

1 **SAMPLE AGREEMENT**

2 **[NAME OF APPLICANT]**  
3 **HOMELESS EMERGENCY AID PROGRAM (HEAP)**

4 This AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and  
5 between the **COUNTY OF IMPERIAL** (“COUNTY” or “GRANTOR”), a political subdivision of the  
6 State of California, through its Department of Social Services (“DSS”), and the **[NAME OF**  
7 **APPLICANT]** (“GRANTEE”); (individually, “Party;” collectively, “Parties”), shall be as follows:

8 **RECITALS**

9 **WHEREAS**, Pursuant Chapter 5 (commencing with Section 50210) of Part 1 of Division 31 of  
10 the Health and Safety Code, and all relevant provisions under SB 850 (Chapter 48, Statutes of 2018), the  
11 State of California established the Homeless Emergency Aid Program (“HEAP” or “Program”). The  
12 general purpose of the Program is to provide grant funding to address the immediate emergency needs of  
13 homeless individuals and individuals at imminent risk of homelessness within California; and

14 **WHEREAS**, on January 3, 2019, the Imperial County Continuum of Care (“CoC”), through its  
15 collaborative applicant, COUNTY, was awarded a HEAP grant in the amount of \$4,859,411.07 for use  
16 in the Imperial CoC region (as further described in Standard Agreement No. 18-HEAP-00020 attached  
17 hereto and incorporated herein as **Exhibit A**); and

18 **WHEREAS**, Per Program requirements, Program grant funds must be contractually obligated  
19 and all work shall be completed by 2021; and

20 **WHEREAS**, COUNTY desires to engage [NAME OF APPLICANT] to provide the services on  
21 the terms and in the manner described herein due to [NAME OF APPLICANT]’s qualifications and  
22 experience for providing such services, and this AGREEMENT specifies the responsibilities between  
23 the Parties in providing services under the Program.

24 **NOW, THEREFORE**, in consideration of their mutual covenants, the Parties have and hereby  
25 agree to the following:

26 **1. RELATIONSHIP OF PARTIES.**

27 It is expressly understood that in all situations and circumstances arising out of the terms and  
28 conditions of this AGREEMENT, no agency, employee, partnership, joint venture or other

1 relationship is established. The Parties shall not have any authority, express or implied, to act on  
2 behalf of, bind, or obligate the other Party in any way without prior written consent.

3 **2. DEFINITIONS.**

4 **2.1.** “Request for Proposal” or “RFP” shall mean that document that describes the purpose and  
5 Program requirements to prospective applicants entitled, “Imperial County Department of  
6 Social Services Request for Proposals for the Imperial Valley Continuum of Care Council  
7 California Homeless Emergency Aid Program (HEAP) Funded Projects,” dated March 29,  
8 2019. The Request for Proposal is attached hereto as **Exhibit “B”** and incorporated herein  
9 by this reference.

10 **2.2.** “Proposal” shall mean [NAME OF APPLICANT]’s document entitled, “[TITLE],” dated  
11 [DATE], 2019 and submitted to DSS. The Proposal is attached hereto as **Exhibit “C”** and  
12 incorporated herein this by reference.

13 **3. TERM.**

14 **3.1** The term of this AGREEMENT shall be from \_\_\_\_\_, 2019 through June 30, 2021,  
15 unless otherwise modified or terminated as provided for herein.

16 **3.2** The Parties agree that time is of the essence as it relates to the terms and conditions of  
17 this AGREEMENT.

18 **4. CONTRACT COORDINATION.**

19 **4.1.** The Imperial County Department of Social Services – Homeless Programs Manager, or  
20 his/her designee, shall be the representative of COUNTY for all purposes under this  
21 Agreement. The Manager, or his/her designee, is hereby designated as the Contract  
22 Manager for COUNTY and shall supervise the progress and execution of this Agreement.

23 **4.2.** [NAME OF APPLICANT] shall assign a single Contract Manager to have overall  
24 responsibility for the progress and execution of this Agreement. Should circumstances or  
25 conditions subsequent to the execution of this Agreement require a substitute Contract  
26 Manager for any reason, the Contract Manager designee shall be subject to the prior written  
27 acceptance and approval of COUNTY’s Contract Manager.

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1 **5. DESCRIPTION OF WORK.**

2 GRANTEE shall provide all materials and labor to perform this Agreement consistent with the State  
3 of California Standard Agreement (No. 18-HEAP-00020), the RFP, and the Proposal, as set forth in  
4 **Exhibits A, B, and C**, respectively. In the event of a conflict amongst this AGREEMENT, the Standard  
5 Agreement, the RFP, and the Proposal, the RFP shall take precedence over the Proposal, this Agreement  
6 shall take precedence over the RFP and Proposal, and the Standard Agreement shall take precedence over  
7 all.

8 **6. RESPONSIBILITIES OF PARTIES.**

9 **6.1** COUNTY shall fund the Program as budgeted from its State of California allocations.

10 **6.2** [NAME OF APPLICANT] shall administer its project in accordance with the conditions  
11 of COUNTY's agreement with the State of California (attached hereto as **Exhibit A**), and  
12 any applicable State requirements governing the use of HEAP funds.

13 **6.3** [NAME OF APPLICANT] shall ensure compliance with all ordinances, regulations,  
14 statutes, and applicable laws to the services provided under this AGREEMENT.

15 **7. RESPONSIBILITIES OF GRANTEE.**

16 **7.1** GRANTEE shall:

17 **7.1.1.** Procure all permits and licenses, pay all charges and fees, and give all notices that  
18 may be necessary and incidental to the due and lawful prosecution of the services  
19 to be performed by GRANTEE under this AGREEMENT;

20 **7.1.2.** Keep itself fully informed of all existing and proposed federal, state and local laws,  
21 ordinances, regulations, orders and decrees which may affect those engaged or  
22 employed under this AGREEMENT;

23 **7.1.3.** At all times observe and comply with, and cause all of its employees to observe and  
24 comply with all of said laws, ordinances, regulations, orders and decrees mentioned  
25 above; and

26 **7.1.4.** Immediately report to COUNTY's Contract Manager in writing any discrepancy  
27 or inconsistency it discovers in said laws, ordinances, regulations, orders and  
28 decrees mentioned above in relation to any plans, drawings, specifications or

1 provisions of this AGREEMENT.

2 **7.2** GRANTEE will also provide client linkages to other sources of support. GRANTEE will  
3 keep records and reports established to carry out the program in an effective and efficient  
4 manner. These records and reports must include racial and ethnic data on participants for  
5 program monitoring and evaluation.

6 **7.3** GRANTEE must comply with the regulations applicable to the HEAP program as set  
7 forth in 24 CFR Part 58, 24 CFR Part 84 , 24 CFR Part 85. In the event that any federal or  
8 state laws or regulations, including without limitation regulations by the State of  
9 California add, delete, modify, or otherwise change any statutory or regulatory  
10 requirements concerning the use or administration of these funds, HEAP Program  
11 participants shall comply with such requirements, as amended.

12 **7.4** GRANTEE must participate in the CoC Coordinated Entry System. The Coordinated  
13 Entry System (CES) is a part of the Imperial County Continuum of Care’s cohesive and  
14 integrated housing crisis response system with our existing programs, bringing them  
15 together into a “no-wrong-door” system. The CES is designed to coordinate program  
16 participant intake, assessment, and provision of referrals.

17 **7.5** GRANTEE shall operate and provide eligible activities in a manner consistent with  
18 Housing First practices, described in California Code of Regulations, title 25, section  
19 8409, subdivision (b)(1)-(6).

20 **7.6** GRANTEE agrees to participate in the Homeless Management Information System  
21 (HMIS).

22 **7.7** Participation is defined by HMIS training attendance, complying with Imperial County  
23 HMIS security policies and procedures, and entering required client data on a regular and  
24 timely basis.

25 **7.8** COUNTY retains the rights to the HMIS and case management software application used  
26 in the operations of this property. COUNTY will grant GRANTEE access to use the  
27 HMIS software for the term of this Agreement.

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1           **7.9**     GRANTEE shall ensure that employees using HMIS for client intake capture all required  
2           data fields, as set forth in the Imperial Valley Continuum of Care HMIS Policies and  
3           Procedures Manual.

4           **7.10**  GRANTEE must maintain a valid HMIS End User Agreement on file with COUNTY.

5           **7.11**  COUNTY shall assign staff to serve as liaison and program coordinator between  
6           COUNTY and GRANTEE. This staff will provide the GRANTEE programmatic  
7           consultation and advise GRANTEE of all-pertinent existing guidelines and regulations.  
8           Additionally, the staff will provide or arrange for consultation and technical assistance to  
9           GRANTEE as needed.

10 **8.     REPRESENTATIONS BY GRANTEE.**

11           **8.1.**     GRANTEE has represented itself to be an expert in these fields and understands that  
12           COUNTY is relying upon such representation.

13           **8.2.**     GRANTEE represents and warrants that it is a lawful entity possessing all required  
14           licenses and authorities to do business in the State of California and perform all aspects  
15           of this AGREEMENT.

16           **8.3.**     GRANTEE shall not commence any work under this AGREEMENT or provide any other  
17           services, or materials, in connection therewith until GRANTEE has received written  
18           authorization from COUNTY's Contract Manager to do so.

19           **8.4.**     GRANTEE represents and warrants that the people executing this AGREEMENT on behalf  
20           of GRANTEE have the authority of GRANTEE to sign this AGREEMENT and bind  
21           GRANTEE to the performance of all duties and obligations assumed by GRANTEE herein.

22           **8.5.**     GRANTEE represents and warrants that any employee, GRANTEE and/or agent who will  
23           be performing any of the duties and obligations of GRANTEE herein possess all required  
24           licenses and authorities, as well as the experience and training, to perform such tasks.

25           **8.6.**     GRANTEE represents and warrants that the allegations contained in the Proposal are true  
26           and correct.

27           **8.7.**     Prior to accepting any work under this AGREEMENT, GRANTEE shall perform a due  
28           diligence review of its files and advise COUNTY of any conflict or potential conflict

1 GRANTEE may have with respect to the work requested.

2 **8.8.** GRANTEE understands and agrees that in the course of performance of this  
3 AGREEMENT GRANTEE may be provided with information or data considered by the  
4 owner or the COUNTY to be confidential. COUNTY shall clearly identify such  
5 information and/or data as confidential. GRANTEE shall take all necessary steps  
6 necessary to maintain such confidentiality including but not limited to restricting the  
7 dissemination of all material received to those required to have such data in order for  
8 GRANTEE to perform under this AGREEMENT.

9 **8.9.** GRANTEE understands that COUNTY considers the representations made herein to be  
10 material and would not enter into this AGREEMENT with GRANTEE if such  
11 representations were not made.

12 **9. COMPENSATION.**

13 **9.1.** The total compensation payable for the services required to be performed under this  
14 AGREEMENT shall not exceed [Amount] Dollars (\$XX,XXX.00), as set forth in Exhibit  
15 C.

16 **9.2.** HEAP grant funds must be at least 50 percent expended by January 1, 2020. One  
17 hundred percent of Program funds must be expended by June 30, 2021. Any funds not  
18 expended by the dates aforementioned shall be returned to COUNTY.

19 **9.3.** The budgeted amounts to fund the Program are contingent upon the COUNTY receiving  
20 sufficient local, state, and/or federal appropriations. The COUNTY may, at its discretion,  
21 adjust the amounts to be funded for the Program accordingly.

22 **9.4.** COUNTY has the authority to withhold funds under this AGREEMENT pending a final  
23 determination by COUNTY of questioned expenditures or indebtedness to COUNTY  
24 arising from past or present agreements between COUNTY and GRANTEE. Upon final  
25 determination by COUNTY of disallowed expenditures or indebtedness, COUNTY may  
26 deduct and retain the amount of the disallowed or indebtedness from the amount of the  
27 withheld funds.

28 **9.5.** Payments to GRANTEE may be withheld by COUNTY if GRANTEE fails to comply with

1 the provisions of this AGREEMENT.

2 **9.6.** Except as provided under Paragraphs 9.1, COUNTY shall not be responsible to pay  
3 GRANTEE any compensation, out of pocket expenses, fees, reimbursement of expenses  
4 or other remuneration.

5 **10. METHOD OF PAYMENT.**

6 **10.1** [NAME OF APPLICANT] shall, at any time prior to the fifteenth (15<sup>th</sup>) day of any month,  
7 submit a monthly invoice to the COUNTY. The invoice will include a description of  
8 services rendered and costs and constitutes the written claim for compensation.

9 **10.2** [NAME OF APPLICANT] is eligible to use up to five percent of its HEAP allocation for  
10 the purposes of administering the grant. Administrative costs include tasks such as grant  
11 monitoring, reporting, and overhead costs. For the purposes of this program, administrative  
12 or staff costs directly related to carrying out a service will be considered activity-delivery  
13 costs and not subject to the cap on administrative costs.

14 **10.3** GRANTEE shall be reimbursed by COUNTY, for an amount not to exceed contract award.

15 **10.4** GRANTEE shall submit claim in accordance with the guidelines in the HEAP Program.

16 **10.5** Each claiming period shall consist of a calendar month claiming period.

17 **10.6** GRANTEE shall ensure that funds provided under this Agreement are not used to pay  
18 developer's fees, to establish working capital, or operate deficit funds.

19 **10.7** An expenditure which is not authorized by the Agreement, or which cannot be adequately  
20 documented, shall be disallowed and must be reimbursed to COUNTY by GRANTEE.

21 **10.8** The invoice shall be in a format approved by COUNTY. No payment shall be made by  
22 COUNTY prior to the claims being approved in writing by COUNTY's Contract Manager  
23 or his/her designee.

24 **10.9** Statements should be paid within thirty (30) days of COUNTY's receipt, review, and  
25 approval of the same.

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1 **11. TIME FOR COMPLETION OF THE WORK.**

2 The Parties agree that time is of the essence in the performance of this Agreement. Program  
3 scheduling is identified in the RFP, and may be adjusted at any time based on the Program  
4 directives issued by the State of California. In any event, all HEAP grant funds must be at least  
5 50 percent contractually obligated by January 1, 2020. One hundred percent of funds allocated  
6 to GRANTEE must be expended by June 30, 2021.

7 **12. FAIR EMPLOYMENT PRACTICES.**

8 **12.1.** During the performance of this Agreement, GRANTEE and its subcontractors shall not  
9 unlawfully discriminate, harass or allow harassment against any employee or applicant  
10 for employment because of sex, race, color, ancestry, religious creed, national origin,  
11 physical disability (including HIV and AIDS), mental disability, medical condition  
12 (cancer), age (over forty (40)), marital status and denial of family care leave. GRANTEE  
13 and its subcontractors shall insure that the evaluation and treatment of their employees  
14 and applicants for employment are free from such discrimination and harassment.

15 **12.2.** GRANTEE and its subcontractors shall not discriminate on the basis of race, color,  
16 national origin, or sex in the performance of this Agreement.

17 **12.3.** GRANTEE and its subcontractors shall comply with the provisions of the Fair  
18 Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable  
19 regulations promulgated thereunder (California Code of Regulations, Title 2, §7285 et  
20 seq.).

21 **12.4.** The applicable regulations of the Fair Employment and Housing Commission  
22 implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of  
23 Title 2 of the California Code of Regulations, are incorporated into this Agreement by  
24 reference and made a part hereof as if set forth in full.

25 **12.5.** The applicable regulations of §504 of the Rehabilitation Act of 1973 (29 U.S.C. §794 (a))  
26 are incorporated into this Agreement by reference and made a part hereof as if set forth in  
27 full.  
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1           **12.6.** GRANTEE and its subcontractors shall give written notice of their obligations under this  
2           clause to labor organizations with which they have a collective bargaining or other  
3           agreement.

4           **12.7.** GRANTEE shall include the nondiscrimination and compliance provisions of this clause  
5           in all subcontracts to perform work under this Agreement.

6   **13.   INDEMNIFICATION.**

7           [NAME OF APPLICANT] agrees to indemnify, defend, and hold harmless COUNTY, its agents,  
8           officers, and employees from and against any and all claims, actions, demands, liabilities,  
9           damages, losses, and expenses of whatever kind, which are in any manner in whole or in part, or  
10          which are caused or contributed to in whole or in part, by any willful misconduct or negligence,  
11          whether active or passive, of [NAME OF APPLICANT], or anyone acting under its direction in  
12          connection with or incident with the services provided hereunder, unless the same be caused by  
13          the sole or concurrent negligence or willful misconduct of COUNTY.

14   **14.   ASSIGNMENT.**

15          **14.1** Neither this AGREEMENT nor any rights, duties, or obligations hereunder shall be  
16          assignable by either Party without the prior written consent of the other.

17          **14.2** A Party may demand such assurances, including financial assurances, modification of  
18          this AGREEMENT, or such other requirements as the Party in its sole discretion deems  
19          advisable, as a condition to granting its consent to any assignee hereunder. Nothing  
20          herein shall be construed as requiring a Party to grant such approval if that Party, in its  
21          sole opinion, deems such grant of consent to be not in its best interests.

22          **14.3** Consent by a Party to an assignment or subcontract shall not release the other Party from  
23          its primary liability under this AGREEMENT, and a Party's consent to one assignment or  
24          subcontract shall not be deemed a consent to other assignments and/or subcontracts.

25   **15.   INSURANCE REQUIREMENTS.**

26          **15.1** [NAME OF APPLICANT], hereby agrees at its sole cost and expense, to obtain and  
27          maintain in full force during the entire term of this AGREEMENT the following types of  
28          insurance:

- 1 (a) Commercial General Liability coverage in the minimum amount of one million  
2 dollars (\$1,000,000) combined single limit to any one person (“CSL”) and two  
3 million dollars (\$2,000,000) aggregate for any one accident, including personal  
4 injury, death, and property damage.
- 5 (b) Automobile Liability coverage in a minimum amount of one million dollars  
6 (\$1,000,000) for bodily injury and property damage including owned, non-owned,  
7 and hired vehicles.
- 8 (c) To the extent required by law, Workers’ Compensation coverage, in full  
9 compliance with California statutory requirements, for all employees of  
10 GRANTEE and Employer’s Liability in the minimum amount of one million  
11 dollars (\$1,000,000).
- 12 (d) Wrongful Act insurance in a minimum amount of one million dollars  
13 (\$1,000,000) per occurrence.

14 **15.2** Special Insurance Requirements. All insurance required under Paragraph 15.1 shall:

- 15 (a) Be procured from an insurer authorized to do business in California.
- 16 (b) Be primary coverage as respects COUNTY and any insurance or self-insurance  
17 maintained by COUNTY shall be in excess of [NAME OF APPLICANT]’s  
18 insurance coverage and shall not contribute to it.
- 19 (c) Name COUNTY as an additional insured on all policies and provide that  
20 COUNTY may recover for any loss suffered by COUNTY by reason of [NAME  
21 OF APPLICANT]’s negligence.
- 22 (d) Not be canceled, non-renewed, or reduced in scope of coverage until after thirty  
23 (30) days written notice has been given to the COUNTY. However, [NAME OF  
24 APPLICANT] may not terminate such coverage until it provides COUNTY with  
25 proof that equal or better insurance has been secured and is in place. Cancellation  
26 or change without the prior written consent of the COUNTY shall, at the option of  
27 the COUNTY, be grounds for termination of this AGREEMENT.

28 **15.3** Additional Insurance Requirements.

1 (a) COUNTY is to be notified immediately of all insurance claims. COUNTY is also  
2 to be notified if any aggregate insurance limit is exceeded.

3 (b) Deposit of Insurance Policy. Promptly on issuance, reissuance, or renewal of any  
4 insurance policy required by this AGREEMENT, the [NAME OF APPLICANT]  
5 shall, if requested by COUNTY, cause to be given to COUNTY satisfactory  
6 evidence that insurance policy premiums have been paid together with a duplicate  
7 copy of the policy or a certificate evidencing the policy and executed by the  
8 insurance company issuing the policy or its authorized agent.

9 (c) [NAME OF APPLICANT] agrees to provide COUNTY with the following  
10 insurance documents on or before the effective date of this AGREEMENT:

11 1. Complete copies of certificates of insurance for all required coverages  
12 including Additional Insured Endorsements and thirty (30) days Notice of  
13 Cancellation Clause endorsements shall be attached hereto as **Exhibit D**  
14 and incorporated herein.

15 2. The documents enumerated in Paragraph 15.1 shall be sent to the  
16 following:

17 (i) County of Imperial  
18 Risk Management Department  
19 Re: DSS HEAP Program  
20 940 Main Street, Ste. 101  
21 El Centro, CA 92243

22 **and**

23 (ii) Imperial County Dept. of Social Services  
24 Re: HEAP Program  
25 2995 S. Fourth Street, Suite 105  
26 El Centro, CA 92243

27 (d) Nothing in this, or any other provision of this AGREEMENT, shall be construed  
28 to preclude the [NAME OF APPLICANT] from obtaining and maintaining any  
additional insurance policies beyond those required under this AGREEMENT.

- 1 (e) The comprehensive or commercial general liability shall contain a provision of  
2 endorsements stating that such insurance:
- 3 1. Includes contractual liability.
  - 4 2. Does not contain a “pro rata” provision which looks to limit the insurer’s  
5 liability to the total proportion that its policy limits bear to the total  
6 coverage available to the insured.
  - 7 3. Does not contain an “excess only” clause which requires the exhaustion of  
8 other insurance prior to providing coverage.
  - 9 4. Does not contain an “escape clause” which extinguishes the insurer’s  
10 liability if the loss is covered by other insurance.
  - 11 5. Includes COUNTY as an additional insured.
  - 12 6. States that it is primary insurance and regards COUNTY as an additional  
13 insured and contains a cross-liability or severability of interest clause.

14 **16. BINDING.**

15 This AGREEMENT shall be binding upon and shall inure to the benefit of the heirs, successors,  
16 and assigns of the Parties hereto.

17 **17. AMENDMENTS.**

18 No modification, waiver, amendment, discharge, or change of this AGREEMENT shall be valid  
19 unless the same is in writing and signed by both Parties.

20 **18. WAIVER.**

21 No waiver of any breach or of any of the covenants or conditions of this AGREEMENT shall be  
22 construed to be a waiver of any other breach or to be consent to any further or succeeding breach  
23 of the same or any other covenant or condition.

24 **19. INSPECTION AND MONITORING.**

25 **19.1** GRANTEE shall furnish COUNTY with every reasonable opportunity for COUNTY to  
26 ascertain that the services of GRANTEE are being performed in accordance with the  
27 requirements and intentions of this Agreement. All work done and materials furnished, if  
28 any, shall be subject to COUNTY’s Contract Manager’s inspection and approval. The

1 inspection of such work shall not relieve GRANTEE of any of its obligations to fulfill its  
2 AGREEMENT as prescribed. GRANTEE shall also permit monitoring and auditing by  
3 the U.S. Department of Housing and Urban Development, the California Department of  
4 Housing and Community Development and/or a similar agency, if applicable.

5 **19.2** An onsite monitoring visit of the homeless service provider shall occur whenever deemed  
6 necessary by COUNTY, but at least once during the grant period.

7 **19.3** COUNTY will monitor the performance of GRANTEE based on a risk assessment and  
8 according to the terms of this AGREEMENT.

9 **19.4** COUNTY will monitor GRANTEE and funded project based on the performance  
10 measures used by the State of California for the HEAP Program. In the event that project-  
11 level or system-wide performance consistently remains in the lowest quartile compared to  
12 all participant Service Areas in the Continuum of Care allocation, COUNTY will work  
13 collaboratively with GRANTEE to develop performance improvement plans which will  
14 be incorporated into this AGREEMENT and other agreements required under 25 CCR  
15 Section 8403.

16 **19.5** If it is determined that a GRANTEE falsified any certification, application information,  
17 financial, or contract report, GRANTEE shall be required to reimburse the full amount of  
18 the HEAP award to COUNTY, and may be prohibited from any further participation in  
19 the HEAP program. COUNTY may impose any other actions permitted under 24 CFR  
20 576.501 (c).

21 **20. TERMINATION OF AGREEMENT.**

22 **20.1** Either of the Parties may terminate this AGREEMENT without cause by giving the other  
23 Party written notice at least seven (7) days prior to the date of termination. Each Party  
24 shall fully pay and discharge all obligations in favor of the other occurring prior to the  
25 date of such termination. After termination, neither Party shall have any further  
26 obligation to the other as a result of this AGREEMENT.

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1           **20.2** Funding Authorization

2           **(a)** This AGREEMENT is valid and enforceable subject to sufficient funds being  
3           made available to the COUNTY for the period of time covered by this  
4           AGREEMENT and subject to authorization and appropriation of sufficient funds  
5           pursuant to the State's Budget Act.

6           **(b)** In the event the United States Government and/or the State government do not  
7           authorize and appropriate sufficient funds for the State to allocate amounts to the  
8           COUNTY pursuant to the payment provisions of the AGREEMENT, it is  
9           mutually agreed that:

- 10           **1.** The AGREEMENT shall be amended to reflect any reduction in the  
11           payment provisions and the performance provisions.
- 12           **2.** To the extent there is insufficient money for the contract to be considered  
13           valid and enforceable pursuant to subdivision 20.2(a), the AGREEMENT  
14           will end immediately.

15           **20.3** Failure of [NAME OF APPLICANT] to comply with all conditions of this  
16           AGREEMENT including any applicable conditions contained within **Exhibit A**, such as  
17           the special conditions found in Section 13 on page 7, may result in termination of this  
18           AGREEMENT.

19           **20.4** **Early Termination and Transition.**

20           If the applicant is awarded a grant and AGREEMENT is terminated for any reason,  
21           during the transition close-out period, GRANTEE agrees to all of the following  
22           conditions:

- 23           a. Continue delivering services in all geographic areas currently served in Imperial  
24           County until notified otherwise.
- 25           b. Assist the County in the orderly transition and transfer of all collaborations and  
26           committees and the subsequent Contractor(s).
- 27           c. Provide, in a timely manner, all file and information deemed necessary by the  
28           County for use in subsequent contracting activities without additional cost to

1 County or the new Contractor(s), upon termination or expiration of this  
2 AGREEMENT for any reason.

3 d. Cooperate with County during a transition close-out period to ensure orderly and  
4 seamless delivery of services to residents of Imperial County.

5 **21. DEBARMENT AND SUSPENSION CERTIFICATION.**

6 **21.1** [NAME OF APPLICANT] understands that if it is a subrecipient of federal funds under  
7 this Program, it must be in good standing with the federal government (see Executive  
8 Order 12549 and CDSS CFL No. 16/17-75).

9 **21.2** [NAME OF APPLICANT] represents and warrants that neither it, nor its principals,  
10 employees, recipients, GRANTEEES, subcontractors, affiliates, and/or agents, are debarred  
11 or suspended from participation in any federal or state financial assistance Programs (as  
12 defined by 42. U.S.C. 1320a-7b(f)), by any federal or state department or agency,  
13 including but not limited to Medicare or Medi-Cal, and are not listed on the federal  
14 Excluded Parties Listing System prior to the issuance from COUNTY of any federal  
15 funds.

16 **21.3** [NAME OF APPLICANT] shall immediately notice COUNTY if the aforementioned  
17 assurances or representations are no longer true during the term of this AGREEMENT or  
18 while payment from COUNTY remains outstanding. In no event shall [NAME OF  
19 APPLICANT]'s notice to COUNTY exceed fourteen (14) calendar days from the date of  
20 notice of any or proposed debarment, suspension, exclusion, or ineligibility. [NAME OF  
21 APPLICANT] shall defend, indemnify, and hold COUNTY harmless for any loss or  
22 damage resulting from [NAME OF APPLICANT]'s suspension, debarment, exclusion, or  
23 ineligibility.

24 **21.4** By initialing here, [NAME OF APPLICANT] certifies that to the best of its knowledge  
25 and belief, the assurances and representations contained within Paragraph 13 are true and  
26 correct and that [NAME OF APPLICANT], its principals or affiliates or any  
27 subGRANTEE utilized under this AGREEMENT, are not debarred or suspended from  
28 federal financial assistance programs and activities, nor proposed for debarment, declared

ineligible, nor voluntarily excluded from participation in covered transactions by any federal department or agency. [NAME OF APPLICANT] also certifies that it or any of its subcontractors are not listed on the federal Excluded Parties Listing System (<http://www.sam.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). **Initials:** \_\_\_\_\_

**22. INTEREST OF GRANTEE.**

**22.1.** GRANTEE covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder.

**22.2.** GRANTEE covenants that, in the performance of this Agreement, no sub-GRANTEE or person having such an interest shall be employed.

**22.3.** GRANTEE certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of COUNTY.

**23. NOTICES AND COMMUNICATIONS.**

Any notice by either Party to the other shall be personally delivered to the Party or sent by certified mail, return receipt requested, to the addresses set forth below, or to such other addresses as a Party may from time to time notify the other in writing.

**FOR COUNTY OF IMPERIAL:**

**DEPARTMENT OF SOCIAL SERVICES**  
Attn: Director  
Imperial County Department of Social Services  
2995 S. Fourth Street, Suite 105  
El Centro, CA 92243

**CLERK OF THE BOARD**  
Attn: Clerk of the Board  
County of Imperial  
940 W. Main Street, Suite 209  
El Centro, CA 92243

**FOR [NAME OF APPLICANT]:**



1 **24. INDEPENDENT CONTRACTOR.**

2 In all situations and circumstances arising out of the terms and conditions of this AGREEMENT,  
3 GRANTEE is an independent contractor, and as an independent contractor, the following shall apply:

4 **24.1.** GRANTEE is not an employee or agent of COUNTY and is only responsible for the  
5 requirements and results specified by this AGREEMENT or any other agreement.

6 **24.2.** GRANTEE shall be responsible to COUNTY only for the requirements and results  
7 specified by this AGREEMENT and except as specifically provided in this  
8 AGREEMENT, shall not be subject to COUNTY's control with respect to the physical  
9 actions or activities of GRANTEE in fulfillment of the requirements of this  
10 AGREEMENT.

11 **24.3.** GRANTEE is not, and shall not be, entitled to receive from, or through, COUNTY, and  
12 COUNTY shall not provide, or be obligated to provide, GRANTEE with Workers'  
13 Compensation coverage or any other type of employment or worker insurance or benefit  
14 coverage required or provided by any Federal, State or local law or regulation for, or  
15 normally afforded to, an employee of COUNTY.

16 **24.4.** GRANTEE shall not be entitled to have COUNTY withhold or pay, and COUNTY shall  
17 not withhold or pay, on behalf of GRANTEE, any tax or money relating to the Social  
18 Security Old Age Pension Program, Social Security Disability Program, or any other type  
19 of pension, annuity, or disability program required or provided by any federal, State or  
20 local law or regulation.

21 **24.5.** GRANTEE shall not be entitled to participate in, nor receive any benefit from, or make  
22 any claim against any COUNTY fringe program, including, but not limited to,  
23 COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan,  
24 or any other type of benefit program, plan, or coverage designated for, provided to, or  
25 offered to COUNTY's employees.

26 **24.6.** COUNTY shall not withhold or pay, on behalf of GRANTEE, any Federal, State, or local  
27 tax, including, but not limited to, any personal income tax, owed by GRANTEE.

28 **24.7.** GRANTEE is and, at all times during the term of this AGREEMENT, shall represent and

1           conduct itself as an independent contractor, not as an employee of COUNTY.

2       **24.8.** GRANTEE shall not have the authority, express or implied, to act on behalf of, bind or  
3           obligate COUNTY in any way without the written consent of COUNTY.

4       **25.    PREVAILING WAGE.**

5       **25.1.** GRANTEE acknowledges that any work that qualifies as a “public work” within the  
6           meaning of California Labor Code section 1720 shall cause GRANTEE, and its  
7           subcontractors, to comply with the provisions of California Labor Code sections 1775 et  
8           seq.

9       **25.2.** When applicable, GRANTEE hereby acknowledges and stipulates to the following:

10       **25.2.1.** GRANTEE agrees to comply with the provisions of Labor Code section 1776  
11           regarding retention and inspection of payroll records and noncompliance  
12           penalties; and

13       **25.2.2.** GRANTEE agrees to comply with the provisions of Labor Code section 1777.5  
14           regarding employment of registered apprentices; and

15       **25.2.3.** GRANTEE agrees to comply with the provisions of Labor Code section 1810  
16           regarding the legal day’s work; and

17       **25.2.4.** GRANTEE agrees to comply with the provisions of Labor Code section 1813  
18           regarding forfeiture for violations of the maximum hours per day and per week  
19           provisions contained in the same chapter.

20       **25.2.5.** GRANTEE agrees to comply with any applicable provisions for those Projects  
21           subject to Department of Industrial Relations (DIR) Monitoring and Enforcement  
22           of prevailing wages. COUNTY hereby notifies GRANTEE that GRANTEE is  
23           responsible for complying with the requirements of Senate Bill 854 (SB854)  
24           regarding certified payroll record reporting. Further information concerning the  
25           requirements of SB854 is available on the DIR website located at:

26           <http://www.dir.ca.gov/Public-Works/PublicWorksEnforcement.html>.

27       **26.    WORKERS’ COMPENSATION CERTIFICATION.**

28       **26.1.** Prior to the commencement of work, GRANTEE shall sign and file with COUNTY the

1 following certification: "I am aware of the provisions of California Labor Code §§3700 et  
2 seq. which require every employer to be insured against liability for workers'  
3 compensation or to undertake self-insurance in accordance with the provisions of that  
4 code, and I will comply with such provisions before commencing the performance of the  
5 work of this contract."

6 **26.2.** This certification is included in this AGREEMENT and signature of the AGREEMENT  
7 shall constitute signing and filing of the certificate.

8 **26.3.** GRANTEE understands and agrees that any and all employees, regardless of hire date,  
9 shall be covered by Workers' Compensation pursuant to statutory requirements prior to  
10 beginning work on the Project.

11 **26.4.** If GRANTEE has no employees, initial here: \_\_\_\_\_.

12 **27. CHOICE OF LAW.**

13 This AGREEMENT shall be governed by the laws of the State of California. This  
14 AGREEMENT is made and entered into in Imperial County, California. Any action brought by  
15 any Party with respect to this AGREEMENT shall be brought in a court of competent  
16 jurisdiction within said County.

17 **28. PARTIAL INVALIDITY.**

18 If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid,  
19 void, or unenforceable, the remaining provisions shall continue in full force and effect.

20 **29. AUTHORITY.**

21 Each individual executing this AGREEMENT on behalf of COUNTY and [NAME OF  
22 APPLICANT] represent and warrant that:

23 **29.1** He/She is duly authorized to execute and deliver this AGREEMENT on behalf of the  
24 COUNTY or the [NAME OF APPLICANT], as applicable; and

25 **29.2** Such execution and delivery is in accordance with the statutory authorities, rules,  
26 regulations, by-laws, and/or resolutions of each department, as applicable; and

27 **29.3** This AGREEMENT is binding upon the respective Parties in accordance with its terms.

28 ///

1 **30. ENTIRE AGREEMENT.**

2 This AGREEMENT constitutes the sole and complete AGREEMENT between the Parties. Any  
3 and all agreements or services respecting this AGREEMENT or any other matters pertaining to  
4 this AGREEMENT are null and void.

5 **31. NON-APPROPRIATION.**

6 **31.1.** All obligations of COUNTY are subject to appropriation of resources by the applicable  
7 State or federal agency, including but not limited to the California Homeless  
8 Coordinating and Financing Council from the Business, Consumer Services and Housing  
9 Agency.

10 **31.2.** This AGREEMENT is valid and enforceable only if sufficient funds are made available  
11 to COUNTY for the purposes of this Project. In addition, this AGREEMENT is subject  
12 to any additional restrictions, limitations, conditions, or any statute enacted by Congress,  
13 State Legislature, or COUNTY, and any regulations prescribed therefrom, that may affect  
14 the provisions, terms, or funding of this AGREEMENT.

15 **31.3.** If sufficient funds for the Program are not appropriated, this AGREEMENT may be  
16 amended or terminated in order to reflect said reduction in funding.

17 **32. FISCAL ACCOUNTABILITY.**

18 **32.1** GRANTEE agrees to manage funds received through COUNTY in accordance with  
19 sound accounting policies; incur and claim only eligible costs for reimbursement; and  
20 adhere to accounting standards established in 2 CFR Part 200.

21 **32.2** GRANTEE must establish and maintain on a current basis an accrual accounting system  
22 in accordance with generally accepted accounting principles and standards. Further,  
23 GRANTEE must develop an accounting procedure manual. Said manual shall be made  
24 available to COUNTY upon request or during fiscal monitoring visits.

25 **33. RECORDKEEPING AND REPORTING.**

26 **33.1** GRANTEE agrees to collect and maintain records of participants for required federal,  
27 state, and county reports.

28 **33.2** GRANTEE shall submit the following reports:

Status Report	Reporting period	Due Date
1 <sup>st</sup> Progress Report	April 1, 2019 – November 30, 2019	December 16, 2019
2 <sup>nd</sup> Progress Report	December 1, 2019 – May 31, 2020	June 15, 2020
3 <sup>rd</sup> Progress Report	June 1, 2020 – November 30, 2020	December 16, 2020
4 <sup>th</sup> and Final Progress Report	December 1, 2020 – June 30, 2021	July 19, 2021

33.3 Additional reports may be requested by COUNTY and/or to meet other applicable reporting or audit requirements.

34. **REVIEW OF AGREEMENT TERMS.**

34.1 A default shall consist of any use of grant funds for a purpose other than as authorized by this Agreement or failure in GRANTEE’S duty to provide the supportive housing for the minimum term in accordance with the requirements of the provisions of the Housing Emergency and Aid Program regulations. In the event of an occurrence of default, COUNTY may take one or more of the following actions:

- a. Issue a letter of warning advising GRANTEE of the default that establishes a date by which corrective actions must be completed and puts GRANTEE on notice that more serious actions will be taken if the default is not corrected or is repeated;
- b. Direct GRANTEE to submit progress schedules for completing the approved activities;
- c. Direct GRANTEE to establish and maintain a management plan that assigns responsibilities for carrying out remedial actions;
- d. Direct GRANTEE to reimburse the program accounts for costs inappropriately charged to the program; and/or
- e. Make recommendations to the California Department of Housing and Community Development (HCD) to reduce or recapture the grant.

34. **OWNERSHIP, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL.**

GRANTEE agrees that all materials, reports, or products, in any form including electronic, created by GRANTEE for which GRANTEE has been compensated by COUNTY pursuant to this Agreement shall be the sole property of COUNTY. The material, reports or products may be used by the COUNTY for any purpose that COUNTY deems appropriate, including but not limited to, duplication and/or distribution within COUNTY or to third parties. GRANTEE agrees not to release or circulate, in whole or in part, such materials, reports, or products without prior written authorization of COUNTY.

1 **35. COMPLIANCE WITH RULES, REGULATIONS, AND DIRECTIVES.**

2 GRANTEE shall comply with all rules, regulations, requirements, and directives of applicable  
3 federal or state agencies and funding sources which impose duties and regulations upon  
4 COUNTY as though made with GRANTEE directly. GRANTEE shall comply with all  
5 applicable federal, state, and local laws, regulations, including but not limited to:

- 6 a. State of California Homeless Emergency Assistance Program:  
7 Authorized by Senate Bill (SB) 850, Sec. 50213 (a) and (b) that was signed into law by  
8 Governor Brown on June 27, 2018. [https://www.bcsh.ca.gov/hcfc/aid\\_program.html](https://www.bcsh.ca.gov/hcfc/aid_program.html)
- 9 b. Housing First Policy  
10 [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1380](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1380)
- 11 c. Imperial Valley Continuum of Care and their Written Standards: <http://www.cociv.org/>
- 12 d. HUD System Performance Measures:  
13 [https://www.hudexchange.info/resources/documents/System-Performance-Measures-](https://www.hudexchange.info/resources/documents/System-Performance-Measures-Introductory-Guide.pdf)  
14 [Introductory-Guide.pdf](https://www.hudexchange.info/resources/documents/System-Performance-Measures-Introductory-Guide.pdf)
- 15 e. None-Federal Exclusion List: <https://www.sam.gov/portal/public/SAM>

16 **36. SHELTER AND HOUSING STANDARDS.**

17 **36.1** Emergency shelters must meet the minimum safety, sanitation, and privacy standards at  
18 24 CFR 576.403 (b), including but not limited to, accessibility standards in accordance  
19 with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations  
20 at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing  
21 regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42  
22 U.S.C. 12131 et seq.) and 28 CFR part 35; where applicable.

23 **36.2** For rapid rehousing projects where HEAP assistance is provided, the assisted housing  
24 must meet the housing quality standards (HQS) and the minimum habitability standards  
25 per 24 CFR 576.403 (c).

26 ///  
27 ///  
28 ///

1 **37. REVIEW OF AGREEMENT TERMS.**

2 **37.1** Each Party has had the opportunity to receive independent legal advice from its  
3 attorney(s) with respect to the advisability of making the representations, warranties,  
4 covenants and agreements provided for herein, and with respect to the advisability of  
5 executing this AGREEMENT.

6 **37.2** No presumption or rule that ambiguities shall be construed against the drafting Party shall  
7 apply to the interpretation or enforcement of the same or any subsequent amendments  
8 thereto.

9 **IN WITNESS WHEREOF**, the Parties have executed this AGREEMENT on the day and year  
10 first above written.

11 **COUNTY OF IMPERIAL**

**[NAME OF APPLICANT]**

12  
13 By: \_\_\_\_\_  
14 Ryan E. Kelley, Chairman  
15 Board of Supervisors

By: \_\_\_\_\_

16 **ATTEST:**

17  
18  
19 By: \_\_\_\_\_  
20 Blanca Acosta,  
21 Clerk of the Board of Supervisors

22 **APPROVED AS TO FORM:**

23 Katherine Turner  
24 County Counsel

25  
26 By: \_\_\_\_\_  
27 [NAME],  
28 Deputy County Counsel