest earned (except for interest described in 570.513) on cash advances from the U.S. Treasury. Such interest shall be remitted to HUD for transmittal to the U.S. Treasury and will not be reallocated under section 106 or (d) of the Act. Examples of other receipts that are not considered program income are proceeds from fund-raising activities carried out by sub-recipients receiving CDBG assistance; funds collected through special assessments used to recover the non-CDBG portion of a public improvement; and proceeds from the disposition of real property acquired or improved with CDBG Funds when such disposition occurs after the applicable



time period specified in 570.503(b)(8) for sub-recipient controlled property or 570.505 from recipient controlled property.